

OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION

****POLICY/PROCEDURE DIRECTIVE****

Underground Mining 89-1

Subject: Policy for underground mining operations in Ohio

Effective: February 5, 1988

Purpose: To protect the rights of landowners and to maintain the ability of coal operators to utilize underground mining methods in Ohio.

The Division of Reclamation adopts the following policy for regulating underground mining operations:

RESEARCH:

Subsidence can reduce stream flows and diminish ground water supplies in mined areas; however, the long-term impact of longwall mining on surface and ground water is not known. The Division recognizes the need to obtain more information on the affects of underground mining on surface and ground water overlying the mined area. The Division will continue to prioritize the funds available and will promote the channeling of available funds from other sources to the development and implementation of studies framed to obtain a better understanding of the affects of underground mining on surface and ground water overlying the mined area. In addition, the Division will pursue funding to study the impact of underground mining on vegetation in areas before and after mining.

SUBJACENT SUPPORT:

The Division will be consistent with the Federal Surface Mining Act of 1977, its subsequent rules, and with recent court decisions in Ohio which continue to recognize the rights in deeds to underground mine. In those instances where rights are in litigation, the Division will require that litigation be indicated in the permit application and require the applicant to keep the Division appraised of any decisions in such litigation. Where the Chief determines that it is shown that the permittee does not have the right to subside the Chief shall require the permittee to obtain a waiver from the owner of proposed affected structures prior to undermining of those structures.

REPAIR AND COMPENSATION:

While Division recognizes the rights of the applicant to subside it also recognizes the right of the owners of structures to be kept whole. Therefore, the Division will require operators to commit, as part of their permit requirements, to repair or compensate for damages caused by subsidence due to underground mining.

Due to the requirement to "repair or compensate" there will be instances where the question will arise as to whether or not damage has occurred. To better establish a "starting point" the Division will also require that a pre-mining survey be completed of all structures to be undermined.

The Division will encourage continuance of the existing practice of the mining company and homeowner agreeing to repair and compensation issues prior to mining. If necessary, the Division will seek legislative or rule changes to accomplish the above policy proposals.

WATER REPLACEMENT:

The Division also recognizes the right of surface owners to have water supplies replaced that have been affected by contamination, diminution, or interruption due to coal mining. Public water will continue to be recognized as a preferred replacement water supply for residential use.

LAND DAMAGE:

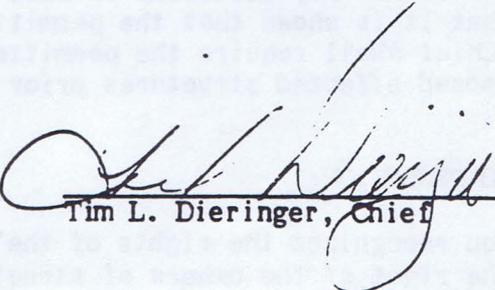
As required by Ohio law the Division will continue to require the repair of damages to the surface of the land which could impede the reasonable foreseeable use of the land.

BUFFER ZONES:

The Division will continue to recognize the 522e mining prohibitions of the Surface Mining Act as prohibitions applicable to surface mining only. Once again, however, the permittee will be required to repair any damage that occurs on the surface.

MATERIAL DAMAGE:

Due to the previous discussions above, the Division sees no need to universally define material damage. The Division's position that all water supplies will be replaced, all structures repaired or compensated for, and all damage to the surface of the land repaired eliminates the need to define this term in a broad form.



Tim L. Dieringer, Chief

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