

FINAL REPORT

Ohio's Processing of Water Supply Complaints

June 2004

Prepared by

**Office of Surface Mining
Pittsburgh Field Division
4605 Morse Road
Columbus, Ohio 43230
614-416-2238**

I. Introduction

OSM Directive REG-8, entitled *Oversight of State Regulatory Programs*, requires OSM to evaluate the effectiveness of customer service provided by the State each evaluation year. In the 2004 Performance Agreement (PA) between OSM and the Ohio Division of Mineral Resources Management (DMRM), we agreed to conduct a follow-up review of DMRM's processing of water supply complaints. This study will meet the REG-8 customer service requirement for 2004.

II. Background

In 1998, OSM reviewed DMRM's processing of water supply complaints. The findings from that review concluded that DMRM did not complete investigations of water supply complaints in a timely manner; the hydrologist's tracking log did not include all of the data; four complaints were not on the log; complaints were not listed or filed in any apparent order; and some files were not complete. Subsequent to this report, DMRM established two field hydrologist positions to enable them to better respond to complaints and to better address field hydrology issues.

In 2001, OSM again reviewed DMRM's complaint process, including water supply complaints. We found in that review, as well as in the 1998 review, that DMRM tracking systems and logs for water supply complaints were inconsistent. DMRM had difficulty providing timely interim and final responses to water supply complaints. There were six water supply complaint files we reviewed that contained no documentation of DMRM's conclusion from its investigation or final response to the complainant.

Although DMRM developed a hydrology complaint database after our 1998 study, our 2001 review found four hydrology complaints on the district office complaint logs that were not in the hydrology complaint database. Following the 2001 study, DMRM began developing an all-encompassing database for tracking all mining-related complaints. They recently implemented this database after several months of testing. However, the review period for this study occurred prior to full implementation of the new database. District offices continued to rely on their complaint log, and field hydrologists primarily used their hydrology complaint database and a different complaint numbering system during the review period. Therefore, we did not evaluate the effectiveness of the new database.

The Geology Program Supervisor and the North Regional Manager plan to link the existing detailed data management system for tracking the resolution of all types of water complaints to the recently created complaint database. This link will enable managers to assess workload, create reports, and track complaint progress from beginning to end more efficiently. A unique number will be assigned to each complaint to avoid multiple names and numbers being assigned to the same complaint that have made tracking difficult. The planned database will establish electronic files of all documents related to the complaint and be a nearly paperless file. They also described plans for establishing a better management and/or peer review for reviewing individual hydrologist's reports and

findings. Both of these proposals are intended to provide better controls on the hydrology complaint process.

III. Purpose and Scope

The purpose of this study is to determine the timeliness of DMRM's response to water supply complaints. The study will consider the effectiveness of DMRM's changes to the complaint process in providing timely resolution to complainants' concerns.

The review will answer the following questions:

1. Does DMRM provide timely investigations and conclusive final responses to water supply complainants?
2. How do DMRM's managers monitor progress of investigations, interim responses, and final resolution of water supply complaints?
3. Do district office complaint files include all necessary documents and correspondence, including documentation that citizens were informed of their rights?
4. Have water supply complaints that were unresolved in OSM's 2001 report been resolved?

IV. Methodology

DMRM provided OSM with the district office complaint logs. OSM identified 56 water supply complaints related to coal mining that were logged between January 1, 2002 and December 31, 2003. We reviewed 47 of the 56 complaint files maintained by the two field hydrologists. Appendix 1 provides a summary of the complaints that were logged and our findings on each one we reviewed. Nine complaints were not reviewed for the following reasons: complaint was non-coal; hydrologist could not locate the file the day of the file review; complaints were subsidence-related and the district office was addressing the issues; the complaint was a duplicate, or, the complainant had not responded to requests for information.

We met with the field hydrologists responsible for conducting and reporting on the complaint investigations. We reviewed the selected complaint files to determine the status of the complaint, the investigation time, and the total time from receipt of the complaint until final resolution. We also reviewed the files for documentation that citizens were provided their rights to informal review and to maintain confidentiality. Information from the file reviews was recorded on a data collection form.

The reviewers made no attempt to evaluate the conclusions reached by DMRM's investigation.

V. Discussion:

1. Does DMRM provide timely investigations and conclusive final responses to water supply complainants?

Finding: DMRM has improved on the timeliness and conclusiveness of water supply complaint investigations and final reports.

