

Office of the Chair

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File: 3020-20/417603 C 13

June 26, 2013

Ministry of Energy, Mines and Natural Gas
Office of the Chief Gold Commissioner
P.O. Box 9320
Stn Prov Govt
Victoria, BC V8W 9N3

Attention: Tim Munson

Dear Mr. Munson,

**Re: Provincial File No. 417603 – Application for a coal licence under section 12 of the *Coal Act*
Compliance Coal Corporation (Forbidden Plateau Road area)**

Thank you for forwarding the above-noted referral for our comments. The subject properties lie above the Forbidden Plateau Road area and are located within the Browns River and Tsolum River watersheds (Figures 1 to 3). The surrounding area is comprised of large forestry and resource based lots with Comox Lake located to the south. The properties, which are located within the Puntledge - Black Creek area (Electoral Area 'C'), have been primarily utilized in forestry-based operations by a forest company.

Compliance Coal Corporation has submitted an application under section 12 of the *Coal Act* in order to obtain a licence to explore approximately 1,672 hectares of subsurface coal resources on the subject lands. Comox Valley Regional District (CVRD) understands that the purpose of the coal licence is to obtain the subsurface coal rights only and no development is proposed at this time. As such, the licence does not include any details on the exploration methodology including sampling program or proposed surface disturbance activities. The CVRD also understands that should development of the coal resources be proposed, a separate notice of work will be submitted by the applicant and the CVRD will have an opportunity to comment.

Please be advised that the surface land owner (TimberWest Forest Corp.) has contacted the CVRD to inquire how development of the surface may be affected by the issuance of a coal licence. Given this, the CVRD board would encourage the Ministry to contact TimberWest Forest Corp. to discuss how the potential exploration of any subsurface resources may be reconciled with any proposed surface land uses contemplated by the owner of the land's surface.

The CVRD is concerned that coal mine exploration and any subsequent coal mine development could negatively impact its existing industries. These existing industries are highly dependent on maintaining a healthy surface and subsurface environment. Past coal mines within the CVRD have left a legacy of environmental damage that continues to require significant provincial remediation investment. The CVRD requests that no coal license be issued.

If on the other hand the province does consider issuing a coal license then the CVRD requests that before such a coal license is issued that the applicant addresses the environmental issues enumerated in the "Environmental overview" section of Schedule 'A'.

Lastly, the CVRD board requests that all future resource development referrals forwarded to our office for review are provided with a minimum comment period of 60 days in order to ensure adequate time for staff and board review.

Should you have any questions regarding the above, or enclosed, please contact Alana Mullaly, manager of planning services at 250-334-6051 or by email at amullaly@comoxvalleyrd.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin Grieve". The signature is written in a cursive style with a large initial "E" and "G".

Edwin Grieve
Chair

Enclosure: Schedule 'A' – "Policy comments"

cc: Compliance Coal Corporation
Melinda Knox, K'ómoks First Nation band manager

Schedule ‘A’

Comox Valley sustainability strategy overview

Goal 3.7 of the Comox Valley sustainability strategy (CVSS) states that “*stormwater (rainwater) is managed to maintain the performance of watershed systems, preserve ecosystem health and protect groundwater.*” Goal 5.1 states “*planning and development is in balance with primary environmental systems (i.e. coastal long shore, watershed, groundwater, energy, climate, ecosystems) such that their carrying capacity is not exceeded.*” Objective 5.1.1 outlines “*achieve a clear understanding of the formative environmental systems that shape soils, landforms, habitat and hydrology.*” Objective 5.1.2 states “*achieve a clear understanding of the Valley’s ecosystems through inventory and mapping.*” Objective 5.2.1 also outlines “*conserve currently unprotected sensitive ecosystems.*”

Regional growth strategy overview

Pursuant to Bylaw No. 120, being the ‘Comox Valley Regional District Regional Growth Strategy Bylaw, No. 120, 2010’ (RGS), the subject properties are partially designated as resource areas (RAs) and rural settlement areas (RSAs). RAs identify lands that are predominantly natural resource areas, where residential settlement is prohibited. These are areas where large lot sizes should be preserved in order to facilitate resource production and/or to retain connectivity of ecosystems. The RGS includes the following guidance related to lands located with RAs:

Growth management principle No. 13	“ <i>Maintain resource areas as primarily working landscapes for resource extraction.</i> ”
Objective 2-C	“ <i>Promote environmental best practices in Agricultural and Resource Areas.</i> ”
Supporting policy 8D-2	“ <i>In order to preserve large contiguous tracts of forested areas, establish 400 hectares as a minimum lot size in Resource Areas, through OCPs. Residential uses will be restricted in Resource Areas, as set out in Part 4 of the RGS.</i> ”
MG policy 3A-1	“ <i>Lands within Resource Areas should be protected and used for resource-focused and related value-added uses to support local economic development.</i> ”

