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BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of the Proposed Title V Operating Permit for
Doe Run Company
to operate the **Buick Mine & Mill,**
located in Iron County, Missouri

MO DNR Project No. 2200-0005-010,

Proposed by the Missouri Department of Natural Resources

PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF THE PROPOSED TITLE V OPERATING PERMIT FOR THE BUICK MINE & MILL

Pursuant to Clean Air Act §505(b)(2) and 40 CFR§70.8(d), the Ozark Chapter of the Sierra Club (Sierra Club) hereby petitions the Administrator ("the Administrator") of the United States Environmental Protection Agency ("U.S. EPA") to object to issuance of the proposed Title V Operating Permit for the Buick Mine and Mill ("Buick Mine").

The permit was proposed to the U.S. EPA Region 7 by the Missouri Department of Natural Resources (DNR) on or about June 14, 2000. This petition is filed within sixty days following the end of U.S. EPA's 45-day review period as required by Clean Air Act $ 505(b)(2). The Administrator must grant or deny this petition within sixty days after it is filed. Id.

In compliance with Clean Air Act §505(b)(2), the Sierra Club's petition is based on objections to Doe Run's draft permit that were raised during the public comment period provided by DNR. The Sierra Club's comments on the draft permit are included in Appendix A (for reference purposes only).

The Sierra Club is a not-for-profit environmental advocacy organization that specializes in environmental issues. The Sierra Club has more than 8000 members in Missouri, located throughout the state. Many of the Sierra Club's members live, work, pay taxes, and breathe the air in and around Iron County, where the Buick Mine is located.

The Sierra Club does not wish for all issues raised in the original comments on the draft permit to be incorporated into this petition. Some of the original comments were recommendations for how DNR could make the permit more understandable and useful to the public. DNR's refusal to consider these recommendations is unfortunate, but not illegal. This petition focuses on aspects of the proposed permit that violate federal law.

The U.S. EPA Administrator must object to the proposed Title V permit for the Buick Mine because it does not comply with 40 CFR Part 70. In particular:

1. **It contains a number of inadequate and/or unclear monitoring conditions,** contained throughout the document, and specifically in Permit Conditions PW002, PW003, PW004, EU0040-001, EU0040-002, and EU0060-001.

2. It lacks an appropriate **Statement of Basis** (SOB).

3. The proposed permit does not assure compliance with all applicable requirements as mandated by 40 C.F.R. § 70.1(b) and 40 C.F.R. § 70.6(a)(1) because many individual permit conditions are not practically enforceable and lack adequate periodic monitoring.

If the U.S. EPA Administrator determines that a proposed permit does not comply with legal requirements, he or she must object to the proposed permit. See 40 CFR § 70.8(c)(l) ("The [U.S. EPA] Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with applicable requirements or requirements of this part."). The numerous and significant violations of 40 CFR Part 70 discussed below require the Administrator to object to the proposed Title V permit for The Buick Mine

Discussion of Objection Issues

A. Inadequate and/or unclear monitoring conditions

1) Permit Conditions PW002 and PW003 pertaining to asbestos abatement both state as requirements: "any appropriate monitoring," "any appropriate record keeping," and "any appropriate reporting." These requirements leave it up to the discretion of the applicant to determine what monitoring, recordkeeping, and reporting will be needed to demonstrate compliance with the required certification and accreditation for asbestos abatement under 10 CSR 10-6.250, and with the abatement procedures specified in 40 CFR Part 61, Subpart M. This is unacceptable: A permit needs to state clear monitoring and reporting conditions which are practicably enforceable. The language of these conditions completely fails that test.

DNR's response argues that the necessary monitoring, recordkeeping, and reporting is detailed in the regulations and "depends upon the scope of the project. Placement of all the variations in the Permit Condition would make the permit unnecessarily cumbersome." We submit that the "any appropriate" language leave a great deal of discretion, and the permit conditions as written are so vague that no two people would ever come to the same interpretation as to what level of activity is in compliance with the Permit, and what is not. It is possible to write conditions which refer to complex regulations and still are clear and precise. EPA should require DNR to do so for these conditions.

2) Plantwide permit condition PW004 requires the permittee to "conduct opacity readings on this emission unit," and the emission limitation is stated in terms of the opacity of discharges. The "emissions unit" is the entire facility so this condition is being applied to the entirety of the installation. While some of the equipment does discharge through baghouse silos and other stacks, the emissions from truck unloading stations, storage piles, and the haul road do not. How the control of overall plantwide emissions into the atmosphere, which are primarily in the form of widespread dust, is to be monitored through opacity is not stated, nor is the intent explained in the Statement of Basis.

