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From: Dennis Foster [Dennis.Foster@rosebudmining.com]
Sent: Monday, February 01, 2010 4:14 PM
To: EP, RegComments
Subject: DEP's Chapter 95 proposed revisions on TDS, Sulfates and Chlorides

INDEPENDENT REGULATORY
REVIEW COMMISSION

Environmental Quality Board:

In response to the pending regulatory revisions establishing proposed discharge limits for Total Dissolved Solids, the following information is presented opposing the proposed rulemaking:

- The data used to define the problem as a real and permanent threat and to establish the State-wide and Industry wide rulemaking is seriously and extremely flawed. The data used to come to the conclusion requiring such a major impact to business(es) is very limited in many ways. The information/data used for the State Wide rule has been found to be incomplete, marginal in quality and is limited geographically. The data does not justify the rule as it applies to the mining industry.
- The economic impact of the proposed rulemaking was not studied. The DEP conclusion that the rulemaking is necessary and beneficial did not take into account the major economic impact that would result to the coal mining industry where the proposed limits are not achievable with current technology in treating mine water for discharge under the proposed rule. The technology available to reduce TDS to the proposed levels (which are drinking water levels) is reverse osmosis with evaporation and crystallization. The large scale use of this expensive and limited technology has not been studied and may not be technologically or economically feasible for mine water treatment at all with the continuous and long term nature of such treatment for underground bituminous coal mines. The treatment for these parameters results in a substantial volume of a high salt waste product that has not been addressed or studied in the proposed rule. The waste product alone would yield the technology incapable of such applications.
- The regulation regarding TDS and sulfates limits would result in major impacts and loss of jobs in the underground and surface coal mining industry.
- DEP is not taking enough time to understand the significance of the problem to the regulated industry and how serious the loss of an active industry and the associated thousands of jobs would be to the Commonwealth.
- It is recommended that DEP withdraw the regulation and take more time to comprehensively study and define the extent of the problem, determine realistic limits that could be considered and the overall economic impact to the Commonwealth.

Thank you for the opportunity to provide comment.

Dennis K. Foster
Rosebud Mining Company