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families for PA coal

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FEB -2 2010

ENVIRONMENTAL QUALITY BOARD

January 26, 2010

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

RE: 25 PA Code CH. 95
Wastewater Treatment Requirements {39 PA.B.6467}

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INDEPENDENT REGULATORY
COMMISSION

On behalf of the members of Families Organized to Represent the Coal Economy (F.O.R.C.E.), I am writing to express our concerns over the PA Department of Environmental Protection's (DEP) proposed rulemaking regarding 25 PA Code Chapter 95 {39 Pa.B 6467} Wastewater Treatment Requirements.

F.O.R.C.E. represents the vast number of owners, employees and families that experience job and business opportunities because of Pennsylvania's coal industry. F.O.R.C.E. was organized in 2004 as a voice for all those who rely on a healthy coal economy and advocates for an industry that is critical to our country's energy and economic needs. Our goal is to provide accurate and balanced information to our members and Pennsylvania citizens about the contributions and benefits of a healthy coal industry. The Pennsylvania mining industry is a major source of employment and tax revenue with 49,100 direct and indirect jobs and a total payroll in excess of \$2.2 billion. Federal, state and local governments netted over \$700 million from the taxes on these wages.

F.O.R.C.E. appreciates the opportunity to comment and opposes the proposed rulemaking. F.O.R.C.E. supports the Pennsylvania Coal Association's (PCA) comments and position and concurs with their public testimony given in Ebensburg. We agree the rulemaking as proposed lacks the comprehensive scientific and economic analyses required to develop effective and balanced regulations. DEP has not performed the required analysis necessary to support such a rulemaking and lacks a detailed assessment and analysis of the perceived problem, including collecting and analyzing sufficient qualified data, evaluating available technologies and alternatives to treat TDS, and a socio-economic analysis. We note the following specific concerns.

The proposed rulemaking is based on a limited set of data collected from the Monongahela River during a 2 ½-month period in the fall of 2008 during an exceptionally low-flow period. In December 2008, when tests indicated TDS and sulfates levels were no longer elevated, DEP stopped collecting data. In addition, these samples were not analyzed using an EPA-approved method. In light of the enormous costs of this proposed rulemaking, F.O.R.C.E. believes this small dataset is not adequate scientific justification for the proposed Chapter 95 regulation changes, particularly when EPA's STORET data for the last 10 years at the south Pittsburgh Monongahela River monitoring station shows no significant high TDS trends. F.O.R.C.E. believes that

DEP should first develop a statistically sound, scientific data collection program using approved EPA test methods to determine if there is a problem and the extent of the problem.

In addition, F.O.R.C.E. believes Section 5(a) (5) of The Clean Streams Law is quite clear in its requirement that DEP must determine the immediate and long-range economic impact on the citizens of Pennsylvania when setting new standards. And even though major industrial sectors have presented DEP with significant cost impact studies for their respective industries, DEP has not performed the required comprehensive socio-economic impact study.

Based on a study performed for PCA, the only technology available for the coal industry that will be able to meet the requirements of the proposed rulemaking is reverse osmosis in combination with evaporation and crystallization. PCA's study shows conservative estimated capital costs in excess of \$1.325 billion with annual operation and maintenance costs of \$133 million per year.

In addition, PADEP has not addressed the disposal of waste in the proposed rulemaking. PCA's study indicates residual solid waste will be generated at the rate of 237,000 tons per year. If not evaporated to a solid form, residual waste will be in the form of concentrated brine amounting to nearly 1 billion gallons every year.

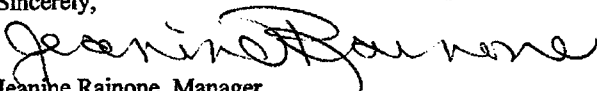
Due to the extremely huge compliance costs associated with this proposed rulemaking, Pennsylvania faces the potential loss of thousands of stable mining jobs due to companies forced to close because they cannot afford to install treatment. And while the exact number of indirect jobs potentially affected is not known, we do know that those too will disappear.

F.O.R.C.E. respectfully requests PA DEP withdraw the proposed regulation. We request PADEP fulfill the requirements of The Clean Streams Law by:

- conducting the necessary studies to determine if there truly is a TDS problem and the extent of any problem,
- performing a comprehensive cost/benefit analysis including an evaluation of the additional environmental and carbon footprints, and
- conducting the appropriate toxicity testing to determine what in-stream parameters need to be regulated to protect the aquatic life use and determine the appropriate in-stream concentrations.

Only after this data collection and analysis occurs will PADEP have the information needed to determine whether such a proposed rulemaking package is necessary.

Sincerely,



Jeanine Rainone, Manager

F.O.R.C.E.