DNR's response to the Sierra Club comment on this point was "The opacity rule is for stack emissions. The other emissions referred to are fugitive particulate emissions and are covered under Plant wide Permit Condition PW001 that applies 10 CSR 10-6.170, Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin, to those emissions. Request denied." (See attached Memorandum to 2200-0005-010 File, hereafter "DNR memo," p. 1). The explanation for the intent of this condition is the type of statement that should be included in the Statement of Basis, but is not. (See the Statement of Basis discussion on p. 5) So the authors of the permit have intended specific locations for the testing of opacity, but that specification is not in the language they wrote into the permit. Given their explanation, DNR should have modified the language of the permit to limit the application of this condition to the emissions units which exhaust through stacks. However, they refused to do so. As written, no piece of equipment is clearly included in, or clearly excluded from, this condition. This makes the condition unenforceable. Who know where the permittee is to take opacity readings for the monitoring requirement? Certainly no one reading this permit.

EPA should require DNR to rewrite this condition so that it says what is intended, i.e., so that it will regulate the emissions output from the specific emission units which have exhaust stacks, and so that it has practicably enforceable monitoring, recordkeeping, and reporting requirements pertaining to those specific units.

3) The permit states no monitoring is required for Condition EU0040-002, (relating to Concrete Batch Plant #2), followed by the sentence "Particulate emissions from the silo baghouses unit will not exceed the rule limit even without the control device." A rationale for this wavier of all monitoring is not contained in the Statement of Basis (SOB). The SOB does contain calculations showing that the limit is 35.4 PM per hour for this source, and the expected rate of emissions without the baghouse is 27 PM/hr. That indicates that if the system malfunctions to the point that emissions increase by 32%, and it is operating without the baghouse, an exceedance will occur, but nobody would ever be aware of it, because no monitoring is required by the permit, and the permit shield would allow Doe Run to pollute with impunity.

DNR's position is "Monitoring is not required in a permit condition when an emission source is in compliance with a rule without a control device." (See DNR memo, p. 2) No legal authority such as the Clean Air Act, 40 CFR Part 70, the SIP, or a CSR reference was offered as supporting this position.

For this condition to be practicably enforceable, sufficient monitoring of emissions by the concrete batch plant must be required in the permit to A) verify that the conditions upon which the calculations of emissions are based remain valid, and B) to capture any malfunctions, upsets, or maintenance conditions which may produce exceedances. The language of the condition needs to be revised accordingly.

4) Permit Condition EU0060-001 again states no monitoring of emissions is required from the underground portable screen and conveyor. A rationale for waiving all monitoring is not contained in the Statement of Basis (SOB). Indeed, we see no mention of this source at all in the Statement of Basis. Recordkeeping of emissions of PM10 from this source is required, which seemed inconsistent, given that no monitoring is required, and neither the permit nor the SOB indicate how emissions are to be measured or computed. DNR responded to the Sierra Club's comment with the statement "the need for monitoring is not required when the emitting unit is in compliance with the rule without a control device. Attachment D does explain how the PM10 emissions are to be computed." Again. no legal authority such as the Clean Air Act, 40 CFR Part 70, the SIP, or a CSR reference was offered as supporting this position.

Examining Attachment D indicates an assurnption that the precise amount of material processed by the equipment has been accurately tracked by the permittee. So actually they are expecting the permittee to monitor the amount of material processed without stating it as a requirement in the body of the permit, or in the SOB.

The wording of the permit Condition needs to state clearly what is being required so that all parties can understand what compliance entails, and to yield reliable data about the emissions from the facility. This Condition needs to be changed and clarified.. with a clear and practically enforceable monitoring requirement.

5) Manufacturer's specifications: The monitoring requirement for permit Condition EU0040-001 states "The baghouse shall be operated and maintained in accordance with the manufacturer's specifications." This condition is not practically enforceable because the permit does not clearly specify what is to be done, nor does it incorporate the specifications by reference. Manufacturer's specifications are frequently very difficult to get, so they should be attached to the permit if they are to be written into the permit.

