



ROSEBUD MINING COMPANY

301 Market Street Kittanning, PA 16201

Phone: (724) 545-6222 FAX: (724) 543-6375

Web Site: www.rosebudmining.com

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INDEPENDENT REGULATORY
REVIEW COMMISSION

February 03, 2010

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

FEB - 5 2010

ENVIRONMENTAL QUALITY BOARD

RE: DEP's Chapter 95 proposed revisions

Dear Board Members:

Rosebud Mining Company has been in the business of actively producing high quality bituminous coal in Western Pennsylvania since 1979. The Company now operates fourteen deep mines and five coal preparation plants in Western Pennsylvania and is the third largest underground coal producer in Pennsylvania providing steam and metallurgical coals to domestic as well as international/export markets. Rosebud Mining Company currently employs over 700 Pennsylvania employees.

The revisions to Chapter 95 establishing the proposed state-wide discharge limits of 500 mg/l for Total Dissolved Solids (TDS), 250 mg/l sulfates and chlorides is a very serious concern to the bituminous coal mining industry and this letter is presented to strongly oppose the proposed revisions to Chapter 95.

Some of the reasons for the opposition and the basis for my urging the Board to carefully consider and review the total impact of the proposed rules to the regulated industries are:

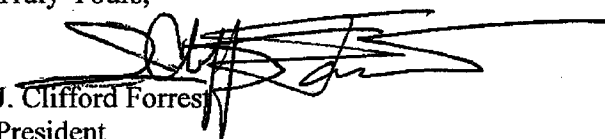
- The data used to define the problem is much too limited and is flawed. The data does not include enough information in duration of time or in the geographic coverage of the State. The data cannot be considered a comprehensive, scientific study of the nature or extent of the problem and does not justify the extreme restrictiveness and total impact that would result to the future of the bituminous coal mining industry.
- The proposed limits in the rule are much too restrictive and do not consider any dilution affects to discharges by the receiving stream or river. The limits have been based on existing secondary drinking water standards established by the Federal EPA. These limits are not enforced by EPA as drinking water limits but are considered guidelines for public water supply sources. Discharges at the "end-of-pipe" into a receiving stream or river would be required to be of equal or better quality in these parameters than a river or stream that could be used as a public water supply intake. The proposed limits at such levels are not justifiable and cannot be achieved by industry if applied in such a manner.
- The technology available to reduce these parameters to the proposed levels is not suitable or applicable to discharges from bituminous coal mines. The technology consists of

reverse osmosis with evaporation and crystallization. The large scale use of this technology has not been proven, adequately tested or studied. The use of this technology on a continuous long term basis as would apply to the coal mining industry would be cost prohibitive. In addition, this technology produces a significant quantity (high percentage per gallon treated) of concentrated high salt waste product. The handling or disposal of the waste has not been adequately studied to consider this technology as even a possible means to achieve compliance with the limits as proposed.

- The total economic impact of the proposed rulemaking has not been properly evaluated by DEP. The significance of the impact of the proposed rule to our industry as well as other regulated industries was not considered and could not have been studied in the short period of time used to obtain the data, establish the limits and propose the Chapter 95 revisions.
- The application of the proposed limits to existing, active mine discharges or to future proposed mine discharges that we have in process would severely impact our current and future business. We are continuously negotiating long term contracts with our domestic and international customers that depend on our ability to develop mines that can be operated productively and economically. The treatment of mine discharges to the proposed parameters would result in the unnecessary loss of any operation that required such treatment. Such losses would result in eliminating most if not all of our business and the hundreds or thousands of well paying jobs associated with our coal mining business as well as the economic benefits to the Commonwealth of Pennsylvania.
- DEP is moving too rapidly to develop the restrictive regulation revisions without taking enough time to understand the significance of the impacts to the regulated businesses, the future development of business and how serious of a loss of an active industry or industries would be to the Commonwealth.

We all recognize the need for clean water in our rivers and streams. Who would not side on the desire for clean rivers and streams? In fact, we believe there have been substantial general improvements made in recent decades that do not seem to have been taken into account in the results of the data that has been gathered for this regulatory action. We also recognize the need for careful consideration of the impact to our watersheds that potentially could occur as a result of the vast Marcellus gas well drilling. However, from a position regarding continuing the development of the bituminous coal mining industry, it is strongly recommended that the Board not accept the proposed revisions and that DEP withdraw the regulation and perform a more comprehensive review of the extent of the problem and determine a more realistic approach while considering the overall impact of their action to the Commonwealth.

Truly Yours,



J. Clifford Forrest
President