

Reclamation Advisory Memorandum

RAM # 160

Kentucky Energy and Environment Cabinet Department for Natural Resources

From: Steve Hohmann, Commissioner

Date: September 17, 2014

Subject: Revised: Identification of Property Ownership and Permit Review of Right of Entry on Severed Estates Mineral Tracts

This RAM updates previously issued RAM 159. This RAM explains how the Division of Mine Permits will apply those provisions of RAM 159 relating to identification of property ownership, to renewals, transfers, and mined out areas.

How this RAM Applies to Renewals and Transfers

The following describes how the Department will apply the provisions of this RAM to permit renewals, transfers, and mined out areas. The provisions described in this section apply only to those permits seeking renewal or transfer that contain incomplete property ownership identification in Items 9.1 and 9.2 of the permit application. As used in this RAM, the terms “property owners” and “property ownership” refer to the owners of the property interests specified in 405 KAR 8:030 section 2(5) and (6), and in 405 KAR 8:040 Section 2 (5) and (6), as applicable.

At the time of renewal or transfer of a permit that does not identify all property owners of record (i.e., the permit relies on the “et al”, “Heirs of”, “Estate of” language to identify property ownership), a permittee has two choices to update the property ownership information.

First, the permittee may have the renewal or transfer issued in the traditional manner with the current property ownership identification unchanged. If so, a condition will be placed on the renewal/transfer that requires the permittee to submit a major revision within 30 days that updates the permit to identify all property owners of record. A major revision requires four advertisements and a 30 day comment period. The four advertisements for the revision must identify all property owners of record in the advertisement. Likewise, the major revision must include updated property ownership information in Items 9.1 and 9.2 of the permit and on all permit maps to identify all property owners of record.

As a second option, the permittee may update the property ownership identification information at the time of renewal or transfer. If so, the permittee's renewal/transfer advertisement must identify all property owners of record in the advertisement. The advertisement must run for four consecutive weeks with a 30 day comment period for either the renewal or transfer. Please note that ordinarily a transfer advertisement runs only one time

with a 15 day comment period. But, for transfer applications submitted for the purposes of complying with this RAM, the department is requiring four advertisements with a 30 day comment period. Additionally, the permittee must submit updated property ownership identification information for Items 9.1 and 9.2 of the permit and updated maps identifying all property owners of record.

Identification of property ownership on mined out areas

The following provisions of this RAM apply to permitting actions that update the property owners of record via renewal, transfer, or subsequent permitting action.

Mined out underground areas

When updating the property ownership at the time of renewal, transfer, or through a subsequent major revision the permittee must identify all the property owners of the underground acreage that is currently being mined or has yet to be mined in the future. The permittee need not update the property owners of the mined out underground acreage. When submitting the updated ownership information in the permit the permittee must include a statement that these are owners of the interests listed in 405 KAR 8:040 Section 2(5) and (6) for areas that are currently being mined or have yet to be mined.

Mined out surface areas

When updating the property ownership at the time of renewal, transfer, or through a subsequent revision the permittee must identify all the property owners for any surface acreage that is currently permitted and has not received a Phase III bond release. The permittee need not update the property owners for portions of a permit that have received a Phase III bond release. When submitting the updated ownership information in the permit the permittee must include a statement that these are owners of the interests listed in 405 KAR 8:030 Section 2(5) and (6) for the permitted area that has not received a Phase III bond release.

The provisions described above do not apply to permit renewals or transfers that must clarify the right-of-entry information due to cotenancy on severed estates. Renewals or transfers of permits that must clarify right-of-entry due to cotenancy on severed estates will be required to do so with a major revision after renewal or transfer.

If you have any questions or comments about this RAM, or need further information concerning right of entry, please contact the Director of the Division of Mine Permits, #2 Hudson Hollow, Frankfort, KY 40601 or call (502) 564-2320.

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