



Mettiki Coal, LLC
James C. Ashby
Manager, Environmental Affairs

STREVE

February 12, 2008

Mr. Stephen Pattison,
Assistant Secretary,
Maryland Department of the Environment,
1800 Washington Boulevard
Baltimore MD 21230.

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FEB 19 2008

Solid Waste Program

RE: Comments on Notice of Proposed Action published December 21, 2007, regarding Management of Coal Combustion Byproducts.

Dear Mr. Pattison;

Mettiki Coal, LLC appreciates the opportunity to submit comments on the Maryland Department of the Environment (MDE) proposed regulations pertaining to Coal Combustion Byproduct (CCB) management. Over the past thirty years, Mettiki Coal, LLC (Mettiki) has invested millions of dollars in five (5) local mines and associated infrastructure, produced over 60 million tons of coal, reclaimed mined lands to productive uses, paid over \$9 million in Abandoned Mine Lands fees to reclaim abandoned mines, employed several hundreds of miners, and supplied the fuel that generates more than half of the electricity in the nation. Mettiki has experiences in the beneficial uses of alkaline CCB's to combat acid mine drainage (AMD) and will be directly impacted by these regulations. Our comments are intended to provide context.

The regulations presented are significant ones. We commend MDE for seeking to develop these regulations and fully recognize and appreciate the challenges presented to the Agency in seeking consistency in the manner in which CCB's are placed. We support the comments submitted by the Utility Solid Waste Activities Group and New Page and trust our constructive comments will be received in the spirit in which they are offered.

Proposed 26.04.06 - Mine Reclamation and 26.04.07 - Variances

We support the proposed text in COMAR 26.04.06 allowing for CCB use in mine reclamation activity and the variance allowance in 26.04.07. The beneficial use of coal ash, including mine reclamation, has been well documented and the potential risks have been thoroughly examined. Coal ash can be effectively and safely used when properly managed.

Mettiki would disagree with any attempted comparison of data from non-coal mine placement as an indicator of CCB placement at a regulated coal mine. Conditions at Surface Mining Control and Reclamation Act (SMCRA) regulated coal mines

administered by the Office of Surface Mining under the Department of the Interior are substantially different.

CCB disposal sites where problematic leachates have occurred are typically characterized by:

- geographic placement in a floodplain;
- a geologic setting of alluvial sand and gravel usually close to a river;
- ground water that is plentiful and of high quality;
- varying types of fossil fuel wastes are placed in the facility without any chemical characterization of the material; and

CCB placement at SMCRA regulated coal mine sites is typically characterized by:

- a geographic placement in an upland position;
- a geologic setting of bedrock sandstone, shale, and limestone underlain by an impermeable fire clay below the lowest coal seam mined;
- ground water is limited and of poor quality;
- only those CCB's that are leachate tested and approved in the permit are allowed for placement on the mine site;
- at all phases, the placement is regulated by the environmental protection permitting and performance standards of SMCRA which include the requirements of the Clean Water Act.

In 2003 Congress directed the Environmental Protection Agency (EPA) to commission an independent study of the health, safety, and environmental risks associated with the placement of CCBs' in coal mines. The National Academy of Science's (NAS) Committee on Mine Placement of Coal Combustion Wastes (Committee) issued its final report in March, 2006 titled: "Managing Coal Combustion Residues in Mines." The Committee concluded that putting CCB's in coal mines as part of the reclamation process is a viable management option. The Committee specifically noted advantages of CCB mine placement, including assisting in mine reclamation efforts by restoring land conditions, lessening the need for landfills, and neutralizing acid mine drainage.

The allowances contained in 26.04.06 and 26.04.07 accomplish the intent of the NAS study and report.

Proposed 26.20.24.08 (F) – Testing and Monitoring:

A small volume of a relatively innocuous constituent with low leaching potential should require less rigorous characterization once determined in the initial characterization contained in Section 26.20.24.08 D (4) (k and l). There is ample evidence that if the fuel source stays constant and the combustion process has not changed, the byproducts will remain chemically consistent. We support the language "...or on such other basis as the Bureau may require, ...".

Proposed 26.20.24.08 – Utilization of Coal Combustion Byproducts in Surface Mine Reclamation

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We would suggest the Chapter Title be changed to reflect that this regulation applies to "Non-Coal Surface Mine Reclamation". The coal mine regulations proposed in 26.20.24.08 address coal relevance and the wording as proposed may be confusing.

In closing, we would also recommend MDE encourage appropriate secondary uses of CCB's as does EPA through it's Coal Combustion Products Partnership (C²P²) program. The EPA has committed itself to a goal of achieving beneficial use of 50% of combustion byproduct materials by 2011. In this day of recycling conscientiousness, MDE should be both supportive of and a leader in those efforts.

We sincerely appreciate the ability to offer these comments. If you need clarification or have any questions, please contact me at jim.ashby@arlp.com or 301-334-5336.

Sincerely,



James C. Ashby