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Mr Paul Haggin
Cumbria County Council
County Offices, Busher Walk
Kendal LA9 4RQ

29 September 2020

Dear Mr Haggin,

Joint Submission by Ciara Shannon of EdenWorks and Duncan Pollard & Associates

Objection to Permission Being Granted to the Development by WCM of Woodhouse Colliery
The Business Case Against West Cumbria Mining (WCM).

For consideration for the October 2, 2020 meeting for application 4/17/9007.

This submission outlines our objection to Cumbria Council's Development Control and Regulation Committee (DCRC) recommendations that planning permission be granted on October 2, 2020 to West Cumbria Mining (WCM) for the £160 million underground metallurgical coal mine – Woodhouse Colliery near Whitehaven, West Cumbria.

Key Areas of Objection

Summary: Our objection is primarily framed around assessing the financial & business risks to the project, in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). TCFD is supported by over 1400 financial institutions managing US$12.6 trillion and it is a very useful framework to use to examine the material financial impacts of climate-related risks and opportunities of a project.

We have framed our objection in this way as we consider that the material financial risks of the project have not been adequately explored. Without adequate attention to the risks and mitigation actions, the £160 million investment could quickly become a stranded asset, with consequences for Copeland, Cumbria and the UK taxpayer.

1. CONCERNS REGARDING WCM's BUSINESS CASE

1A - Climate Risks

Steel is the second-most polluting industrial material in the world after cement, causing approx. 7-9% of global emissions and is therefore the focus of investors and activists as part of efforts to tackle climate change. Making metallurgical coal is very energy intensive and, therefore, emissions intensive.

It is expected that WCM's production will increase coal supply and increase global CO2e emissions by approx. 9 million tonnes per year. This is more double the net annual emissions from the whole of Cumbria, which is currently 3.79 million tonnes per year.[1] Then, if you consider the projected life span of the project (approx. 26 years until 2049) this equates to a very significant 234 million tonnes of C02e. [2] We note that WCM projections exclude emissions arising from the extraction process itself and figures do not consider increased production nor Scope 3 supply chain emissions.

We are concerned that WCM doesn't consider the full scope of GHG emissions. Not only is this not good practice, but it sits uneasily with the local, regional and national priority being given to climate change.

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[1] Source: Net emissions, taking account of the 322,000 tonnes of sequestration from land use, and estimated on a production basis. BEIS, 2019

[2] Source: UK territorial emissions. UK Government, June 2020

Breaking this down and based on 2018 figures, each year of WCM's emissions would be equal to approx. 2% of the UK GHG emissions[3] and this proportion will increase in the future as total UK GHG emissions reduce. We have also calculated the societal impact of these GHG emissions to be £794 million annually.

1B- Market and Transition Risks

The business of WCM is the production and sale of metallurgical coal (also known as coking coal) to the steel industry in the UK and Europe. The UK steel industry has been in decline for some time because of a variety of factors such as high business rates and energy costs, as well as overcapacity in EU steelmaking and Chinese state-subsidised firms that have flooded the global market with cheaper products. In the UK, the steel industry employed 323,000 people in 1971, but now employs less than a tenth of that ¬ 31,900.

Currently, there is more than 30% overcapacity of steel in global markets and instability in the steel sector leads to insecure jobs as wages are minimised and operations mechanised to reduce costs.

The urgent need to meet net-zero GHG emissions by 2050 as outlined by the Paris Agreement and set out in the UK Climate Change Act (2008) – means that the steel industry must transform itself to survive the low carbon transition and remain competitive. Already there is increased demands by investors, insurance companies and governments demanding that steel be decarbonised, and we consider this a significant risk to the future investments (and longevity) of the project, unless it clearly sets out its plans to decarbonise.

One of the most effective investor organisations applying pressure is ClimateAction100+ that brings together over 500 investors with US$47 trillion in assets. Their efforts likely could lead to reduced market demand for metallurgical coal, shifts in asset values or higher costs of doing business for coal manufacturers.

Increased Carbon Prices Will Impact Revenue and Profit

In particular, steel production will be subject to increased carbon pricing, including from the UK ETS and the EU ETS, carbon taxes or climate-focused coal tax which will have a direct impact on WCM's earnings, profit and revenues from tax.