The RGS also includes the following policy related to lands located with RSAs:

MG policy 2A-1	“ <i>All new development within Rural Settlement Areas must maintain the rural character of its surroundings and support the function of a working rural landscape. This requires careful consideration of the permitted uses, the form and scale of development and lot sizes.</i> ”
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The RGS outlines that “*mining and metals processing has also recently re-emerged as a potential longer-term employer with new mine development proposals.*” Objective 3-C “*support resource-based employment opportunities*” and outlines that “*mining and aggregate extraction presents other longer-term opportunities as well provided environmental and human issues are appropriately managed.*” Supporting policy 3C-10 states that “*the provincial government and any potential mining operators in the Comox Valley should work with local governments to minimize negative impacts of mining and aggregate extraction on the human or natural environment.*” Objective 5-B also states “*protect the quality of water sources*” and “*these water sources are all vulnerable to contaminants that come from a number of sources including stormwater runoff ...*” Objective 5-C outlines that “*stormwater is managed to preserve ecosystem and watershed health.*”

In accordance with the aforementioned environment and groundwater protection policies in the CVSS and RGS, the CVRD recommends that prior to the issuance of a license, the applicant implement

aquifer/groundwater protection measures during the exploration phase as well as any subsequent development phase in recognition of Goal 3.7. These pre-license measures should include an analysis on aquifer depth, an aquifer permeability analysis and surveys to ensure aquifer depth is maintained should future extraction activities occur. Given the close proximity to Comox Lake and location of the coal licence falls within the Browns River and Tsolum River watersheds, the CVRD also recommends that the Ministry of Energy, Mines and Natural Gas (MoEMNG) require groundwater/stormwater protection measures during the exploration phase on the subject properties in recognition of Objective 5.1.1. The CVRD also requests that the applicant complete a flora and fauna baseline study of the Browns River and Tsolum River and their tributaries prior to exploration in order to meet Objective 5.1.2 and Objective 5.2.1 within the CVSS. In accordance with supporting policy 3C-10, the CVRD requests that the office of the chief gold commissioner require the applicant to contact water licence holders located downstream of the Browns and Tsolum Rivers of the proposed exploration activities prior to license issuance.

Provided that all applicable environmental issues including groundwater protection are addressed, exploration for coal as a precursor to extraction is consistent with the RGS as it relates to the resource area land use designation.

Official community plan overview

Rural Comox Valley official community plan

Pursuant to Bylaw No. 2042, being the “Rural Comox Valley Official Community Plan Bylaw, 1998” (OCP), the subject properties are partially identified as “upland resource area” and “rural area.” The “upland resource” designation “*identifies areas with significant natural habitat, resource and recreational values. The importance of these areas shall be recognized for the provision of green space and buffers; greenways; recreational opportunities; forest products; wildlife habitat; groundwater recharge area protection; and biodiversity.*” The “rural” designation outlines that this area is suitable for “*rural purposes such as low density residential, resource-based activity and small-scale tourist and light industrial activity.*” The OCP provides the following direction related to this designation:

Objective C.1(c) *To support land use proposals that minimize potential negative impacts on the natural environment and the productive potential of resource lands.*

Policy B.15(a) of the OCP states that “*the deposit and removal of soil, sand, gravel and rock and the deposit of other materials shall be limited to Upland Resource and Industrial Areas except for areas identified as environmentally sensitive.*” Policy B.15(b) states that “*the processing of minerals, sand, gravel, coal or quarry materials shall be subject to the policies of this plan, and shall require application for industrial zoning or a Temporary Industrial Use Permit.*” Additionally, policy B.15(e) states that “*the Regional District shall work cooperatively with senior government agencies to study aggregate and mineral potential in the planning area.*” No details about any of the environmental features are identified in the application. Future resource extraction, as a land use, is consistent with the upland land resource and rural designations. However, the manner of extraction, extent of disturbance and impacts on related ecosystems need further assessment prior to the CVRD being able to confirm consistency with all applicable OCP policies.

Zoning overview

The subject properties are partially zoned upland resource (UR) and rural twenty (RU-20) under Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005.” The UR zone permits: residential use, silviculture, agricultural use, fish hatcheries, explosive sales and fire arm ranges. Current records indicate that the surrounding area consists of UR zoned properties and predominately consists of developed and undeveloped forestry based lands. Part 1(iii) of RU-20 zone permits: gravel, mineral or peat extractions, gravel crushing and screening, but no manufacturing or sales of concrete or concrete products on any lot 4.0 hectares or larger. Any future extraction would therefore be consistent with the intent of the RU-20 zone.

