



Final Report

A Review of Ohio's Permit Renewal Process

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Prepared by

**Office of Surface Mining
Oversight and Inspection Office
4605 Morse Road, Rm. 102
Columbus, Ohio 43230
614-416-2238**

Background and Purpose:

Over the past few years, OSM and the Ohio Division of Mineral Resources Management (DMRM) identified some permits that had expired without renewal. In the 2004 Performance Agreement between DMRM and OSM, OSM and DMRM agreed to a review of Ohio's permit renewal process to determine if renewal applications have been filed and processed in a timely manner.

Ohio Administrative Code (OAC) 1501:13-4-06 (B)(2)(a) provides that operators can continue mining while DMRM processes their renewal applications, if they submit the application at least 120 days before the expiration of the permit involved. If the operator submits the renewal application less than 120 days from the expiration date, the operator must cease mining on the expiration date until the renewal is issued. If the operator does not submit a renewal application until after the expiration date, they must stop mining and submit a new permit application rather than a renewal application.

If DMRM requires revisions to a permit renewal application, they send a notice to the operator to submit the revisions within 30 days. If the operator does not submit the revisions within 30 days, DMRM can take enforcement action to stop mining until a renewal is issued.

Methodology

On December 15, 2003, from our database of permits, we compiled a list of the ones that were older than 4.5 years and without a final map. To determine the status of the permits, we reviewed our files, DMRM's files, and our database to establish the status of these permits. We then compiled a list of permit renewals for which we had questions or needed further clarification and forwarded them to DMRM. We have included the information DMRM provided on those permits in this report. We also provided DMRM with a draft copy of this report for their review and comments (see Attachment A).

General Information

From discussion with DMRM's employees who manage the permit renewal process, OSM learned that they track the status of permits through reports generated by their computerized tracking system (CTS). DMRM sends notification to their field offices about permits due to expire 150, 120, and 90 days before the expiration date. DMRM Inspectors, in turn, may notify permittees of the pending expiration and the need to apply for renewal. However, permittees are responsible for filing timely applications.

Summary of Permit Reviews

Of the 127 permits OSM reviewed that were potentially subject to renewal, the ones discussed below are the only ones for which we had any questions or findings. We have included the updates provided by DMRM. The remainder of the permits were either renewed, or were not renewed because the operator completed the mining operation on the permit.

Permit #	Company	Discussion
D-0159	Waterloo Coal Co., Inc.	<p>Permit expired 6/19/03. DMRM sent the operator a letter requiring revisions to the permit. According to DMRM, they contacted Waterloo on 03-30-04 concerning the status of their renewal.</p> <p>On July 26, 2004, DMRM informed us that they have received and approved an Application to Revise the permit.</p>
D-0185	Waterloo Coal Co., Inc.	<p>Permit expired on 8/26/03. DMRM stated that the operator must submit a Proof of Publication form before they can issue the permit.</p> <p>On July 26, 2004, DMRM informed us that they issued the renewal on July 16, 2004.</p>
D-0737	Red Malcuit Inc.	<p>Permit expired on 2/14/03. On 6/20/02, DMRM issued Chief's Order 7263 for failure to comply with the approved mining and reclamation plan and failure to complete an AML contract. The Reclamation Commission granted Temporary Relief on 9/5/02. On 11/7/02, the Reclamation Commission held a hearing on this case. On 2/21/03, the Reclamation Commission issued their findings upholding the Chief's Order.</p> <p>On 4/2/04, DMRM explained that the operator has submitted a revision to modify the scope of work to be done under the AML contract. DMRM has extended the Chief's Order to September and will not issue the renewal until the acid water situation on this permit is resolved.</p>

D-0784	Consolidation Coal Co.	Permit expired on 8/7/03. DMRM held an informal conference on the renewal on 9/9/03. DMRM is finalizing the written findings from the conference. DMRM states that the operator has met all of the renewal requirements and the permit will be renewed in early July.
D-1041	Schiappa Coal Co.	Permit expired on 9/28/03. On 4/1/04, DMRM explained that even though the application is in Temporary Inactive status (TINA), Schiappa wants to renew it because there is an adjacent area permit that has been issued. DMRM said that the original area in TINA has been reclaimed. DMRM staff will be reviewing to determine why the renewal hasn't been issued.
D-1083	Waterloo Coal Co.	Permit expired on 6/29/04. DMRM is checking with field staff to see if they received a renewal application. If not, this permit is expired and will not be renewed. On July 26, 2004, DMRM informed OSM that Waterloo will be submitting a final map.

Finding:

DMRM is doing an excellent job of tracking permit expiration dates and ensuring that permit renewals are processed in a timely manner. However, for those renewal applications with issues, there does not appear to be a system in place to ensure that DMRM stays on top of resolving the issues. As a result, some permits have been expired for nearly a year or longer, without a decision on the renewal/application.

Finding:

For the purpose of OSM's review, OSM defined "timely manner" as the date of approval/issuance of the renewal being equal to or less than the expiration date for the permit. From the review, we found that 47 percent of the permit renewals were issued in a timely manner, 31.5 percent of the permits were renewed after the expiration date, and 15 percent of the permits had completed mining and were not renewed.

Recommendation:

DMRM should develop a process for tracking and resolving the pending issues on renewal applications. The process should clearly establish a line of communication to ensure that all of the needed information related to a renewal application is available to

the appropriate DMRM staff, that it is considered in a timely manner, and that a decision is issued.

DMRM has informed us that they are in the process of reassigning responsibilities for permit renewal processing among their staff. DMRM anticipates that this action will clarify responsibilities and provide more consistent follow-up and accountability.