

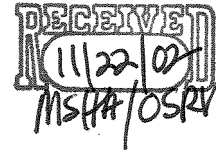
Kennecott Minerals Company
 224 North 2200 West
 Salt Lake City, Utah 84116
 Phone: (801)238-2480
 Fax: (801)238-2488

November 22, 2002

**Kennecott
 Minerals**

Via Email, Fax and Courier

MSHA
 c/o Mr. Marvin W. Nichols
 Director
 Office of Standards, Regulations & Variances
 Room 2352
 1100 Wilson Boulevard
 Arlington, VA 22209-3939



Re: **Comments on MSHA's ANPRM Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners**

Dear Mr. Nichols:

This letter is being submitted on behalf of the Kennecott Greens Creek Mining Company (Kennecott) in response to the Advanced Notice of Proposed Rulemaking (ANPRM) published in the Federal Register on September 25, 2002 (67 FR 60199). Kennecott has been very involved in MSHA's rulemaking process for diesel particulate matter (DPM) exposure of underground metal and nonmetal mines and was party to the Settlement Agreement reached among industry, labor and the government (MSHA, Kennecott Greens Creek Mining Company, Getchelt Gold Corporation, the MARG Diesel Coalition, and the United Steelworkers of America) on July 15, 2002.

Kennecott appreciates the opportunity to comment on the ANPRM and hereby endorses the comments being submitted by the National Mining Association, of which it is a member,

Kennecott remains concerned that the information central to implementing the Settlement Agreement and required for MSHA to propose and support a final DPM exposure standard is not available and may **not be** available within the current **regulatory** timeframe. This concern is supported by the format MSHA has used in the ANPRM, one **of** asking a number of questions to facilitate public comments for which there are no complete answers to. MSHA will most likely not have appropriate information available **to** determine if both the interim DPM standard, let alone a **final** DPM standard, is technologically and/or economically feasible. This goes to the heart **of** many of the comments previously submitted by Kennecott on the proposed DPM rule and the joint

AB29-COMM-4

31-mine study addressing feasibility ~~of~~ the interim and final standards.¹ Kennecott was unable to answer many of MSHA's questions in the ANPRM pertaining to technologic and economic feasibility because the information is not available at this time.

In order to obtain the required information, the Kennecott Greens Creek Mine has agreed to work with MSHA to assess the performance of ceramic DPM and other filters for reducing diesel emissions at the mine. The purpose ~~of~~ the study is to verify the efficiency of catalyzed ceramic DPM filters for reducing diesel emissions. The goal is the identification of site-specific, practical mine-worthy filter technology. Practical mine-worthy filter technology means feasible, effective **and** durable filters which will enable the mine to comply with the DPM concentration limits specified in 30 **CFR** § 57.5060 by consistently reducing DPM emissions by no less than 80% in actual conditions of use, without causing equipment damage or failure or otherwise creating safety hazards or health hazards such as unhealthful or impermissible levels of any air contaminant. The series of tests designed to determine the reduction in DPM emissions and personal exposures are scheduled to begin the week of December 2, 2002. Unfortunately, this is after the November 25, 2002 comment deadline for the ANPRM prohibiting Kennecott from submitting meaningful comments addressing feasibility issues and having adequate answers to the questions posed in the ANPRM.

Given the lack of time to conduct the joint MSHA/Greens Creek Mine study to produce meaningful information to adequately address the questions in the ANPRM, Kennecott would like MSHA to consider a two-phased rulemaking process whereby all issues, other than the final exposure limit, would be proposed and completed by the expedited rulemaking contemplated in the Settlement Agreement. Adopting this approach would provide protection to DPM exposures by implementing the DPM rules while allowing the needed feasibility information to be acquired to address the final DPM limit.

In summary, Kennecott does not believe MSHA currently has sufficient information to proceed with the promulgation of a final DPM standard, nor will the necessary information be available from answers to the ANPRM questions. All information gathered to date in both the coal and metal and nonmetal mining sectors indicates that there is a significant information gap on what constitutes feasible technologic and economic controls for DPM emissions in order to meet the interim and final standards. Kennecott looks forward to working with MSHA to assist in defining site-specific DPM control technologies that are feasible and will allow the mine to comply with the interim and final standards. The feasibility of this technology and its costs are not known at this time, therefore, MSHA should not proceed with proposing a final DPM standard until

¹ (1) April 29, 1999 Submittal of Comments on MSHA's Proposed Rule on Diesel Particulate Matter Exposure of Underground Metal and ~~Nonmetal~~ Mines (30CFR Part 57)
 (2) May 22, 2002 Comments of AngloGold (Jerritt Canyon) Corporation and Kennecott Greens Creek Mining Company on the March 29, 2002 MSHA "Report on Joint MSHA/Industry Study: Determination of DPM Levels in Underground Metal and Non-Metal Mines."
 (3) May 29, 2002 joint meeting with MSHA on the Draft DPM Report: Comments of AngloGold (Jerritt Canyon) & Kennecott (Greens Creek Mine)
 (4) June 12, 2002 submittal of brief supplement to May 22 comments.

additional information is made available from future studies and MSHA's year-long compliance assistance program.

Respectfully submitted,



Fred Fox

cc: National Mining Association