However, the CVRD recognizes that the *Mines Act* and *Coal Act* supersede the CVRD's regulations related to zoning and the ability to regulate mineral extraction.

Environmental overview

Staff completed a review of the CVRD's sensitive habitat atlas to determine the location of watercourses relative to this licence area. There are a number of confirmed and unconfirmed fish bearing watercourses located directly on the subject properties and in the immediate vicinity. The CVRD recognizes that this application is outside of the authority of both the provincial *Fish Protection Act* and associated *Riparian Areas Regulations*. However, should exploration/sampling commence, the CVRD will encourage MoEMNG to ensure all sections of the Health, Safety and Reclamation Code of BC (2008) are covered as part of a future notice of work application.

If the province does consider issuing a coal license then the CVRD requests that before such a coal license is issued that the applicant addresses the following:

- aquifer protection measures including: an analysis on extraction volumes, aquifer depth, an aquifer permeability analysis and surveys to ensure aquifer depth is maintained;
- groundwater and stormwater management plans to protect Comox Lake, Tsolum River and Browns River as well as adjacent property owners during the exploration phase;
- measures to protect wildlife and human health during the exploration phase in accordance with the Health, Safety and Reclamation Code;
- notify water licence holders located downstream of the Browns River of the proposed exploration activities;
- flora and fauna baseline study of the Browns and Tsolum Rivers and its tributaries prior to commencing exploration;
- an assessment be undertaken on the cumulative impacts (including, but not limited to: aquifers, marine, terrestrial and riparian ecosystems, air quality, metal leaching/acid rock drainage, mining extraction methods, public health and safety, climate change (*i.e.* greenhouse gas emissions)) that are likely to result from this mining project in combination with other mining projects that have or will be carried out within the regional district.

