

What Is DEP's Role In Protecting My Water Supply?

DEP is responsible for reviewing mining permit applications that may affect private or public water supplies. The application includes the information collected by the applicant concerning nearby water supplies. DEP may also collect samples of some water supplies and obtain other information to verify what is in the permit application. Part of the process includes a water supply survey where you are encouraged to allow the applicant to collect pre-mining quality and quantity information about the supply. DEP encourages water supply owners to cooperate in these surveys and retain all documentation.

DEP evaluates this information to determine whether the proposed mining may impact your water supply. The DEP review is done by licensed professional geologists (P.G.), who are experts in understanding how to protect your water supply. If your water supply may be impacted, they will review the adequacy of the mine operator's proposal for a replacement water supply. DEP will notify you of this by certified mail. This notice will outline how the water supply will be replaced if affected by the mining operation. It will also provide a DEP contact person who can answer any questions you may have.

Once mining activities begin, you should report any impacts to your water supply to both the mine operator and the appropriate DEP District Mining Office. If impacts are reported on a water supply located within 1,000 feet of a surface mining operation, the operator is presumed responsible under the law. The operator may submit evidence in their defense. DEP is responsible for reviewing this evidence. DEP will also investigate the claim and attempt to resolve it as quickly as possible.

If the impacted water supply is beyond 1,000 feet of the surface mining activities, the operator is not presumed liable. DEP must conduct its own investigation to determine if the operation is responsible. Investigations may include collection of physical data about the water supply, water samples and pump tests.

DEP is responsible for making sure surface mine operators comply with the water supply replacement and restoration provisions of the regulations. If DEP determines that mining has impacted your water supply, DEP will notify the operator. If needed, DEP can issue a formal order for replacement or restoration of your water supply. These orders may be appealed by the mine operator.

For More Information

For more about surface coal mining and your water supply, contact the DEP District Mining Office in your area. These offices maintain copies of permit applications and issued surface mine permits, which are available for public viewing by appointment. Visit the Bureau of Mining Programs web page for more information on water supplies affected by mining.:

<https://www.dep.pa.gov/Business/Land/Mining/BureauofMiningPrograms/Pages/default.aspx> .

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pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

SURFACE COAL MINING AND YOUR WATER SUPPLY

What Every Property Owner Should Know

Commonwealth of Pennsylvania
Department of Environmental Protection

Introduction

Surface coal mine operators have a legal obligation to protect water supplies near their operations. Under state law, if an operator affects a water supply, they must restore or replace the supply to meet the needs of the user. This publication answers commonly asked questions about mining and water supplies and explains the rights and responsibilities of water supply owners and mine operators.

The Pennsylvania Department of Environmental Protection (DEP) regulates mining throughout the commonwealth. Pennsylvania law does not make it illegal for a mine to affect water supplies, but the operator must replace the affected supply with one that has the same, or better, quantity and quality for the purposes served and any reasonably foreseeable uses. The law presumes mine operators are responsible for any impacts to water supplies within 1,000 feet of the areas affected by surface coal mining activities, unless the operator can prove otherwise. Beyond 1,000 feet, it is the responsibility of DEP to prove mining caused any water supply problems.

DEP must base its decisions on scientific facts and solid evidence because any action taken by DEP against the mine operator can be legally challenged. You, the water supply owner, can help protect your water supply by cooperating with pre-mining surveys.

The regulations covering water supply replacement can be found in 25 Pa. Code 87.119 Surface Mining of Coal and 88.107 Anthracite Coal.

Why Should I Allow A Mine Operator Access To Test My Water Supply?

The mine operator is required to document and test your water supply prior to mining. This includes noting the quality of your water, the amount of water the supply produces, and the current uses of the supply. Mine operators need your permission to enter your property for this testing. If you refuse to provide the mine operator access to your water supply, you may lose important protections.

Mine operators are presumed responsible for affecting water supplies within 1,000 feet of the mining area, unless they can prove that they were not responsible, or that the property owner denied access to collect the required pre-mining information. You could still document the pre-mining quality and yield of your water supply at your own expense. But if you do, you must be able to prove the accuracy of the testing and the results, and you could bear the burden of proving that the mine operator affected your supply.

Allowing the mine operator access to complete a water supply survey on your supply is the single most important step you can take to ensure your rights are protected.

What Type Of Testing Will Be Conducted On My Water Supply?

Generally, each water supply is analyzed at least twice, but water supplies selected for long-term monitoring may have several monthly samples collected. The water is analyzed for chemicals that are characteristic of mine water including pH, alkalinity, acidity, iron, manganese, sulfate, and temperature. DEP can require other chemical analyses on a case-by-case basis.

The water supply survey also documents physical data, such as location, type of supply, treatment system, existing uses, and existing water conditions like color, odor, turbidity, and staining. For wells, depth of well casing, diameter and depth of well, static water levels (the level that water is standing in the well), and depth to pump setting are also noted.

Pump tests are often needed to determine the amount of water, or yield, a well can provide. This typically involves pumping the well for a period of up to two hours and measuring the water level and the pumping rate at various times (flow in gallons per minute). When completed, the water level continues to be measured to determine how quickly it returns to the level before the test. Occasionally, longer tests are needed to more accurately determine the yield.

A spring yield is typically determined by measuring the flow. The methods and location of measurements depend on the construction of the spring.

What Happens If My Water Supply Is Damaged During Testing?

If mine operators or their consultants damage your water supply system during data collection or testing, they are responsible for the damages. You are responsible for pursuing the collection of compensation for any damages from pre-mining testing. Keep careful documentation of any damage claims or effects on the supply.

What Happens If My Water Supply Is Impacted By Mining?

If a mining-related impact occurs, the mine operator must identify how they will restore or replace your water supply. Requirements for new or restored supplies include:

Quality: The quality must be as good or better so that you can use it just as you used your original supply.

Quantity: The water supply must yield enough water to meet your existing needs and any reasonably foreseeable uses. For example, the supply should be able to serve all residents of a home even if the home is not currently at full capacity.

Other Requirements: The replacement water supply must also:

- Be as reliable as the pre-mining supply;
- Be as permanent as the pre-mining supply;
- Not require excessive maintenance;
- Give you as much control and accessibility to the replacement water supply as you had with the pre-mining supply; and
- Not result in a cost increase to operate and maintain the replacement water supply unless the operator has provided for payment of increased cost.

Who Pays For My Water Supply Restoration Or Replacement?

The mine operator pays the cost of restoring or replacing your water supply and installation costs. If the operating and maintenance costs of the replacement water supply are more than your previous supply, the operator must provide for the permanent payment of the increased operating and maintenance costs (including connection to a public system). Additional costs may also be settled with a one-time cash settlement if both parties agree. If long-term payment is required, the operator submits a bond to ensure the money is available for the life of the water supply including for subsequent owners of that supply.