

Reclamation Advisory Memorandum

RAM # 161

Kentucky Energy and Environment Cabinet Department for Natural Resources

From: Steve Hohmann, Commissioner

Date: June 25, 2015

Subject: Updated and Clarified: Identification of Property Ownership Interests in Permit Applications

This RAM updates and clarifies previously issued RAMs 159 and 160. This RAM explains how the Division of Mine Permits will apply those provisions of RAMs 159 and 160 relating to identification of property ownership to renewals, transfers, and mined out areas. Recently enacted amendments renumbered the sections of the administrative regulations referenced in RAM 160; accordingly, this RAM supersedes RAM 160.

How this RAM Applies to Renewals and Transfers

The following describes how the Department will apply the provisions of RAM 159 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 information identified in Items 9.1 and 9.2 of the permit application due to the use of the “et al.”, “Heirs of” or “Estate of” language. As used in this RAM, the terms “property owners” and “property ownership” refer to the cotenant owners of the property interests specified in 405 KAR 8:030 section 2(1)(e) and (f) and in 405 KAR 8:040 Section 2(1)(e) and (f) 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 property ownership listed as in the original application. If so, a condition will be placed on the renewal/transfer that requires the permittee to submit a major revision within 30 days that update the permit to identify all cotenant 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 that were previously identified using the “et al.”, “Heirs of”, or “Estate of” language. Likewise, the major revision must include updated property owner hip information in Items 9.1 and 9.2 of the application and on all permit maps to identify all property owners of record.

As a second option, the permittee may update the cotenant property ownership information at the time of renewal or transfer. If so in addition to the usual and customary listing of property owners, the permittee's renewal/transfer advertisement must identify all cotenant property owners of record originally identified using the "et al.", "Heirs of", or "Estate of" language. 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 information in Items 9.1 and 9.2 of the application and all permit maps to identify 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 cotenant property owners of record via renewal, transfer, or subsequent permitting action.

Mined out underground areas

When updating the cotenant property ownership at the time of renewal, transfer, or through a subsequent major revision the permittee must identify all cotenant property owners of the underground acreage that is currently being mined or has yet to be mined that were previously identified using the "et al.", "Heirs of", or "Estate of" language. The permittee need not update the property owners of the mined out underground acreage. When submitting the updated ownership information, the permittee must include a statement that these are owners of the interests listed in 405 KAR 8:040 Section 2(1)(c) and (f) for areas that are currently being mined or have yet to be mined.

Mined out surface areas

When updating the cotenant property ownership at the time of renewal, transfer, or through a subsequent revision the permittee must identify all the cotenant property owners of any surface acreage that is currently permitted and has not received a Phase III bond release that were previously identified using the "et al.", "Heirs of", or "Estate of" language. The permittee need not update the ownership information for portions of a permit that have received a Phase III bond release. When submitting the updated ownership information, the permittee must include a statement that these are owners of the interests listed in 405 KAR 8:030 Section 2(1)(e) and (f) for the permitted area that has not received a Phase III bond release.

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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