LANGELOTH METALLURGICAL COMPANY

10 LANGELOTH PLANT DRIVE • P.O. BOX 608 • LANGELOTH, PA 15054

Phone (724) 947-2201 • Fax (724) 947-2240

LANGELOTH METALLURGICAL COMPANY
AN AFFILIATE OF THOMPSON CREEK METALS

#2659

November 13, 2008

The Honorable Arthur Cocodrilli
Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg PA 17101

EMBARGOED MATERIAL

Re: "Triennial Review of Water Quality Standards (7-421)"

Dear Chairman Cocodrilli:

Langeloth Metallurgical Company ("LMC") previously submitted comments on that portion of the above proposed rulemaking which would include molybdenum ("Moly") as a "toxic substance" and impose very stringent limitations on the levels of Moly that can be discharged from facilities into "waters" of the Commonwealth.

In light of recent economic events, LMC wishes to supplement its comments, and urge the Commission to take a hard look at whether this new regulation can be justified from a "cost/benefit" perspective.

Among the factors which your Commission (and, in theory DEP) are to consider when evaluating the need for a new regulation is its "fiscal impact" on both the public and private sectors. This assessment is to involve a consideration of a variety of such impacts and should be designed to assess whether the benefits of the regulation outweigh the fiscal impact it will have. Good regulations need to have a "positive" cost-benefit value. The days when regulators can insist that "cost" is not relevant are gone.

However, all too often (indeed, it seems in virtually every case) the final rulemaking notice indicates under the heading "fiscal impact", that the regulation "has no fiscal impact".

Whatever may have been the case with respect to the "negligible impact" of new regulations on the economic health of the public and private sectors 12 months ago, or even 6 months ago, today every regulation that imposes a new requirement, will have a significant "fiscal impact". That will unquestionably be the case with the Moly rulemaking as it relates to LMC and others.

Drastically reducing the levels of Moly which can be discharged from LMC's facilities will impose significant new costs (immediate operating costs and potentially huge capital costs) on the Company at a time when the price it is able to obtain for the Moly products has fallen by 70% (from $30+ per pound to just over $10 per pound) in just the last six weeks. At LMC's **current** operating costs, the price it can receive for its

products has almost reached its costs of production. When that equation tips the wrong way, LMC's only option will be to reduce further its costs, not increase them, if it hopes to remain viable.

Any additional capital expense, or increased operating costs, will impose a drastic "fiscal impact" on LMC and, in turn, on its employees, the region where it operates, and the customers who need its products. Indeed, with respect to "capital" costs, it is doubtful, in the current economic climate, whether any business will be able to generate new "capital" to construct new facilities. In addition, absent an increase in revenues, there will be no funds to off-set increased operating costs, such as those needed to "study" available treatment technologies, one clear fiscal impact of the regulation which DEP has conceded will result.

Balanced against this clear negative "fiscal impact", LMC believes the Commission must weigh the "need" for the proposed Moly rulemaking. As we have noted in our prior comments, there is no "health based" or "water quality" based "need" for this new standard (particularly one that is imposed at the point of discharge and not the point of first use). The time when it may have been feasible (or simply easier) to defer to DEP without actually requiring an assessment of whether the "environmental benefits" of a new regulation truly, and meaningfully outweigh its negative fiscal impacts, is long gone and not likely to return in the near future. The private sector no longer can conduct business as usual. It is time the public sector (and in particular DEP) recognize that it too can no longer do so either and simply keep increasing the regulatory burden on Pennsylvania business.

LMC urges the Commission to disapprove the Moly portions of the proposed rulemaking as one which the "benefits", if any, are completely outweighed by its negative fiscal impacts. Alternatively, if the Commission concludes some regulation of Moly might be appropriate, it should still disapprove the regulation as currently worded and recommend that discharge limitations for Moly be calculated not at the point of discharge (as would be the case under the above rulemaking), but at the first point downstream where the use of alleged concern (intake of water for human consumption) occurs. This later alternative (which is in use for other substances such as phenols and chlorides) while not necessary to "protect" either aquatic life or humans but would nevertheless reduce somewhat the burden on LMC and the other industries that will be directly affected by the Moly aspects of the above rulemakings.

Respectfully,

Robert Dorfler
Vice President General Manager

cc: Senator Barry Stout
Himmel, Ondrejko, T. Reed, Smydo, Zofchak