DMRM provided final response letters and reports to complainants in an average of 74 days from date the district office received the complaint. Final response times ranged from 10 to 298 days. The average time is based on 43 complaint files we reviewed on which DMRM had concluded investigations at the time of our file review. Naturally, some cases are more complicated and require more time to reach final resolution and others are resolved quickly without a need for a field visit. In many cases, the field hydrologists send the complainants a questionnaire designed to provide more specific information about their water supply. Responses to these questionnaires sometimes provide enough information so that a site visit is not necessary. Some longer delays can be attributed to initial delay in referrals to hydrologists from district offices, delay in requests for information from the landowner, necessary monitoring over time, and discussion with mining companies and landowners, among others. The field hydrologist in the North District addressed several complaints without conducting a field visit due to the distance from the water supply to the mine and/or apparent lack of hydrologic connection between the mine and the water supply.

Of the 43 complaints on which DMRM had concluded their investigations, DMRM determined that ten (23 percent) were mining-related or the permittee replaced the water supply before DMRM's final report was completed. Four of the ten were on the same permit.

At the time of our file reviews in March and April, there were seven complaints filed during the review period without final resolution. Four of these are agricultural water supplies impacted by longwall mining. The mining companies have provided a temporary water supply for several years on three of these complaints. The fourth remains under investigation by the district staff and the technical section. The district office is addressing these issues with the mining company, and the field hydrologist is not actively involved at this time. Resolution of the remaining three complaints is dependent on further monitoring or additional information from the owners.

File and database notations frequently documented the field hydrologist's interim contact with complainants as investigations proceeded. We are confident that more frequent contacts occurred than were documented. In some cases, database entries were lagging behind paper documentation. However, we were able to ascertain the status and outcome of the complaints by reviewing the file and database and talking with the field hydrologists. Several of the complaints in the North District were combined with blasting complaints. The hydrologist and blasting specialist communicated and coordinated responses very well.

DMRM has significantly improved their processing of water supply complaints compared to OSM's 1998 report that found 30 unresolved complaints with an average age of 400 days.

2. How do DMRM's managers monitor progress of investigations, interim responses, and final resolution of water supply complaints?

Finding: Since OSM's 2001 report, DMRM has clarified responsibility for managing the water supply complaint process.

We talked with the Supervisor of the Geology Program about management of the water supply complaint process. Once the district office refers a water supply complaint to the field hydrologist, the Geology Program Supervisor is responsible for monitoring the field hydrologist's work and the final outcome of the complaint. He does this by reviewing the spreadsheets developed by the field hydrologists and by periodically reviewing their reports. He acknowledged a need to have more controls on the process, including tracking and a better report review process. He described the plans for developing these controls. These plans are summarized in the background section of this report.

3. Do district office complaint files include all necessary documents and correspondence, including documentation that citizens were informed of their rights?

Finding: DMRM has improved its documentation of informing complainants of their rights.

Nearly all final response letters to complainants included a statement explaining the complainants' right to request informal review. District referrals to the field hydrologists usually included documentation of whether the complainant wished confidentiality but not always. Districts are still using different forms for referring complaints to hydrologists. The differing forms may account for why some rights were documented and some were not. District managers should ensure that inspectors are using current complaint referral forms that document that citizens were informed of their rights to confidentiality and to accompany the inspector on inspections.

As OSM reported in its 2001 oversight report, there is still some question as to whether the field hydrologists' complaint files represent the official complaint file or whether the districts' complaint files are the official file. In practice, it appears that the hydrologists' files become the official file. However, the hydrologists' files are also working files that contain numerous informal notations and comments that may be preliminary in nature as the investigation develops. The hydrologists do provide a copy of their final response and the investigative report to the inspector for inclusion in the permit file. The hydrologist is responsible for providing interim and final responses to complainants. Therefore, as long as the district office can quickly obtain the complete file and/or direct the public to the proper and complete file in the event of a request for review, the storage

or placement of the documents should not be a significant issue.

4. Have water supply complaints that were unresolved in OSM's 2001 report been resolved?

Finding: Final responses were provided to all six complainants.

We reviewed files of six complaints that were unresolved at the end of OSM's 2001 oversight study. Two of the six complaints were determined to be mining-related. DMRM acted to have the water supplies replaced or repaired.

VI. Summary:

DMRM has significantly improved on the timeliness and conclusiveness of water supply complaint investigations and final reports. Program managers acknowledge needed improvements in monitoring of investigations and review of final reports. They have developed and proposed plans to make these improvements. File documentation of informing citizens of their rights to confidentiality and informal review has improved.