The UK's Carbon Capture Usage and Storage (CCUS) Action Plan was published in November 2018, setting out the Government's plans. While the potential is backed by an £800 million infrastructure fund, the scale of the emission reduction potential remains unproven. Across sectors, the Committee on Climate Change estimates that in 2050 it is likely that somewhere between 75 to 175 million tonnes of carbon dioxide equivalent will need to be removed by CC(U)S annually in order to meet net zero, given it is unlikely that all sources of GHG emissions *can* be eliminated.[4]

In Europe, about half of all materials used for steel production is recycled scrap due to the well-regulated and committed recycling market there. Hydrogen as a fuel source has received increasing attention in the last 12-18 months and is likely to be commercially feasible within 5-10 years. It is anticipated that Europe will be at the forefront of these developments. Germany & France alone are spending €16 billion to develop hydrogen. The UK government has currently committed support of £350 million, yet this could change in January 2021 when the Government is planning to release its hydrogen strategy. A move to hydrogen will place downward pressure on demand and prices for metallurgical coal. This will lead to 'stranded assets' in the sector which will result in significant asset write-downs for coal producers.

As witnessed this year with oil & gas, market developments can move quickly. In the three years that the mine would take to construct, there could be a dramatic shift in both sentiment and technology

[3] Source: UK territorial emissions. UK Government, June 2020
[4] Source: Reducing UK emissions2019 Progress Report to Parliament, Committee on Climate Change, July 2019

especially as oil & gas companies start to invest in hydrogen. These market shifts are ignored in the WCM proposal, which predicts a stable demand for metallurgical coal.

1C- Liability Risks

As others have stated in their submissions, we think that the WCM will negatively impact the UK's plans to reach net-zero carbon emissions by 2050. While there is currently no phase-out date for the use of coal in steel manufacturing, the UK has committed to switch to lower carbon steel production via its clean steel fund, whilst burning coal at UK power stations will be phased out from 2025. The Committee on Climate Change (CCC) will publish in December 2020, its recommendation for the Sixth Carbon Budget for the period 2033-2037 - the first to take net-zero target into account; it is expected it will impact the steel sector.

The timing of legislation or even voluntary market requirements on carbon taxes add an important liability risk for WCM that can change dramatically the economics of coal extraction. As an example, Canadian steel producers already absorb a carbon tax.

1D- Social Risks

EMR's business model is to focus on low cost operations and their consultant, Dr Bristow has stated that he believes that WCM will be low-cost.

WCM's proposal states it would create 146 jobs during construction, and 510 jobs once the mine is open. Whilst WCM quotes a high average salary of £51,250, it is common practice to use median salaries to allow an understanding of salary levels. Indeed, this is what the UK Government statistics use. Our estimated WCM Median salary is £34,000 per annum, lower than the current Copeland median of £35,687. We therefore estimate that a significant proportion of jobs offered by WCM would not offer a decent level of income for households of people employed at the mine.

WCM have stated that they will pay the real living wage of £9.30. Whilst this is indeed above the national living wage of £8.72, it is, as the Living Wage Foundation itself admits, calculated in terms of what people need 'to get by'. 'Getting by' is not the same as having a decent income. This is also important for society as levels below a decency threshold leave a liability for local and national Government to provide social security payments. It is essential that jobs created by WCM are not subsidised by the UK taxpayer. This is especially the case given the profit levels quoted by WCM.

Another social risk is on the profitability and tax payments to be made by WCM. Tax is an important contributor to Government and helps social cohesion. Recent information submitted by WCM states it would contribute £300 million in taxes in the first ten years. This is a reduction from £500 million that was originally proposed. Based upon the updated turnover (date 28/09/2020) and WCM data, our estimate is that taxes are only likely to be £105 million in the first 10 years. This is before consideration of carbon taxes.

In addition, the WCM provides no information on the 'just transition' that respects workers and communities. The just transition is rapidly emerging as an essential element in the successful transition to a resilient zero-carbon economy. For example, will there be funding set aside to train employees? Plus, further down the line when the mine closes has WCM considered retraining employees in renewables? The stakes are high, according to Fiona Reynolds, chief executive of Principles for Responsible Investment, the US$80 trillion-plus alliance of investors working on environmental and social issues: "Unless we get the just transition right, we won't win the climate battle."

1E- Governance Risks

West Cumbria Mining (WCM) is a company registered in England, owned by West Cumbria Mining (Holdings) Ltd which is UK registered and owned 82.1 % by EMR Capital Investment (No 3B) Pte Ltd, a Singapore registered company and 17.9% owned by 61 individuals, pension funds and investment companies. Clear details of these are not known as there is less than transparent ownership structure.

The developer behind WCM is EMR Capital who are private equity managers with offices in Hong Kong and Australia. EMR develops resource projects that have clear exit options and their website states that their business model is to “Own, Operate… find Investors & Partners… Develop & Execute Exit Strategy”. Given WCM’s clearly stated ‘exit-based’ business model, this raises uncertainty about the company’s long-term commitment to Cumbria. We believe then that Copeland Council should instead be looking for long-term investors with sustainable business models to invest in the region.

