

-----Original Message-----

From: KKoss@stillwatermining.com [mailto:KKoss@stillwatermining.com]

Sent: Tuesday, October 14, 2008 1:54 PM

To: zzMSHA-Standards - Comments to Fed Reg Group

Subject:

(See attached file: Reference RIN 1219-AB41.pdf)

Dawn McCurtain, Director of Marketing, invites you to visit

<http://www.luxurypalladium.com>

AB41-COMM-73



October 9, 2008

Reference: RIN 1219-AB41

I am responding to the MSHA Alcohol and Drug-Free Mines: Policy, Prohibitions, Testing, Training and Assistance proposal. MSHA will certainly agree with our starting position:

1. There can be no compromises when it comes to workplace safety.
2. It is an absolute imperative that mines have a formal drug and alcohol testing policy and procedure in place to ensure the safety of mine workers.
3. A drug and alcohol testing policy must be analogous with maintaining the highest level of safety possible in the mines.

However, I believe, the proposed MSHA policy allowing an employee with a failed test to return to work upon SAP treatment recommendations and the completion of the return to duty procedure is inconsistent with the goal of ensuring the highest level of safety in the mines. Further, I believe a designation of safety-sensitive jobs to be a shocking development as all of our positions must be considered safety-sensitive. Let me elaborate:

- Beyond Safety-Sensitive Jobs – The proposed policy is designated only for employees that perform so called safety-sensitive jobs. I believe a safety policy that designates only some jobs as safety-sensitive provides safety policy wiggle room in practice and creates two classes of employees when it comes to safety. Numerous jobs might not be designated as safety-sensitive but those filling them could in practice be underground or near machinery and equipment where their potential use of drugs or alcohol puts all employees in danger. All of our employees must be safety-sensitive. All of our jobs are safety-sensitive. To suggest otherwise would diminish a safety first culture and send the wrong message to our workforce.
- Zero Tolerance to a Free Pass – A policy that allows our employees to return to work after a failed test undermines the whole purpose of having a formal drug and alcohol policy, and the significance of the message inherent in a zero tolerance. In fact, “upon initiation” MSHA’s proposal would have mines move from a zero tolerance to 100% tolerance policy; as every one gets one “free pass” – a free pass that most users will utilize; possibly for a substantial length of time – i.e. until caught.
- Death Sentence – To our workforce, such a policy would be tantamount to a potential death sentence for those not disciplined enough in their personal lives to consistently adhere to safe drug free work practices (and to their fellow workers) and be an insult and threat to all of those who rigidly adhere to safe drug free work practices.

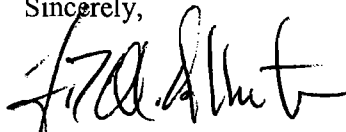
- Legal Liability – Mining is inherently dangerous; many underground hazards exist, and to knowingly tolerate unsafe practices, in fact to mandate such a practice as government policy, is irresponsible and intolerable. Thus, such an unsafe practice will subject our company (if not the government) to legal challenge and liability (political challenge) for an accident caused due to consciously escalating the danger.
- Public Perception – The mining industry is under immense scrutiny – as is MSHA – for unsafe work practices. We do not care to so tarnish our reputation, nor should MSHA force us into such a position – as a matter of public policy. Ridiculous.
- Voluntary Treatment – Stillwater has a policy in place which allows employees to willingly come forward, receive help for drug and alcohol abuse problems, and remain employed. This proactive policy gives employees ample opportunity to seek help. However, under the policy, if an employee chooses not to seek help and fails a test, the employee will be terminated.
- Endangerment to Others – The danger posed to the workforce from allowing an employee that fails a test to resume working even after receiving treatment is far too great. They were given a chance to seek help without repercussions and chose not to seek help but instead to “covertly” use drugs or alcohol, thereby endangering the lives of themselves and those around them. We absolutely cannot tolerate a policy that allows workers to have one “get out of jail free card,” which essentially is the basis of the proposed MSHA policy.

I repeat, I do not see the proposed policy as a second chance for an employee that fails a test to get back to work, but instead I see it as giving an employee a second opportunity to endanger lives and compromise the safety of the mines. Regardless of the fact that they may never violate the substance rule again it is far too big of a risk to take; far too great a liability to assume.

It is not just about an individual employee, but it is about the scope and responsibility that we have as an employer of protecting all employees. We cannot claim to offer a safe work environment if we were to allow known drug and/or alcohol violators back to work. Thus, I would absolutely not allow this at Stillwater, and I do not see how it could be allowed at other mines.

I strongly recommend revisions to the policy consistent with my comments for the safety of mine workers everywhere. We have an obligation to all mine workers and their families to set the highest possible safety standards and comply with them.

Sincerely,



Frank McAllister  
Chairman and Chief Executive Officer  
Stillwater Mining Company