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November 1, 2009

RECEIVED

PA Environmental Quality Board  
PO Box 8477  
Harrisburg, PA 17105-8477

DEC - 7 REC'D

INDEPENDENT REGULATORY  
REVIEW COMMISSION

RE: Comments on Proposed  
Chapter 102 Amendments  
*Erosion and Sediment Control  
And Stormwater Management*

Dear Board Members,

Thank you for the opportunity to comment on the above referenced issue on behalf of Alpha Natural Resources. As you may or may not know, on July 31<sup>st</sup> 2009 the shareholders of Alpha Natural Resources and Foundation Coal approved a merger between our companies. In 2008 the combined companies had sales over four billion – operating more than sixty coal mines and fourteen preparation plants.

Locally in Pennsylvania we operate under the affiliates of Pennsylvania Services and Amfire. Last year in Pennsylvania alone, our thousand employees produced an excess of seventeen million ton of clean coal. We estimate that thirty eight percent of this coal stays in the Keystone State to supply electricity to its residents. As a company we are committed to Pennsylvania and its resources and look forward to a healthy discussion relating to issues facing our industry.

Our team was able to review the Chapter 102 amendments and we offer the following in response to the proposed rulemaking:

(1) *Section 102.4 Erosion and Sediment Control Requirements (b) (2) (ii)*

This section is not clear with respect to the need for an E & S Plan pursuant to this chapter if an operator is currently using Best Management Practices under Department regulations other than those contained in this chapter. **(Will E & S Plans for road construction related to coal exploration activity disturbing greater than one acre but less than five acres be automatically required or will BMP's be utilized under other Department regulations.)**

(2) *Section 102.14 (2) Average minimum widths of riparian forest buffers along "impaired waters".*

- (a) Impaired waters is not defined on Page 4.
- (b) Industry feels that increasing the width to 150' on newly established riparian buffers is an unnecessary restriction

- (3) *Section 102.14 (4) Existing riparian forest buffers must meet minimum aggregate widths of this chapter.*

This section needs clarified to exclude earth disturbance activities which are currently permitted under other Department regulations whereby existing riparian forest buffers are currently established at widths of 100' along special protection and impaired waters. Many sites currently exist where facilities were designed and constructed utilizing a 100' buffer. Minimally, these sites should qualify for an exemption.

- (4) *Section 102.4 (b) (5) (x) The E & S Plan shall contain drawings and narrative which describe the following: (x) A maintenance program which provides for the operation and maintenance of BMP's and the inspection of BMP's on a weekly basis and after each stormwater event, including the repair of the BMP's to ensure effective and efficient operation. The program shall provide for completion of a written report documenting each inspection and all BMP repair and maintenance activities.*

This section needs clarified to exempt earth disturbance activities which are currently permitted under other Department regulations. In many cases the E & S controls are being routinely monitored and inspected by Department personnel. To impose additional monitoring and reporting requirement is unduly burdensome to industry.

Once again, thank you for the opportunity to comment on the proposed Chapter 102 rulemaking amendments. We ask that you give consideration to our concerns. If you have questions or need clarification please call me directly at (724) 532-4704.

Sincerely,



Kenneth P. Yingling  
Senior Mining Engineer  
AMFIRE Mining Company  
A Subsidiary of Alpha Natural Resources

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**Chambers, Laura M.**

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**From:** Ken Yingling [kyingling@alphanr.com]  
**Sent:** Wednesday, November 25, 2009 3:02 PM  
**To:** EP, RegComments  
**Subject:** Chapter 102 Comments

INDEPENDENT REGULATORY  
REVIEW COMMISSION

Attached please find comments to the proposed Chapter 102 revisions submitted on behalf of Alpha Natural Resources, a leading worldwide supplier of high grade bituminous coal.

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