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February 3, 2010

ENVIRONMENTAL QUALITY BOARD

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

RE: 25 PA. CODE CH. 95  
Wastewater Treatment Requirements  
[39 Pa.B. 6467]

To Whom It May Concern:

In response to the Environmental Quality Board's November 7, 2009 request for comments on 25 PA. CODE CH. 95 Wastewater Treatment Requirements, I have the following concerns as a resident of Pennsylvania and an employee of Amerikohl Mining, Inc., a Pennsylvania surface coal mining company.

As an employee of Amerikohl for the past 26 years and a resident of the State of Pennsylvania for my entire life, 55 years, I also enjoy the waters of the Commonwealth.

Amerikohl Mining contributes approximately 125 jobs in the Commonwealth, one of which is mine. During my employment here, Amerikohl has always been supportive of clean waters for the Commonwealth. To that end, Amerikohl has spent millions of dollars on reclamation and reining projects and wins numerous awards each and every year for the outstanding clean up efforts.

I certainly appreciate the opportunity to comment and am firmly opposed to the proposed rulemaking. I support the Pennsylvania Coal Association's (PCA) comments, as well as the PA Chamber of Business and Industry's comments. I believe a rulemaking with this huge of an impact on the coal industry in addition to a wide range of industries across the Commonwealth, should be based on solid science and all-inclusive engineering studies. We believe the proposed rulemaking is not based on sufficient scientific data, was poorly conceptualized and is completely unfeasible and impractical to implement. As proposed, this rulemaking would level a crippling blow to Pennsylvania and, in particular, Amerikohl's ability to competitively compete with other states and its existence as a productive company with a workforce comprised of a substantial number of stable, well paying jobs.

Prior to the development of any rulemaking, I believe the Pennsylvania Department of Environmental Protection (PADEP) should have undertaken a comprehensive review and analysis of the background data in terms of which waterways are affected, what are the conditions of those waterways, the constituents associated with TDS, and the causes of any potential challenges. These types of efforts should be accompanied by statistical analyses and evaluation of historical trend data such as the EPA STORET data. Had PADEP looked at the historical EPA STORET data, they would have realized that TDS exceedances are incredibly rare. I am aware of PADEP's response to PCA's August 2009 letter requesting supporting data and information for this proposed rulemaking and concur with PCA that it is incomplete and lacking scientific statistical evaluation and integrity. For example,

PADEP's response to PCA shows the rulemaking was based on an extremely 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. I personally believe this is an insufficient amount of data on which to base a proposed regulation that will incur expenditures at the levels projected by the mining industry.

I also wish to point out that my employer, Amerikohl, must comply with all PADEP NPDES testing requirements, one of which is the use of EPA-approved testing methods. For TDS sample analysis, EPA requires the sample to be dried at 180°C not 105°C as used by PADEP in the above 2 ½ month dataset. PADEP should comply with the same requirements in order for the data to be comparable.

PADEP needs to complete a comprehensive technical and economic feasibility study carefully evaluating each potential treatment technology as to the appropriateness of the technology for the Commonwealth and industry, the economical feasibility and effectiveness of each technology and the impact to all industrial sectors. They have not done so. In response to this proposed rulemaking, Amerikohl, as a member of PCA and myself, as an employee of Amerikohl have analyzed the impacts of this propose rulemaking on the bituminous coal mining industry. For the mining industry, the only system able to treat mining wastewater to the treatment levels proposed by PADEP is reverse osmosis with evaporation and crystallization at a capitol cost of \$1.325 billion and yearly O&M costs of \$133 million. Had PADEP completed an economic and technical evaluation of technologies available to the mining industry to treat TDS, they would have recognized the technologies available to treat TDS for the mining industry are very limited, have not been operationally tested, have expensive capital and operating and maintenance costs, use massive amounts of energy, and result in a huge volume of residuals—either brine or solid.

In the study completed for PCA, it is conservatively projected the energy costs alone for a reverse osmosis system with evaporation and crystallization would cost approximately \$42.9 million per year.

The study also projected residuals to be generated at a rate of 237,000 tons per year if solid, or greater than 1 billion gallons per year if liquid. PADEP has not analyzed or addressed the handling and disposal issues associated with these residuals, so I am uncertain of how the residuals are to be handled and if/where they can be disposed. It may be that they have to be trucked out of state increasing the number of vehicles on the road exponentially and increasing related air pollutant emissions. I stress that you cannot make economical decisions for the company I work for based on a regulation that is uncertain and incomplete.

I believe the implementation date of January 1, 2011 identified in the proposed rulemaking is artificial, unrealistic and cannot be met. Amerikohl has been in the mining industry for 32 years and has considerable experience with construction and permitting deadlines and timeframes. The types of systems needed for compliance are not off-the-shelf items and require extensive design, engineering and testing, especially since these systems have not been operationally tested for the mining industry. Some of these systems may require specialty steels with long lead times. Permitting these types of systems is complicated and complex and will incorporate many different types of permits within

difference agencies. I am well aware of the time needed to complete such a project. This would be a minimum of 24-36 month with the realization that we may NEVER obtain a permit. This time frame will increase as the number of systems required to be installed increases.

I am requesting PADEP withdraw this regulation. In the meantime, PADEP should develop a comprehensive, long-term sampling and analysis project to determine if a TDS problem exists and the extent of the problem, complete a comprehensive economic and technology evaluation, and review all literature studies and perform toxicity tests to determine the appropriate in-stream standards needed to protect the streams and rivers in Pennsylvania in a balanced approach.

Sincerely,



Robert J. Shaffer

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