We are providing no formal recommendations as a result of this review. We provided some general observations and suggestions in the text of the report that may further improve DMRM's complaint process.

Appendix 1
Ohio Water Supply Complaints January 1, 2002 – December 31, 2003

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
CAMBRIDGE (26)										
02-CA-10	Confidential	3/15/02	D-951	4/11/02	4/29/02	Y	Y	Many	5/1/02 47	Mining-related. CO issued
02-CA-13	Carson (CS)	4/22/02	D-784	4/22/02	None	Y	Y	None	6/3/02 42	Initial complaint filed in 1998. Owner didn't receive final report from 98 investigation. NMR based on no mining since 1998. Forwarded 98 report to complainant
02-CA-15	Callihan	5/30/02	D-951	5/30/02	6/22/02	?	Y	Many	7/29/02 60	NMR based on distance, age of well, no hydro connection
02-CA-16	McGee (CS)	6/3/02	D-2095	6/10/02	None	Y	Y	None	11/3/02 153	Delay in getting info from inspector. NMR due to distance and location of well.

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
02-CA-19	Harden	6/17/02	D-2110	7/1/02	6/18/02	Y	Y	7/2/02	7/23/02 36	NMR based on distance and no hydro connection
02-CA-20	Hatfield	6/18/02	D1196, 1131, 2110	6/18/02	?	?	Y	NA	7/19/02 31	NMR, but final report in file was incomplete due to copying error.
02-CA-27	Cranmer	8/2/02	D-676, 2122	?	8/6/02	Y	Y	8/1/02	8/12/02 10	NMR based on water entering wetland, nothing to show mining connection
02-CA-28	Porter	8/8/02	D-1196	8/8/02	8/16/02	?	Y	NA	8/26/02 18	NMR
02-CA-29	Johnson	8/12/02	D-951	8/12/02	9/11/02	?	Y	NA	11/18/02 98	Mining-related. CO not issued. Temporary water provided. Awaiting completion of mining for permanent replacement.
02-CA-30	Johnson	8/12/02	D-951	8/12/02	9/11/02	?	Y	NA	11/18/02 98	Mining-related. CO issued. Temporary water

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
										provided. Awaiting completion of mining for permanent replacement.
02-CA-32	Barnes	8/15/02	D-1135							Didn't review file. Resubmitted complaint. See complaint # 03-CA-32. Initial complaint may have been overlooked.
02-CA-37	Smith (CS)	8/27/02	D-1181	8/27/02	9/6/02	Y	Y	NA	1/16/03 142	NMR due to AML & distance to mine
02-CA-40	Whitely	9/3/02	D-2122	9/9/02	9/12/02	Y	Y	NA	9/30/02 27	Mining-related. CO issued
02-CA-41	Taylor	9/11/02	D-2087	9/12/02	9/23/02	Y	Y	NA	9/30/02 19	Mining-related. CO issued
02-CA-42	Horn (CS)	9/12/02	D-2115	9/12/02		Y	Y		1/18/03	Didn't review file. CS provided final response letter stating company and owner agreed

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
										on replacement
02-CA-44	Modoc	9/11/02	D-951	9/11/02	9/11/02	Y	Y	NA	11/14/02 64	NMR
02-CA-45	Lynch	9/11/02	D-951	9/13/02	9/13/02	Y	Y	Many	11/18/02 68	Mining-related. CO issued
02-CA-46	Sidner	9/16/02	D-2122	9/13/02	9/23/02	Y	Y	NA	9/30/02 14	Mining-related. CO issued
02-CA-52	Chaney (CS)	11/15/02	D-1142	11/15/02	12/6/02	Y	Y	None	2/13/03 90	NMR based on mining finished in 98, time & dist too great
03-CA-19	Blon	7/9/03	D-680	7/16/03	7/21/03	Y	Y	NA	8/5/03 27	NMR based on no hydro connection.
03-CA-22	Simpson	7/29/03	D-360	8/4/03		Y	Y	Many	Active	Subsidence. Didn't review file. On-going work with permittee to resolve
03-CA-26	Wade	9/9/03	D-433	9/9/03						Didn't review file. On-going work with permittee to resolve
03-CA-27	Baumberger, Gary	9/18/03	D-433							Didn't review file. On-going work with permittee to resolve