DNR responded to the comment on this condition with "The subject sentence is one of four monitoring requirements in the permit condition and is commonly applied language in permits referring to baghouses, paint booths and solvent cleaners." (See DNR Memo, p. 2). What DNR commonly applies or misapplies to paint booths is not germane to an operating permit condition for concrete batch plant. Stating that something is a common practice is hardly a compelling justification putting it in a permit. (E.g., speeding on the highway is a common practice also. That doesn't make it legal and correct). The other three sentences included in this condition strengthen it, but the "manufacturer's specifications" clause create a major loophole.

Manufacturer's specifications are typically written only as suggestions to the operator. The facility could claim at any time that certain aspects of the specifications are not applicable or are not necessary for one reason or another. An inspector can not ascertain if this equipment is meeting the permit condition without a copy of the manufacturer's specifications, which may not be obtainable at the time of the inspection. (For instance, the permittee might temporarily "lose" them while the inspector is on site). This will give the facility a justification for operating the equipment any way they want to. For a permit condition to be enforceable, the permit must leave no doubt as to what the facility must do to comply with the condition, and this permit Condition fails that test. Therefore this language needs to be changed, and/or the referenced specifications attached to the permit.

A. Statement of Basis.

The failure to provide the legal and factual basis for decisions about the requirements for, or lack of, periodic monitoring in the permit is a major deficiency in the statement of basis. Per EPA guidance, the statement of basis must include a discussion of the periodic monitoring selected for each permit condition. EPA's Draft Periodic Monitoring Technical Reference Document (TRD) dated April 30, 1999, states "You need to make the rationale for the selected periodic monitoring method clear...The permitting authority is responsible for including this documentation in the permit record.. " Documentation of the rationale in the permit record is important for references in future Title V permitting actions." (TRD at 3-3.) To clarify this requirement, the example draft permit conditions provided in the TRD are followed by a Rationale that explains why particular monitoring requirements are adequate for the facility to demonstrate compliance with permit conditions." See TRD at A, 1-3.

According to U.S. EPA Region 10:
The statement of basis should include:

i. Detailed descriptions of the facility, emission units and control devices, and manufacturing processes including identifying information like serial numbers that may not be appropriate for inclusion in the enforceable permit.

ii. Justification for streamlining of any applicable requirements..

iii. Explanations for actions including documentation of compliance with one NSPS and NOC requirements, emission caps, superseded or obsolete NOCs, and bases for determining that units are insignificant IEUs.

iv. Basis for periodic monitoring, including appropriate calculation, especially when periodic monitoring is less stringent than would be expected (e.g., only quarterly inspections of the baghouse are required because the unit operates less than 40 hours a quarter).

Elizabeth Waddell, region 10 Permit Review, May 27, 1998, ("Region 10 Permit Review") at 4. Region 10 also suggests that:

> The statement of basis may also be used to notify the source or the public about issues of concern. For example, the permitting authority may want to discuss the likelihood that a future MACT standard will apply to the source. This is also a place where the permitting authority can highlight other requirements that are not applicable at the time of permit issuance but which could become issues in the future.

Region 10 Permit Review at 4

The Sierra Club is not alone in asserting that a complete Statement of Basis is an indispensable part of Title V proceedings. According to Joan Cabreza, EPA Region 10 Air Permits Team Leader:

> In essence, this statement [of basis] is an explanation of why the permit contains the provisions that it does and why it does not contain other provisions that might otherwise appear to be applicable. The purpose of the statement is to enable EPA and other interested parties to effectively review the permit by providing information regarding decisions made by the permitting authority in drafting the permit.

Joan Cabreia, Memorandum to Region 10 State and Local Air Pollution Agencies, Region 10 Questions & Answers #2: Title V Permit Development, March 19, 1996.

We do not see such explanations and information about the provisions in the permit for Doe Run-Buick and accompanying Statement. of Basis. Such a rationale for each condition should be included.

DNR 's response to the Sierra Club comment on the inadequacy of the Statement of Basis can be characterized as "Although the agency concedes that our understanding of what should be contained in the Statement of Basis is correct, our judgement is better than your judgement, regardless of what EPA guidance you cite." The responding engineer (James Hill) wrote "The draft permit format is the product of many EPA reviews and comments on prior draft permits and has been found satisfactory. This draft permit has been through four internal reviews before the Public Notice." DNR Memo, p. 3.

We are not disagreeing about the format of the permit itself. Our point is about the content of the Statement of Basis, which is substantially incomplete, explains virtually no permit conditions, and contains inaccuracies. Both the draft permit and the final permit conclude with the sentence "This Statement of Basis, while referenced by the permit, is not an actual part of the permit. So was Mr. Hill writing about the format of the permit, or the content of the Statement of Basis in his response about the permit format? His answer appears to be off target.

