

PARK CITY SCHOOLS

DISTRICT #5 STILLWATER COUNTY
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“HOME OF THE PANTHERS”

October 11, 2023

Hard Rock Mining Impact Board
PO Box 200523
301 S Park Avenue
Helena, MT 59601

Subject: Request the Mining Impact Board Require an Amendment to the Nye Impact Plan

Dear Montana Hard Rock Mining Impact Board:

Park City School District #5 (PCSD) is requesting that the Hard Rock Mining Impact Board (HRMIB) please require an amendment to the 1998 Nye Hard Rock Mining Impact Plan (NIP) as soon as possible.

Legal Basis for this Request and Amendment

- 1. Amendment submittal does not appear imminent by the Stillwater County Commissioners or the Mineral Development without action by the HRMIB or other legal action.**
 - a. PCSD has completed all reasonable steps necessary to move forward with an amendment and two and a half years have now elapsed since PCSD formally requested the impacts be mitigated. *See Exhibit 1 - Attachment 9 - PCSD March 2021 Letter.*
 - b. According to a September 15, 2023 MTDEQ letter *“The Hard Rock Mining Impact Board has the legal authority under Section 2-15-1822, MCA, to act as a quasi-judicial and quasi-legislative Board to resolve legal issues and factual allegations...arising from the economic impacts of large-scale mining operations and the dispersal of impact funds to affected local government units” See Exhibit 2*
- 2. Employment is forecast to increase by at least 75 person over the employment levels contemplated by the approved NIP which satisfies a legal condition that allows for an amendment. ARM 8.104.217(1)(j)(ii).**

- a. The approved NIP only forecasted 700 total employees and actual employment is planned to exceed 2,050 total employees in 2024. *See Attachment 6 of Exhibit 1.*
 - i. The employment numbers are highly correlated to revenue distribution amongst affected government units in the NIP.
 - b. A large scale mineral development is defined by MCA as 75 employees, so an increase of over 1,300 employees should be considered significant.
 - c. The legal condition allowing for an amendment under ARM 8.104.217(1)(j)(ii) was satisfied every single year since the approval of the current NIP, 25 years ago.
 - i. *See MSHA records in Attachment 7 of Exhibit 1.*
3. **Four conditions (B, C, D, and F) in the 1998 NIP itself have been met that each allow for an amendment. ARM 8.104.217(1)(j)(i) See pages 3-7 of the cover letter in Exhibit 1.**
4. **In order for the NIP to remain in compliance with the Montana Hard-Rock Mining Impact Act an amendment that includes Park City Schools should be required.**
 - a. **Exhibit 1: PCSD March 2, 2023 AM3 Petition – Nye Hard Rock Mining Impact Plan & Attachments (505 total pages)** is submitted in its entirety with this request as corroborating evidence that the Nye Impact Plan is no longer in compliance with the Montana Hard-Rock Mining Impact Act.
 - b. The Hard Rock Mining Impact Act and the companion Property Tax Base Sharing Act require money be allocated for impacted high school and elementary school districts within the county.
 - c. Park City Elementary School District and Park City High School District (PCSD) have increased costs resulting from the construction and operation of the Nye Mineral Development. *See Pages 13-1 through 14-4 of Attachment 5 of Exhibit 1 (pages 365 through 372 of the 505 total pages in Exhibit 1) for demonstration of some of the impacts.* PCSD has also incurred other impact costs not yet tabulated/calculated (e.g. in 2023 PCSD was forced to move from Class C sports to Class B sports as a direct result of student population; which included increased costs without corresponding increased revenues).
 - d. Approximately 10-15% of the Impact Students and the Mineral Development Students in Stillwater County attend Park City Schools. *See **Mine Student Population vs. Metal Mine Tax \$ Distribution** on the following page.*

Mine Student Population vs. Metal Mine Tax \$ Distribution

Stillwater County Schools



SOURCE OF MINE STUDENT POPULATION: Sybanye-Stillwater correspondence 11/7/2022

SOURCE OF TAX INFORMATION - <https://gems.opi.mt.gov/finance-data#districts>

5. In order for the NIP to remain in compliance with the Montana Hard-Rock Mining Impact Property Base Sharing Act an amendment that includes Park City Schools should be required.