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
03-CA-28	Baumberger, Greg	9/18/03	D-433							Didn't review file. On-going work with permittee to resolve
03-CA-32	Barnes	10/23/03	D-1135	10/27/03	12/12/03	Y	Y	12/9/03 1/16/04	2/9/04 109	NMR. No hydrologic connection.
03-CA-39	Saffell	12/15/03	D-360	12/29/03	1/8/04	Y	Y	12/30/03	1/21/04 36	NMR based on sulfate levels below expected mining impacts
Not logged in District	Applegarth (Wallace)	3/7/03	D-2022	3/7/03	5/1/03	Y	Y	NA	6/25/03 110	Operator provided connection to public water. Final report not needed.
JACKSON (5)										
Jac-354	Weakley	6/26/02	D-2114	6/26/02	None	Y	Y	NA	7/10/02 14	NMR based on distance and blast analysis
Jac-356	Rose	1/29/03	Oxford							OSM review sheet missing.
Jac-357	Rose	1/29/03	Oxford							OSM review sheet missing.
Jac-361	Confidential	7/23/03								Didn't review file.
Jac-362	Stiltner	8/28/03	D-1115	9/2/03	9/4/03	Y	Y	9/2/03	9/9/03 12	NMR based on age of well & water quality

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
										same as pre-mining.
NEW PHILADELPHIA (4)										
NP-582	Borger	1/30/02	D-2096	1/30/02	2/14/02	?	N	1/30/02	5/11/02 100	NMR based on AML impact
NP-588	Albery	8/14/02	D-2013	8/14/02	8/21/02	Y	Y	None	12/13/02 121	NMR based on biological problems with well
NP-591	Keiffer	9/11/02	D-1079	9/11/02						Non-Coal (IM) Didn't review file.
NP-593	Oberle	10/21/02		10/21/02						CS & inspector could not locate file. No one recalls getting it and there was no follow-up call from complainant after the initial complaint as logged. Didn't review file.
	McClain (Warrick)	6/17/03	D-2109	6/17/03	7/1/03	Y	Y	6/17/03	6/27/03 10	NMR based on blasting analysis, AML impacts.

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
SALEM (21)										
SA-676	Minich	3/26/02	D-2003	3/27/02	None	Y	Y	None	4/18/02 23	NMR based on distance and no hydro connection
SA-678	Whitten	4/12/02	D-2063	4/12/02	None	Y	Y	None	6/2/02 51	NMR based on blast analysis and biological contamination
SA-679	Thomas	3/14/02	D-2011	5/14/02	None	Y	Y	None	7/15/02 122	Delay in referral to hydro between ES and inspector. NMR based on distance. Turbidity problem.
SA-680	Glen	5/20/02	D-1180	6/6/02	?	Y	NA Final report pending.	Many by phone	On-going	Still monitoring after company re-plugged expl hole 4/03. Advised owner to rehab well 6/03. Waiting on owner.
SA-681	Sponseller	7/1/02	D-2011	7/2/02	7/15/02	Y	Y	Many by phone	3/14/03 256	Permittee replaced supply & provided

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
										temporary water. No final hydro report needed.
SA-682	Dennison	7/10/02	D-2129	7/11/02	8/22/01 (seismo)	Y	Y	7/16/02	10/4/02 8/14/02 (Mann) 86	NMR based on blast analysis and owner didn't reply to questionnaire
SA-683	Balogh	7/10/02	D-2129	7/11/02		Y	NA final report pending	7/16/02 Many More	On-going	Still Monitoring
SA-684	Lautzenheiser	8/19/02	D-2096	8/19/02	5/22/02 (blast)	Y	Y	8/29/02 9/17/02 (blast)	12/2/02 105	NMR based on blast analysis
SA-686	Ingledue	9/20/02	D-2003	9/20/02	10/1/02	Y	Y	Many by phone	8/15/03 298	Mining-related. Order issued 11/28/03. Supply replaced 4/6/04.
SA-687	Confidential	9/13/02	D-2103	9/17/02						File is misplaced. CS recalled complainant didn't respond to inquiries. CS provided email correspondence with company