As to four internal reviews, the whole point of public input is to get a fresh perspective which is not imbued with the in-house paradigms. The fact that the engineers in the DNR permitting section all understand the same cryptic shorthand does not mean that any other observer will have the same understanding, or think that it makes any sense. The responses seem to be dismissive of all outside input.

Furthermore, some of the sparse wording in the Construction Permit Revisions section of the SOB is contradictory. Quoting from Revision 1:

> Rule 10 CSR 10-3.050, Restriction of Emission of Particulate Matter From Industrial Processes was applied to the fugitive particulate emissions from the conveyors, hopper/feeder and mixer. As this rule is not applicable to fugitive emissions, it was not applied to this equipment in the operating permit,

The second sentence is wrong; 10 CSR 10-3.050 is the cited as the applicable regulation for Permit Conditions EU0040-002, and EU0030-001, which apply to hoppers, mixers, and conveyors. Hoppers, conveyors, and mixers can be expected to have fugitive particulate emissions. A reader might speculate about the intent of the language, but what is written is entirely unclear and self-contradictory, and therefore does not meet the necessary standard for a legal permit. This section should be rewritten so that the public (and all other parties) can clearly ascertain what regulations are applicable to Doe Run-Buick.

In the absence of an adequate statement of basis, the proposed permit for Doe Run Buick violates Part 70 requirements. The Administrator must object to the issuance of the proposed permit and require that DNR draft a new permit that includes a complete statement of basis.

Conclusion

The Title V permitting program offers an unprecedented opportunity for concerned citizens to learn what air quality requirements apply to a facility located in their community and whether the facility- is complying with those requirements. Unfortunately, a poorly written Title V permit may make enforcement under the Clean Air Act even more difficult than it already is, because each of Missouri's Title V permits include a permit shield. Under the terms of the permit shield, a permittee is protected from enforcement action so long as the permittee is complying with its permit, even if the permit incorrectly applies the law. Thus, a defective permit may prevent the Sierra Club's members as well as other Missourians from taking legal action against a permittee who is illegally polluting the air in their community. Furthermore, a Title V permit that lacks appropriate monitoring, recordkeeping, and reporting requirements denies the Sierra Club's members and all Missourians their right to know whether the permittee is complying with legal requirements.

The proposed Title V permit does not assure The Buick Mine's compliance with applicable requirements. U.S. EPA must require DNR to remedy the flaws in the proposed permit that are identified in this petition. If DNR refuses to remedy these flaws, U.S. EPA must draft a new permit for The Buick Mine that complies with federal requirements.

Respectfully submitted,

Wallace McMullen

September 23, 2000
Jefferson City MO

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Copies of this Petition have been mailed to:

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March 1, 2000

Mr. James Hill
Environmental Engineer
Operating Permits Unit
Air Pollution Control Program
P.O. Box 176
Jefferson City MO 65102

Comments Re: Project No. 2200-0005-010, **Doe Run Co.-Buick Mine & Mill**

This industrial facility contains a lead-ore mine, and ore-concentration mill, and a concrete batch plant. It is a source of lead compound emission, a hazardous air pollutant, and other regulated emissions. The Emissions Inventory Questionnaire form for this installation dated March 29, 1999, shows annual PM,, emissions of 51 tons, 6 tons of NOX, 20 tons of carbon monoxide, and 16 tons of lead emissions.

Our review of the draft permit reveals deficiencies that may undermine the public participation goals of Title V, and the use of this permit as an effective tool for monitoring compliance with air pollution limitations.

1. 40 CFR $70.6(a)(3) requires "monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance" and §70.6(c)(1) requires all Part 70 permits to contain "testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit." The periodic monitoring and reporting conditions contained in the permit may be inadequate to verify that the public's interest in controlling emissions from this site is properly being protected.

For example, plantwide permit condition PW004 requires monitoring observations of "opacity readings on this emission unit," and the emission limitation is stated in terms of the opacity of discharges. This condition is being applied to the entirety of the installation. Some of the equipment does discharge through baghouse silos and other stacks, but the emissions from truck unloading stations, storage piles, and the haul road do not. How the control of overall plantwide emissions into the atmosphere (which are primarily in the form of widespread dust) is to be

monitored through opacity is not clear. The authors of the draft permit may have intended specific locations for the testing of opacity, but that is not clear from the language we see. It needs to be corrected.

