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Jim Ruby, Executive Secretary
Environmental Quality Council

Peabody Powder River Operations, LLC
1013 East Boxelder
Gillette, WY 82716
Caller, Box 3034
Gillette, WY 82717-3034
307.687.3900

December 14, 2011

Ms. Diane Walker Tompkins
Wyoming Department of Environmental Quality
Water Quality Division
122 West 25th Street
Cheyenne, WY 82002

Re: Proposed Revisions to Chapter 5, Water Quality Division Regulations

Dear Ms. Tompkins:


Peabody Energy would like to comment on the above reference proposed regulations. Peabody Energy is the world's largest private-sector coal company, with 2010 sales of 246 million tons. Peabody's coal fuels approximately 10 percent of all U.S. electricity and 2 percent of worldwide electricity. Peabody Powder River Operations, LLC operates four surface coal mines in the Powder River Basin in northeast Wyoming. Their combined 2010 tonnage was 140.6 million tons.

We have reviewed the draft rules which will be presented at the Environmental Quality Council Meeting in January. Although many of the comments that we submitted in September 2010 were taken into consideration, we still take issue with Section 5, Facility Classification. The draft rule states that the "*facilities subject to this rule shall be classified by the Administrator using a nationally recognized rating system*". And that the "*specific rating system will be identified by DEQ policy and posted to the...website.*" We believe that the rating system should be identified in the rule, so that all facilities know what is expected of them. In addition, the rating system that the DEQ decides to use should be subject to rulemaking, rather than policy. Rulemaking requires formal public notice and would alert water systems of classification changes. There are no requirements to notify the public of a 'policy' change. If the classification system remains nebulous, owners will have no assurance that the operators that they have trained will be adequate for the operation of their systems if the classification system can be changed without public notice. If system modifications or replacements are necessary, again the owners will not be able to make sound business decisions because the rule does not clearly define how a facility is to be ranked and consequently what level of operator will be needed if changes are made to the system.

Peabody Energy appreciates the opportunity to comment and is interested in supporting rules which maintain environmental and public protection. It is our desire that the Environmental Quality Council will take our comments into consideration during their review of the draft rule.

If you have any questions, please contact me at 307-464-4780.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose Haroian". The signature is written in a cursive style with a large initial "R" and a long horizontal flourish at the end.

Rose Haroian
Sr. Environmental Manager