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
										and inspector. Didn't review file.
SA-688	Baker	10/9/02	D-2097	10/10/02	None	Y	Y	10/28/02 (blasting)	2/21/03 134	NMR based on blasting analysis, distance, drought, well problems
SA-695	Boyer	12/17/02	D-2142	12/18/02	None	Y	Y	None	3/13/03 86	NMR based on distance, no hydrologic connection to mine
SA-696	Gearhart	12/24/02	D-2011	12/24/02	None	Y	Y	1/12/03 phone	3/13/03 79	NMR based on bacteria problem
SA-697	Poole	12/31/02	D-2145	12/31/02	8/13/02 seismo installed	Y	Y	1/19/03	4/11/03 101	NMR based on blasting analysis & no hydro connection
SA-702	Reugg	2/28/03	D-1015	2/28/03	None	Y	Y	4/23 /03 4/25/03 phone	4/25/03 56	NMR based on AML impacts
SA-703	Berger	3/11/03	D-2142	3/11/03	3/6/03	Y	Y	NA	3/17/03 1/5/04 6	NMR based on blasting analysis & changes to well construction

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
SA-710	Viets	9/10/03	D-1178	9/10/03	None by hydro	Y	Y	NA	11/14/03 65	NMR based on blasting analysis, distance, well construction
SA-711	Jones	9/10/03	D-1178	9/10/03	None	Y	Y	NA	11/13/03 64	NMR - Owner corrected plumbing problem. No final report necessary.
SA-716	Kordecki	10/23/03	D-2142	10/24/03	NA	Y	NA Final report pending	11/12/03	On-going	Waiting on reply to questionnaire. Still active.
SA-720	Felger	11/3/03	D-2165	11/3/03	None	Y	Y	None	12/6/03 33	NMR based on distance; turbidity
SA-722	Lanver	12/24/03	D-865	12/24/03		Y	Y	1/19/04	3/2/04 68	NMR based on blast analysis, AML, well maintenance issues.
UNRESOLVED WATER SUPPLY COMPLAINTS REMAINING FROM OSM'S STUDY IN 2001 (only reviewed for final response)										
00-CA-35	Lane	8/7/00	D-1196	8/7/00					4/10/01	Mining-related. Well replaced & verified 4/10/01 by MAB
00-CA-52	Hickman	11/22/00	D-0951	?					4/24/02	Mining-related. CO issued.

Complaint Number	Complaint Name	Date Received in District Office	Permit #	Date Sent to Hydrologist	Date of Initial Site Visit	Rights to Confidentiality Provided	Rights to Request Informal Review Provided	Dates of Interim Responses	Date of Final Response/ # of days from initial receipt by District	Outcome
IX-338	Dutcher	3/8/01	D-1193	3/12/01					6/5/01	NMR, but report inconclusive
SA-645	Williams	1/8/01	D-928	1/8/01					7/6/01	NMR
SA-650	Confidential	3/5/01	D-2003	3/5/01					11/26/01	NMR
NP-566	Christmas	12/4/00	D-1133						1/25/02	NMR based on blasting analysis

NMR – Not mining related
CS – North District Field Hydrologist
MAB – South District Field Hydrologist



Ohio Department of Natural Resources

BOB TAFT, GOVERNOR

SAMUEL W. SPECK, DIRECTOR

Division of Mineral Resources Management
Michael L. Sponsler, Chief
1855 Fountain Square Court - Bldg. H-3
Columbus, OH 43224-1383
Phone: (614) 265-6633 Fax: (614) 265-7999

June 15, 2004

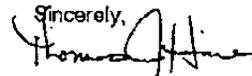
George J. Rieger, Program Manager
USDOL, Office of Surface Mining
Eastland Professional Plaza
4480 Refugee Road, 2nd Floor
Columbus, Ohio 43232

RE: Comments on Draft Report on Ohio's Processing of Water Supply Complaints

Dear Mr. Rieger:

Thank you for the opportunity to review your draft report. Ohio has only one comment associated with this report. Our Technical Section managers want to provide a point of clarification as to what we intend to do through our Office of Information Technology to improve our oversight and tracking of complaints. On page two, the fourth paragraph under item II. Background the report states that we intend to create a separate water complaint database. Actually, what the division intends to do is link the existing detailed data management systems for tracking the resolution of all types of water complaints (oil and gas, coal, IM dewatering, AML etc.) to the recently created complaint database. We believe that this will enable managers to assess workload, create reports, and track complaint progress from beginning to end in a much more efficient manner.

Thank you again for the opportunity to comment. If you have any questions regarding our comments please feel free to contact Scott Kell or me.

Sincerely,

Thomas J. Hines
Field Operations Liaison

pc: Mike Sponsler
Tom Tugend
Scott Kell
David Hodges

DNR 0001

RECEIVED
JUN 15 2004

OSM adopted DMRM's comment in this final report.