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**COMMONWEALTH OF PENNSYLVANIA
FISH & BOAT COMMISSION
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PENNSYLVANIA ENVIRONMENTAL
REVIEW COMMISSION

June 18, 2002

The Honorable David Hess, Chairman
Environmental Quality Board
Rachel Carson State Office Building
400 Market Street, 16th Floor
Harrisburg, PA 17101

Re: Notice of Proposed Rulemaking
Fiscal Note No. 7-376
25 Pa. Code Ch. 86 – Coal Mining

By Electronic Mail to RegComments@state.pa.us

Dear Secretary Hess:

On behalf of the Pennsylvania Fish and Boat Commission, I am submitting these comments concerning the proposed 25 Pa Code § 86.6 (relating to extraction of coal incidental to government-financed highway construction or reclamation projects). This notice of proposed rulemaking was published at 32 Pa. Bulletin 2217 (May 4, 2002). Today (June 18, 2002) is the deadline for public comment.

As I noted at the March 2002 meeting of the Environmental Quality Board, the Fish and Boat Commission shares many of the concerns expressed by the Game Commission with respect to this proposal. Our staff have had the opportunity to review the Game Commission's written comments to you, and we generally endorse them.

The proposed 25 Pa. Code § 86.6 would allow for extraction of coal incidental to government-financed highway construction or reclamation projects to be exempt from regulation under Chapters 86, 87, and 88. This exemption would also allow for incidental coal extraction in areas designated by the EQB as "Unsuitable for Mining." These areas were designated as such due to concerns over impacts of "unique resources" from mining related activities.

As stated in the Executive Summary, the main request is a result of a road alignment in Centre County (Route 322), which would affect the upper watershed areas in Cold Stream and Black Bear Run. Studies conducted by the Department documented the problems associated with coal removal in these watersheds by identifying adjacent areas which coal removal activities have caused serious environmental problems through the creation of acid mine drainage (AMD). The PFBC staff strongly believe that it would not be prudent to disturb the geologies of these watersheds without a thorough pre-mining review by your Bureau of Mining and Reclamation offices.

Current mining regulations require specific information to be collected and analyzed to determine potential impacts from mining activities. If the proposed 86.6 is approved, it appears that the information requirements would not be fully implemented for PennDOT projects, thus increasing the potential for environmental degradation from the exempted activities.

The Fish and Boat Commission has forged an excellent cooperative working relationship with PennDOT and DEP on highway projects. We believe this fine record of cooperation could be extended by means of an interagency MOU as suggested by the Game Commission or some other similar mechanism. Such a process could help ensure that all information previously gathered and reviewed by the DEP's Bureau of Mining and Reclamation Office be given appropriate consideration when dealing with any proposed highway alignment within a designated UFM area of the Commonwealth.

I believe that all the agencies are in agreement that all coal extraction activities incidental to highway construction projects should be evaluated to ensure protection of the fish and wildlife resources of the area. The Fish and Boat Commission looks forward to working with DEP and the Game Commission to carry out this broad policy and apply it to specific situations.

Sincerely,

Dennis T. Guise
Deputy Executive Director
Chief Counsel