Further, in contrast to what is needed, Permit Conditions PW002 and PW003 leaves it entirely up to the applicant to determine what monitoring will be needed to demonstrate compliance with the required certification and accreditation for asbestos abatement, and with the abatement procedures specified in 40 CFR Part 61, Subpart M. This is unacceptably vague.

Monitoring for permit Condition EU0040-001 says the baghouse shall be operated and maintained in accordance with the manufacturer's specifications. This condition is problematical and not practically enforceable because a) the permit does not clearly specify what is to be done, nor does it specifically incorporate the specifications by reference, although that seems to be the intent. Furthermore, manufacturer's specifications are frequently very difficult to get, so they should be attached to the permit if they are to be written into the permit. Further, the manufacturer whose specifications are to be applied is not specified in the permit Condition language. Also, manufacturer's specifications are typically written only as suggestions to the operator. The facility could claim that certain aspects of the specifications are not applicable or are not necessary for one reason or another. For a permit condition to be enforceable, the permit must leave no doubt as to what the facility must do to comply with the condition, and this permit Condition completely fails that test. Therefore this language needs to be changed and clarified.

The draft permit states no monitoring is required for Condition EU0040-002, (relating to Concrete Batch Plant #2), followed by the sentence "Particulate emissions from the silo baghouses unit will not exceed the rule limit even without the control device." A rationale for this wavier of all monitoring is not contained in the Statement of Basis (SOB). The SOB does contain calculations showing that the limit is 35.4 PM per hour for this source, and the expected rate of emissions without the baghouse is 27 PM/hr. That indicates that if the system malfunctions to the point that emissions increase by 32%, and it is operating without the baghouse, an exceedance will occur, but nobody would ever be aware of it, because no monitoring is required by the permit, and the permit shield would allow Doe Run to pollute with impunity. This is unacceptable.

Sufficient monitoring of emissions by the concrete batch plant must be required in the permit to A) verify that the conditions upon which the calculations of emissions are based remain valid, and B) to capture any malfunctions, upsets, or maintenance conditions which may produce exceedances.

Permit Condition EU0060-001 again states no monitoring of emissions is required from the underground portable screen and conveyor. A rationale for waiving all monitoring is not contained in the Statement of Basis **(SOB).** Indeed, we see no mention of this source at all in

the Statement of Basis. Recordkeeping of emissions of PM,, from this source is required, which seems inconsistent, given that no monitoring is required, and neither the permit nor the SOB indicate how emissions are to be measured or computed. This permit Condition is not going to produce "monitoring sufficient to yield reliable data from [a] relevant time period." The Condition needs to be changed and clarified, with a practically enforceable monitoring requirement.

The failure to provide the legal and factual basis for lack of periodic monitoring is a major deficiency in the statement of basis. Per EPA guidance, the statement of basis must include a discussion of the periodic monitoring selected for each permit condition. EPA's Periodic Monitoring Guidance ("PMG"), dated September 15, 1998, states that "in all cases, the rationale for the selected periodic monitoring method must be clear and documented in the permit record." (PMG) at 8. Furthermore, EPA's Draft Periodic Monitoring Technical Reference Document ("TRD") dated April 30, 1999, states "You need to make the rationale for the selected periodic monitoring method clear.. Documentation of the rationale in the permit record is important for references in future Title V permitting actions." (TRD at 3-3.) To clarify this requirement, the example draft permit conditions provided in the TRD are followed by a "Rationale" that explains why particular monitoring requirements are adequate for the facility to demonstrate compliance with permit conditions. See TRD at A. l-3. We do not see anything like this in this in the permit for Doe Run-Buick, Such a rationale should be included.

Furthermore, some of the wording in the "'Construction Permit Revisions" section of the SOB is just plain screwed up. Quoting, with emphasis added:

> "Rule 10 CSR 10-3.050, Restriction of Emission of Particulate Matter From Industrial Processes **was applied** to the fugitive particulate emissions from the conveyors, hopper/feeder and mixer. As this rule is not applicable to fugitive emissions, **it was not applied** to this equipment in the permit."

The second sentence is just plain wrong; 10 CSR 10-3.050 is the cited regulation for Permit Conditions EU0040-002, and EU0030-001, which apply to hoppers and conveyors. A reader might speculate about what the intent of the language is, but what is written does not meet the necessary standard for a legal permit. This section should be rewritten before a final permit is issued so that the public can clearly ascertain what regulations are applicable to Doe Run-Buick.

