



State of Ohio Environmental Protection Agency

Southeast District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

November 3, 2010

Re: Tuscarawas County
Rosebud Mining Company
Facility ID #0679000306
Warning Letter (non-HPV)

Certified #70101060000178960415

D. Michael Jamison, GM of Ohio Operations
Rosebud Mining Company
101 E. Market Street, Suite 3
Cadiz, Ohio 43907

Dear Mr. Jamison:

As we discussed on November 2, 2010, the purpose of this letter is to document and request correction of violations of State and federal air pollution control regulations and the air permits issued for the air contaminant sources operated by the Rosebud Mining Company. The subject facility is located on County Road 37 in Dennison, Ohio, where the Rosebud Mining Company operates the following permitted air contaminant sources: unpaved roadways and parking areas (emissions unit (EU) F001), material handling (EU F002), coal storage piles (EU F003) and coal crushing, sizing, screening and cleaning (EU P901).

A review of the permitting history for this facility has been completed, and permitting deficiencies have been identified that need to be addressed by Ohio EPA. First, although applications for Permits-to-Operate (PTOs) for EUs F002, F003 and P901 were received with the permit modification application received from the company on October 17, 2007 (which resulted in issuance of modified Permit-to-Install (PTI) #06-08354 on October 30, 2007), to date Ohio EPA has never issued operating permits for these sources, and the terms and conditions of the modified PTI remain in effect. Second, errors in PTI #06-08354 were discovered; specifically, monitoring, recordkeeping and reporting requirements applicable to these sources were omitted. These permitting deficiencies will be resolved when Ohio EPA processes and issues the requested operating permits. EU F001 was not modified in 2007, so the effective air permits for this source include PTI #06-07271 issued on September 9, 2003, and the PTO issued on February 28, 2008, which expires on February 28, 2013. Copies of the effective permits are enclosed for your records.

The violations identified below were discovered upon a recent review of these permits and the related information in Ohio EPA's files.

- (1) **Compliance Reporting Requirements**
Parts I.A.2 and II.D of PTI #06-07271 modified effective September 9, 2003 (EU F001)
Part I.A.2 of PTI #06-08354 effective October 30, 2007 (EUs F002, F003 and P901)
Parts I.3 and II.D of the PTO issued February 28, 2008 (EU F001)

For all EUs, quarterly written reports of (a) any deviations from emission limitations, operational restrictions, and control device operating parameter limitations detected by the testing, monitoring, and recordkeeping requirements specified in the permit, (b) the probable cause of such deviations, and (c) any corrective actions or preventive measures which have been or will be taken, shall be submitted to the appropriate Ohio EPA district office. If no deviations occurred during the calendar quarter, the permittee shall submit a quarterly report that states that no deviations occurred during that quarter. The reports must be submitted by January 31, April 30, July 31, and October 31 of each year and shall cover the previous calendar quarter.

To date, none of the compliance reports required by the company's air permits have been submitted by the Rosebud Mining Company. The Rosebud Mining Company must submit all deviation reports required for this facility, beginning with the fourth quarter 2007 report that was due on January 31, 2008. If the company has failed to fulfill the monitoring and recordkeeping requirements of its permits and does not have sufficient data to complete the overdue reports, a statement must be submitted attesting to the company's inability to complete the required reports. Further, the Rosebud Mining Company must provide a written commitment to comply with the reporting requirements of its air permits in the future.

- (2) **New Source Performance Standards (NSPS) Compliance Demonstration**
40 CFR Part 60, Subparts A and Y (40 CFR §60.8 and 60.255(b)(2))

As outlined in the applicable permits, EUs F002 and P901 are affected facilities subject to the NSPS for coal preparation and processing plants (40 CFR Part 60, Subpart Y). This federal rule requires demonstration of compliance with the visible particulate emission limitation of less than 20% opacity from the affected facilities no later than 180 days after initial startup. Ohio EPA does not have a record that the Rosebud Mining Company, or its predecessor Tusky Coal, LLC, ever completed the Method 9 testing required for EUs F002 and P901 in the original PTI #06-07271, or in modified PTI #06-08354, to demonstrate compliance with the opacity limitation.

To resolve this violation, the Rosebud Mining Company must conduct the Method 9 performance testing required by the NSPS for all affected facilities at the Dennison facility prior to the end of the calendar year. The testing must follow the procedures outlined in Part II.E.2 of the PTI for EUs F002 and P901. An Intent to Test (ITT) notification must be submitted not less than 30 days prior to the proposed test date(s), and a written report on the results of the emissions testing must be submitted to Ohio EPA within 30 days following the completion of the testing.

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Within thirty (30) days of your receipt of this letter, the Rosebud Mining Company must provide Ohio EPA with the information requested above and a compliance plan and schedule that outlines the steps that the company will take to comply with all applicable Ohio air pollution control laws and rules in the future. Acceptance by Ohio EPA of a schedule for compliance does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code. The determination to pursue or decline to pursue such penalties in this case will be made by Ohio EPA at a later date.

Should you have any questions or need assistance responding to this request, please feel free to contact me at (740) 380-5245 or via email at kim.reinbold@epa.state.oh.us.

Sincerely,



Kimbra L. Reinbold
Division of Air Pollution Control
Southeast District Office

KLR/mim

Enclosures

cc: Sarah K. Harter, DAPC, SEDO
Bruce D. Weinberg, DAPC, SEDO