

Some Ways to Get Involved in Enforcing Mining Laws

Looking at the Permit

The permit is a contract with the state. Whatever it says, that's how the company has to do it. For more information, see "Looking at Permits." To find out which state DMRE field office has a copy of the permit you are concerned about call the Frankfort office at (502) 564-6904.

Challenging a Permit (or a bond release)

Every new mining permit application has a public notice period. During this period, you can protest the permit with a letter, comment on the permit, or ask for a hearing to protest the permit. The Kentucky Department of Mining Reclamation and Enforcement (DMRE) will review your protest and decide whether or not to issue the company the permit. Look for the notices in the paper and write DMRE at #2 Hudson Hollow Complex, Frankfort, Ky. 40601.

Include in your letter why you are protesting (be specific), if you want a hearing, and where you want the hearing. You can request the hearing be in your home town. If you don't, they will hold it at the DMRE office. As many people as you like, including the media, can attend a permit hearing. Before you go to the hearing, it is a good idea to look at the permit.

You can challenge the company getting their reclamation bond back in the same way. The public notice and ad are the same.

Filing a Complaint

1. Write a letter to the state DMRE and federal Office of Surface Mining (OSM). You can call to DMRE, but it is better to write a complaint to create a paper trail. When you contact the federal OSM you have to write a complaint.
2. Be as specific as possible in your letter. Also, try and use words they use to identify what kind of problem you have. Did someone go on your property without your permission? Call it a right of entry complaint. Did the mine pollute the water? Call it an environmental complaint.

What happens next

OSM files a 10-day notice (TDN) with DMRE, giving the state has 10 days to resolve this complaint. But the state gets lots and lots and lots (and lots) of extensions from the federal Office of Surface Mining. You'll get a letter from DMRE acknowledging your letter, resolving the complaint or saying it needs more information or that the technical people will be helping. Usually, after that they will come out and inspect or ask you for more information.

Sometimes these investigations will take many, many months. Some things KFTC members have done in the meanwhile:

- Get organized, talk with neighbors and see if they are as concerned as you
- Hold a press conference explaining the complaint to the media
- Bring the entire community together to meet with regulators (at home or in Frankfort or Lexington)
- Encourage your friends and neighbors to write complaints
- Come together to find proof of complaint (drillings, videotapes of trucks)

The federal OSM will get a notice from the state DMRE once the state makes a ruling and decided if the coal company is at fault or not. The federal office is not notified that the complaint has been fixed. They are only told by the state that the company is *supposed* to fix the problem. If the company doesn't actually fix the problem, the federal OSM has no way of knowing. You will need to tell OSM.

Blasting Complaints

Blasting complaints are hard to prove, even though the damage seems obvious. Some things to do:

- Make sure you have a good pre-blast survey, including water tests.
- Work with your neighbors so that everyone is complaining.
- Document your damage with water tests, pictures, and video tapes.
- You can also ask for a seismograph on your property to monitor the blasts.

Asking for Blasting Reports

First, get a copy of blasting waivers from the Ky. Department of Mines and Minerals. Then request the blasting records through the Department of Surface Mining. The company holds blasting records. You can only look at them in the presence of coal company lawyers.

Asking for an Inspection

You can ask for an inspection of the mine site in your complaint. Make sure you include:

- Every area you want inspected
- Every problem you want looked at
- If you want to accompany the inspector and everyone you want with you on the inspection

Inspection Tips

- Don't go alone, they will have at least 3 people.
- Wear sturdy shoes (steel-toed) and a hard hat if you have them
- Bring your driver's license
- Tape record or videotape the inspection (let others present know you are doing so)

Get a Seismograph placed at your house

- You can request a seismograph from the state, which will monitor ground vibration. If the company knows it is there, it will often ease off on its blasts.



WHO TO WRITE OR CALL

Ky. Dept. of Surface Mining

No. 2 Hudson Hollow
Frankfort, KY 40601
606-248-6166 (Middlesboro)

Ky. Division of Water

14 Reilly Road
Frankfort, KY 40601
502-564-3410

U.S. Office of Surface Mining

P.O. Box 1048
London, KY 40743
606-878-6440

Lands Unsuitable for Mining

Before a permit is issued, you can apply for the land to be declared “unsuitable for mining.” To qualify, the land must (this list is taken directly from SMCRA):

- A) be incompatible with existing state or local land use plans or programs; or
- B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or
- C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or
- D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology. You may need a lawyer and even an engineer to assist with a Lands Unsuitable for Mining petition though people have been successful organizing their communities and filing a Lands Unsuitable for Mining petition without the assistance of a lawyer.

Pattern of Violation

If there have been more than 3 different environmental violations, or 6 different violations, or 3 of the same violation on a permit in a year, the permit has a pattern of violation and the state should do a pattern of violation hearing. Here the company has to defend its right to continue to mine or make a deal with the state before the hearing (which is what almost always happens).

You can request that they begin a pattern of violation hearing procedures. If you are affected by the mine, you can intervene in these hearings and, if they let you intervene, you have the power to strengthen any company-state agreement or bring the pattern of violation to a hearing. You will probably need a lawyer for a pattern of violation hearing. However, a public interest lawyer may be available.

