



comments on the
proposed final...

From: Chamberlain, Brent [mailto:bchamberlain@JERRITT.com]
Sent: Tuesday, October 14, 2003 1:12 PM
To: 'comments@msha.gov'
Subject: Comments on the Proposed Final DPM Rule

Please find attached comments submitted in Word format on the above referenced rule

Brent <<comments on the proposed final rule.doc>>

Brent Chamberlain
Human Resources Manager
Queenstake Resources USA, Inc.
Jerritt Canyon Mine

Tel: 775-738-5006 Ext. 126
Cell Phone: 775-777-5101
Fax: 775-758-5453
E-mail: bchamberlain@JERRITT.com

Confidentiality Warning

This e-mail message contains confidential information which is intended for the use of the person to whom it is addressed. If you received it in error, please notify the sender and delete the material from any computer. Any disclosure, re-transmission, dissemination or any other use of this information is strictly prohibited.

**MSHA Docket
No. AB29-COMM-34**

October 14, 2003

Marvin W. Nichols, Jr.
Director, Office of Standards, Regulation and Variances
Mine Safety and Health Administration
1100 Wilson Blvd., Room 2313
Arlington, Virginia 22209

Re: Comments on the Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners; Proposed Rule

The following comments are submitted on behalf of Queenstake Resources U.S.A. Inc., Jerritt Canyon Mine, formerly AngloGold Jerritt Canyon Corp. In July, 2003, The Jerritt Canyon Mine was acquired by Queenstake through an asset purchase. The Queenstake Jerritt Canyon Mine maintains the same interest in the health of its miners, and the same interest in the rulemaking for diesel particulate as the predecessor company. These comments are written concerning the Diesel Particulate Matter Proposed Final Rule published in the Federal Register August 14, 2003.

The AngloGold, Jerritt Canyon Mine, represented by counsel Mr. Edward Green, was a party to the July 2002 settlement agreement between the parties. Queenstake recognizes Agencies efforts to abide by the July 2002 settlement agreement in issuing these proposed final rules. For the most part, it appears those efforts were successful. This writing will discuss those areas where Queenstake feels the agreement was not followed, or where there are additional concerns about the Proposed Final Rule.

Queenstake strongly disagrees with Agencies conclusion that the standard of 400 µg TC or 308 µg EC is technologically feasible for the metal underground mining industry. When settlement was reached in July of 2002, we were of the opinion, based upon assurances from MSHA and claims from filter manufacturers, that with the application of enough DPF systems on our equipment, we could meet the interim

standard of 400 µg. What we have learned since then through extensive testing of this technology is that there may not be a DPF filter that will work at the Jerritt Canyon Mines. We do agree with MSHA about the filters capability to remove carbon from the diesel exhaust, however, what MSHA has not made clear to the industry is that DPF filters may consistently create exhaust back-pressures above that specified as the maximum allowable by the engine manufactures. At our mines, after a minimal operating life the DPF filters seam to reach a stable operating state that creates exhaust back pressures in the range of 15-25% above that allowed for that specific engine. The filters tested are passively regenerated filters that are operating within the parameters necessary to achieve complete regeneration. In an attempt to lower backpressure, we have removed a filter and actively regenerating it “off board” in according to the manufactures recommendations. After this process of off board active regeneration, the filter quickly climbed back into the operating back-pressure range above that allowed for the engines. We have experienced the same problem with filters from more than one manufacturer. We are concerned that the agency has based the determination that compliance with this rule is achievable at every mine based upon the use of DPF technology that in fact may not be usable in all mines.

Queenstake believes that the Agency has not adequately evaluated the back pressures created by DPF filters, and assessed the effect of the backpressure on engine life, manufacturer warranty and other issues faced by industry. We believe the Agency is premature in issuing a proposed rule that relies heavily upon a DPF technology without answering these questions raised by this writing.

Queenstake maintains that the dpm control plan proposed adds nothing to the health and safety of miners. The enforcement process provides all the documentation necessary for compliance. Adding the new paperwork burden created by the dpm control plan contained in this Proposed Final Rule does nothing to add additional protection to miners.

Queenstake believes that the Agency Summary of Costs and Benefits is at a minimum not based upon valid data. Studies are underway that may prove a correlation between exposure to diesel particulate at various levels, and a corresponding health affects. However, at this time, we do not believe the results of these tests are conclusive. It is premature for the Agency to jump to the conclusions reached in the Proposed Final Rule.

In conclusion, Queenstake recognizes the efforts of many for the MSHA, NIOSH, industry and others who have worked to develop fair and reasonable rules to protect miners health. With continued effort, and a willingness to incorporate and find solutions to the concerns raised by this writing and other testimony and writings, a reasonable rule can be found.

Submitted by,
Brent Chamberlain
Manager of Human Resources and Loss Control
Queenstake Resources U.S.A., Inc.,
Jerritt Canyon Mine