- a. **Exhibit 1: PCSD March 2, 2023 AM3 Petition – Nye Hard Rock Mining Impact Plan & Attachments (505 total pages)** is submitted in its entirety with this request as corroborating evidence that the Nye Impact Plan is no longer in compliance with the Montana Hard-Rock Mining Impact Property Tax Base Sharing Act.
- b. The approved Impact Plan fails to equitably distribute property tax revenues because it distributes revenues for Mineral Development Students to Columbus, Absarokee, Fishtail and Nye Schools while ignoring Mineral Development Students at Park City Schools.
- c. PCSD has a property tax revenue disparity because, unlike other school districts, PCSD does not benefit from the additional revenue generated by the property tax of the mineral developer or development (e.g. Nye Surface Facilities and Columbus Smelter).
- d. Just because PCSD had/has less impact and mineral development students than two of the other four school districts is not a valid reason to exclude PCSD from Tax Base Sharing.

6. The NIP has not been updated for 25 years, making much of the general information inaccurate, antiquated or obsolete.

- a. Tax values, average home values (\$70,000 in the plan), school populations, and inflation are all now very inaccurate in the approved plan.
- b. The NIP is inaccurate because it does not assess the impacts of stipulations on transportation (forced busing/carpooling) on outlying communities such as Park City. *See Section 1.6 of Appendix G of Good Neighbor Agreement (GNA). Exhibit 1 – Attachment 15.*
- c. Section 12.1 of the GNA forces Sibanye-Stillwater to confine all Mine-Sponsored Housing in Stillwater County to within the city limits of Absarokee and Columbus. Impacts of Mine Sponsored Housing Restrictions on outlying communities such as Park City should be evaluated for impacts to schools in the NIP. *See Exhibit 1 – Attachment 15.*

Thank you for your time. Please contact Dan Grabowska, Superintendent, if you have any questions or concerns with this submittal.

Sincerely,

Park City School District #5 Board of Trustees:

Kevin Hoffman

Amber Tilzey

Breann Streck

Lindsay Witt

Jonathan Alegria

Cc (Cover Letter Only): Sibanye-Stillwater, Stillwater County Commissioners

Attached to this Request:

Exhibit 1 - Nye Impact Plan_AM3 Petition and All Attachments PCSD_20230302

Figure 1 - Nye Mineral Development Project Site (Stillwater Mine)

Attachment 1 - PCSD Resolution Authorizing County to Submit the Petition for Amendment 3

Attachment 2 - Existing (1998, AM2) Nye Impact Plan

Attachment 3 - Existing (1998, AM2) Nye Impact Plan with Markups of Proposed AM3 Revisions

Attachment 4- Summary of the Proposed (2023, AM3) changes to Nye Impact Plan by page

Attachment 5 - Proposed (2023, AM3) Nye Impact Plan with all changes included (clean version)

Attachment 6 - Sibanye Mineral Development Employee Projections
Attachment 7 - Sibanye Mineral Development Employees Actual - MSHA LOM Records
Attachment 8 - Nye Annual Tax Base Sharing Report (2021 Report Year)
Attachment 9 - PCSD March 2021 Letter Requesting Modification to Receive MMT Revenues
Attachment 10 - PCSD December 2022 Amendment Notification Letter
Attachment 11 - OPI - Student Count Rpt -Stillwater County Schools Fall 2021 and Spring 2022
Attachment 12 - Page 24 of 1998 EIS Record of Decision - AMD 10 to DEQ Permit 00118
Attachment 13 - Pages 71-76 of May 2012 EIS_Issue 13 and Issue 14
Attachment 14 - Checklist EA ROD 2010 AMD 12 to DEQ Operating Permit 00118
Attachment 15 - Pages 30 and 57 of Good Neighbor Agreement 2016
Attachment 16 - PDF page A49 - SW County- of App A in Dept Rev 2020-22 Biennial Tax Rpt
Attachment 17 - Pages 7 and 10 and 12 of - SW County 2021 Audited Report

Exhibit 2 - MTDEQ Response and Complaint that NIP Out of Compliance_20230915