In the section of the SOB titled **Other Air Regulations Determined Not to Apply to the Operating Permit,** 10 CSR-3.080. *Restriction of Emission of Visible Air Contaminants* (p. SB-1) the last sentence reads "Therefore, this rule was not cited in the **applicable requirements section** of the operating permit." (Emphasis added). There is no applicable requirements section of the permit. We suggest that a table of applicable requirements in the initial section of the permit would indeed be an excellent idea for clarifying the permit. It would also correct this

incorrect reference.

Bi-annual reporting on all the monitoring requirements specified in the various emissions limitations delineated in the permit conditions appears to be required by in the General Permit Requirements language in the section **General Record Keeping and Reporting Requirement (II)A)** to "submit a report of all required monitoring" , but precisely which conditions this General Requirement is applicable to are not specifically listed anywhere we can see in the permit. (For example, permit Conditions EU0010-001, EU0020-001, EU0030-001, and EU0040-002 all have no monitoring required, but have recordkeeping requirements. What should be reported, therefore?) The periodic reporting requirement would be clarified if wording was contained in the permit that explicitly delineated a summary list of the permit's required monitoring actions that are to be reported in the submitted report document for fulfilling this bi-annual reporting requirement. This might also help clarify the monitoring requirements for PW002, PW003, and PW004, as well as the four conditions just cited.

2. The decisions as to which conditions will be included, and what will be omitted in the requirements of the Title V operating permit are not adequately explained. Such explanations are needed, as purpose of the Statement of Basis is to enable EPA and other interested parties to effectively review the permit by providing information regarding decisions made by the permitting authority in drafting the permit. See also the discussion of inadequate SOB in point 1 pertaining to monitoring.

3. The public's ability to verify that this industrial facility is operating within the limitations of the permit is not adequately protected in the conditions of the permit. Nowhere within the permit does it require the company to provide records of emissions to a citizen of Missouri (who is not a DNR employee) upon reasonable notice. It does require repotting of specified emissions to DNR, requires that records of emissions be available to DNR personnel upon request, and pertaining to testing of rock moisture content requires "the date on which the test samples are to be obtained must be prearranged with the DNR Air Pollution Control Program a minimum of 30 days prior to the proposed to assure that the date is acceptable for an observer to be present." This is not adequate for the public to be able to verify in a timely manner if this emissions source is meeting the its emission limitation requirements.

The permit should require that all the emission records, and pertinent calculations, be available an citizen of Missouri be upon one day's notice. Otherwise, a citizen would have to wait until reports of monitoring and exceedances are reported to DNR, and make a request to inspect the agency's files to learn about emissions levels. This could mean a substantial delay in the public being able to learn the pertinent facts after an excess emissions episode occurs. Congress intended for Title V to improve the public's ability to monitor industry compliance with air quality laws. The goals of the Title V permit program include not only a comprehensive permit system for implementing the Clean Air Act effectively, with citizens to be involved in the permit

review process, but also that permits and compliance monitoring records are available for public review. That intent, at least as pertaining to timely public review of emissions records, is not realized in this draft permit, and the permit conditions should be changed to allow the public timely review of those records on site

While EPA, MDNR, Doe Run, and concerned citizens may rely upon all credible evidence regardless of whether this is explicitly stated in Doe Run's permit, we recommend that MDNR include credible evidence language in the permit. In a letter to the Indiana Department of Environmental Management, EPA recommended that the following language be included in Title V permits:

> Notwithstanding the conditions of the permit that state specific methods that may be used to assess compliance or noncompliance with applicable requirements, other credible evidence may be used to demonstrate compliance or noncompliance.

(Letter from Stephen Rothblatt, Acting Director, Air and Radiation Division, to Paul Dubenetzky, July 28, 1998). We encourage MDNR to include this phrase in the final permit so as to clarify the availability of any credible evidence to demonstrate noncompliance with permit requirements.

In summary, this draft permit contains significant errors and omissions. We submit that the errors and omissions stated above should be corrected before this permit is issued. If DNR decides against making these corrections, we request a public hearing on the issues rased herein.

DNR staff have clearly made an effort to develop a consistent and logically structured format for Title V permits. We thank you for your consideration of these comments.

Sincerely,

Wallace McMullen
Clean Air Chair, Ozark Chapter