In addition, the ultimate owner/parent company of WCM is EMR Capital Resources Fund LP which is registered in Cayman Islands. One common rationale for registration in the Cayman Island is to avoid taxes, and this raises serious questions about WCMs claims on taxation and could see our calculations even be overestimates.

While the WCM does provide information on a remediation bond (with no specified amount) which is a specific condition of the Section 106 Agreement - a legal agreement between Cumbria County Council, WCM and other landowners - it is not clear if the remediation bond also protects the workers, if the mine were to close. We would like to see more information on this. There is also no mention of governance and remuneration structures incentivizing management on climate change issues.

2. CONCERNS REGARDING COPELAND COUNCIL AND CUMBRIA COUNCIL

2A - Market, Transition and Social Risks

The social and governance risks of WCM will impact the budget of the UK Government, in that social payments to workers are a burden to the taxpayer, whilst the tax status of WCM allows a reduction of tax payments compared to a solely UK registered holding company.

The consequences of the WCM’s market and transition risks are also a risk to the Local Council and the UK Government. A change to the economics of the project will drive a focus on cost cutting, impacting salaries and jobs and the creation of a ‘stranded asset’ would require a rescue package to preserve the jobs. (see earlier point (1E) on the remediation bond)

2B - Liability Risks

In April 2019, all Cumbrian local authorities and the Lake District National Park Authority formally adopted the Cumbria Joint Public Health Strategy incorporating a pledge for Cumbria, “to become a ‘carbon neutral’ County and to mitigate the likely impact of existing climate change.

Climate change is highlighted by Copeland Council as an existential threat, and Copeland Council has already been put on notice by Client Earth, warning them that they will violate their legal obligations and risk legal challenge if they do not introduce proper climate change plans. These plans must include robust evidence-based carbon targets, as outlined under section 19(1A), the Planning and Compulsory Purchase Act 2004.

Copeland Council should also consider cumulative climate impacts and the consistency of policies with all relevant climate objectives and targets, as outlined in the Environmental Assessment of Plans and Programmes Regulations 2004 – which implements the Strategic Environmental Assessment (SEA) Directive. A clear long-term climate strategy will help Copeland Council make the right carbon-neutral investment decisions that will impact the long-term.

2C - Governance Risks

We also think there will be serious reputational risks to Copeland Council and to the UK Governments as UK hosts for COP26 in 2021. The investment by WCM in new coal production will put unprecedented attention both locally and nationally onto WCM, Cumbria and the Government in Westminster. It will draw resources away from other priorities and undermine the UK Government’s international efforts to deliver a successful outcome at COP26.

The Council should consider their fiduciary duty in deciding upon this project. A councillor has a fiduciary duty over council assets and to council taxpayers, and to apply those assets in the public interest, exercising due care. This is especially relevant in assessing the known risks of the project, the potential for stranded assets, and the consequences for future Council interventions to support WCM. Violating fiduciary duty could include personal liability implications for councillors.

CONCLUSION

There is no doubt that a low-carbon industrial strategy is urgently needed for Cumbria, to generate thousands of green jobs rather than 510 coal jobs. Planning for a net-zero energy system must start as soon as possible here, including coordination between local authorities, utilities, business and residents. Cumbria already has a relatively high number of energy-intensive industries including nuclear (e.g. fuel reprocessing), shipbuilding, wood, paper and pulp, rubber & plastics and food & drink manufacturing. These all need clean energy. Energy that is consistent with the policy & legislative landscape that is evolving as a response to climate change.

We note the Council recommendation to give approval for the mine to 2049 is a recognition that the business model of WCM is not viable in the context of the Paris Agreement and UK's Climate Change Act. But we argue, that political, financial and technological progress to reach net zero by 2050 is currently rapid, as witnessed by the announcements at the current UN General Assembly. This will change the viability of the mine (which was originally conceived before the Paris Agreement), potentially even before construction is completed and the mine starts producing. Coal mines are increasingly becoming "stranded assets" as the risks for financiers are too great, and the market for coal is in decline. Strategies to survive will be focused on costs and this will inevitably lead to insecure jobs as wages will be minimised and operations mechanised.

Climate change is not only something that the operations of WCM will impact upon, but something that will impact upon the resilience of WCM's business model and investment. The arguments developed in this submission highlight a series of these risks which the Council, investors and insurers should take into consideration when assessing exposure to transition and physical risks, and potential financial impacts from those risks.

For further information, see:

- www.eden-works.org
- www.dpollardassociates.eco