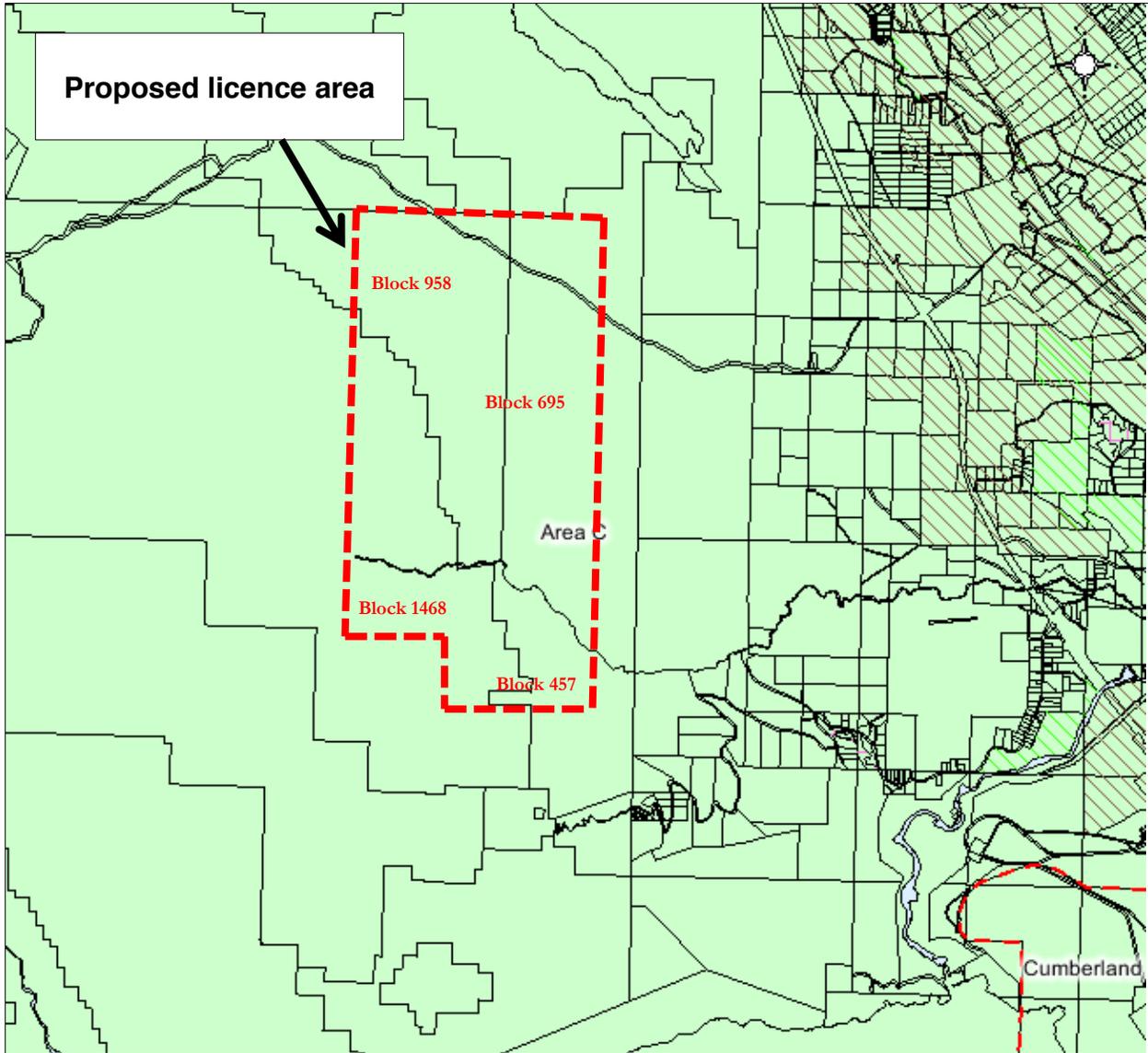
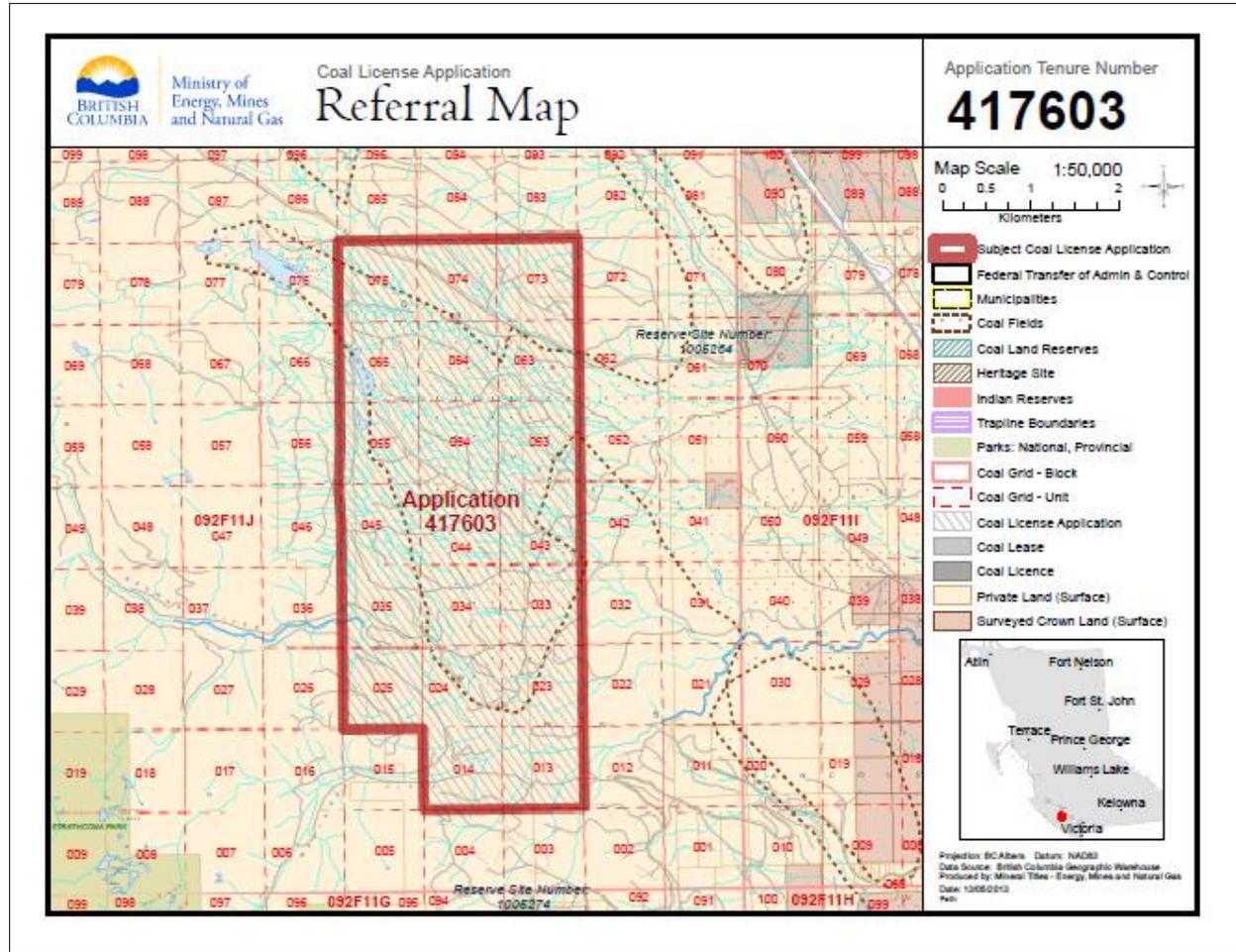


Figure 1: Subject property map



 **Figure 2: Referral map (application 417603)**

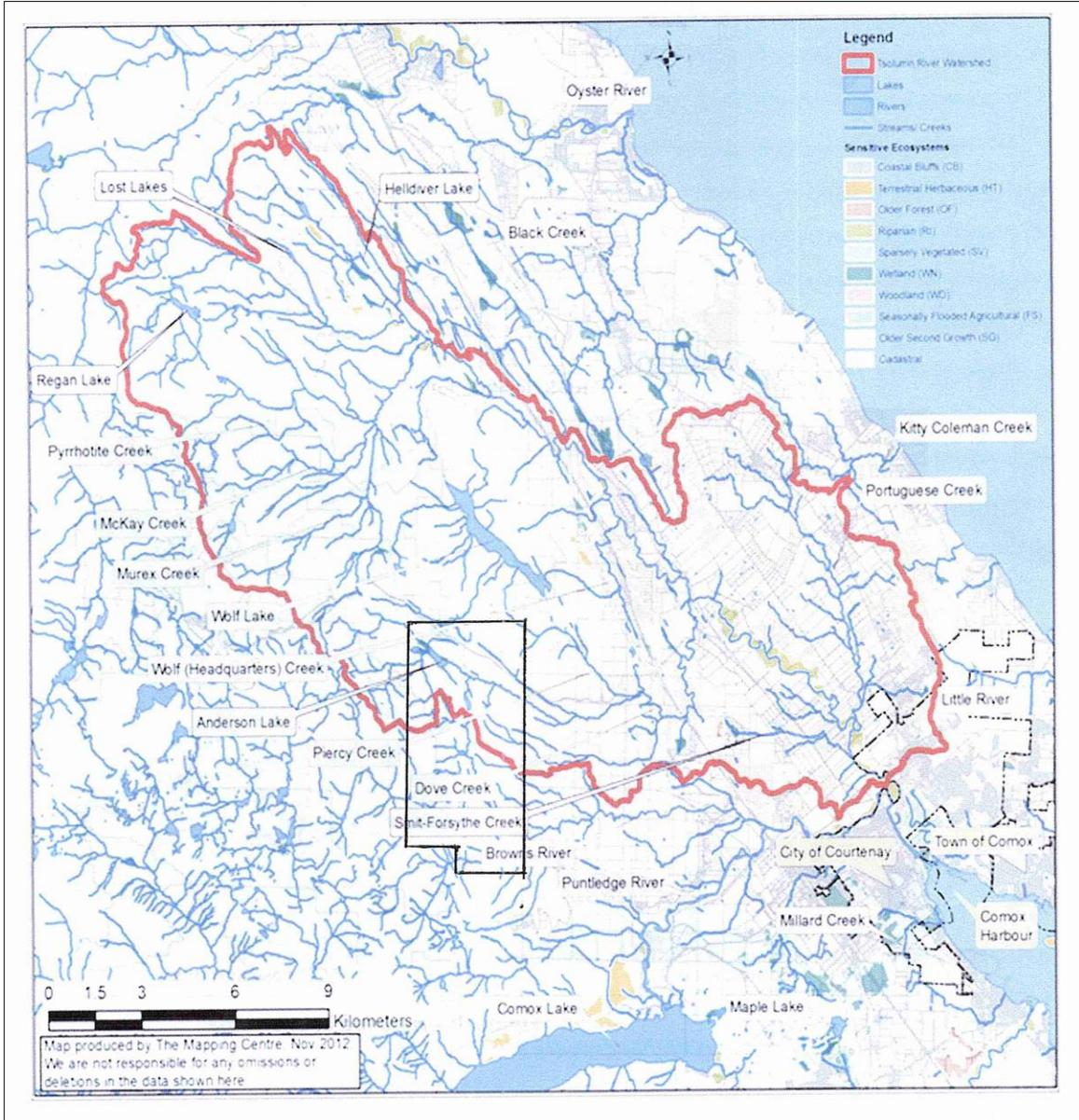


Figure 3: Tsolum River Watershed