



RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION

ADVISORY NOTICE

ADVISORY ID:
EN-PS-154

REVISION NO.:

EFFECTIVE DATE:
June 20, 1997

SUBJECT: Abandoned Public Roads; Permit Documentation and Performance Standards

APPROVAL

Walter B. Hodgkin

TITLE: Director

I. PURPOSE

This Advisory Notice provides guidance regarding interpretation of 16 TAC 12.154(a) pertaining to permit documentation and performance standards required for use of abandoned public roads to support mining operations, which are outside the limits of the immediate mining area but within the permit area.

II. REGULATION REFERENCE

Title 16, Texas Administrative Code, Chapter 12, Section 154(a) (Road Systems And Support Facilities).

III. PERMIT DOCUMENTATION AND PERFORMANCE STANDARDS

All routes of travel which meet the definition of a road and, were constructed, authorized, or modified by a Federal, State or County road authority for general public use, may, after abandonment for public use is approved by the appropriate authority, be utilized as ancillary roads to support surface mining activities after Commission approval of appropriate documentation to include at a minimum:

- a) road location map
- b) a statement that normal use and maintenance as an ancillary road will:
 - 1) control or prevent erosion, siltation, and air pollution attendant to erosion;
 - 2) control or prevent damage to fish and wildlife resources;
 - 3) control or prevent contributions of suspended solids to stream flow or runoff outside the permit area;
 - 4) neither cause nor contribute to the violation of State or Federal water-quality standards applicable to receiving waters;
 - 5) not seriously alter the normal flow of water in streambeds or drainage channels;
 - 6) control or prevent damage to public or private property; and
 - 7) use non acid or non toxic-forming substances in road surfacing.

The submittal and approval of plans and drawings in accordance with §§12.154 and 12.400 through 12.403 is required prior to any road design modifications. Additional design information may be required, as necessary, based on site-specific conditions.

The use of abandoned public roads for support of surface mining related activities requires that the road be appropriately covered by a reclamation bond.



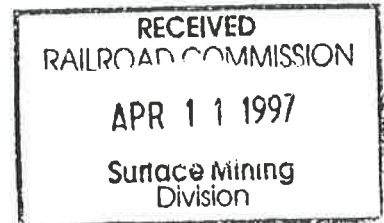
United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Mid-Continent Regional Coordinating Center
Alton Federal Building
501 Belle Street
Alton, Illinois 62002

APR 8 1997

Melvin Hodgkiss, Director
Surface Mining and Reclamation Division
Railroad Commission of Texas
P.O. Drawer 12967 Capitol Station
Austin, Texas 78711-2967



Dear Mr. Hodgkiss:

Thank you for your letter of March 27, 1997, requesting assistance in providing guidance on a proposal from the Texas Mining and Reclamation Association (TMRA) relative to the requirement for road design plans. Specifically, TMRA is requesting as-built plans not be required for public roads closed during the mining process but subsequently used as ancillary roads without modification.

The Federal rule establishes minimum performance standards for ancillary roads at 30 CFR 816.150(b). At 780.37(a)(1), the rule requires a map and appropriate design information. The preamble states that the rule requires a map, and as appropriate, design information. It goes on to state that the amount of design information to be required should be appropriate to the extent of the projected impact from the specific feature.

Since the roads in question already exist, you have considerable latitude in deciding what design information you need. You may determine that the actual existing road provides adequate and direct information on compliance with the ancillary road standards, and that no additional design information is needed beyond the map identifying the road. You could also decide to accept the highway authorities current design plans for the roads being closed and utilized by the operator or require minimum design plans which utilize typical cross sections and grade ranges in lieu of detailed plans.

In conclusion, I believe you have considerable latitude in determining what would be appropriate design detail for public roads being retained and permitted for ancillary use within the permit area. Your determination should be based on your experience with these roads in the past. It is important that any policy statement or advisory not compromise your ability to require appropriate engineering design detail on a case by case basis as needed.

Sincerely,

Brent Wahlquist
Regional Director

cc: Tulsa Field Office

970408



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

March 27, 1997

Mr. Brent Wahlquist, Regional Director
Mid-Continent Regional Coordinating Center
Office of Surface Mining Reclamation and Enforcement
501 Belle Street
Alton, Illinois 62002

Re: Texas Coal Mining Regulations
16 TAC §12.154 (Road Systems and Support Facilities)

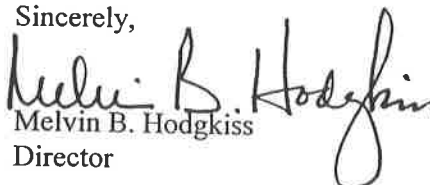
Dear Mr. Wahlquist:

The Texas Mining and Reclamation Association (TMRA) represented by Mess. Dick White and Steve Smith, in a meeting on March 24, 1997 and in subsequent correspondence dated March 24, 1997 (attachment) requests that the Commission not require the submission of (as-built) plans and drawings [§12.154(a)] for abandoned public roads that are subsequently used as ancillary mine roads, without modification to the road.

Prior to our developing a Commission advisory notice on this topic, I am requesting your assistance in providing some guidance with respect to the federal position on TMRA's proposal. Specifically, would the proposal conflict with a federal interpretation of the requirements for documentation of mine-road system.

Your reply to this request before April 9, 1997 would be greatly appreciated, since this topic is of great interest to TMRA members and will be discussed at a meeting scheduled with Commission staff in Austin, Texas for that date.

Sincerely,


Melvin B. Hodgkiss
Director

Attachment:

cc: Ervin Barchenger, OSM Tulsa (w/attachment)
Stephen F. Smith, Chair, TMRA Environmental Committee



314 HIGHLAND MALL BLVD.
SUITE 510
P.O. BOX 14667
AUSTIN, TEXAS 78761-4667
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FAX: (512) 451-9556

March 26, 1997

Mr. Melvin Hodgkiss, Director
Surface Mining and Reclamation Division
Railroad Commission of Texas
P.O. Box 12987, Capitol Station
Austin, TX 78711-2967

RE: Advisory Notice IN-EN-008
Use of Public Notice

Dear Mr. Hodgkiss:

The Texas Mining and Reclamation Association (TMRA) appreciates the Agency's efforts in resolving questions of mine access, and looks forward to our joint review of RCT Advisory Notice IN-EN-008, Immediate Mining Area and Vehicular Pathways, scheduled in Austin Texas for April 9, 1997. We agree with you that it is important for the Agency and Industry to both understand how the advisory will be implemented and enforced. To this end, clarification of any remaining questions is necessary.

In anticipation of this discussion, TMRA would like your further consideration of the use of roadways originally constructed for public use that are outside Surface Water Control. Based on discussions between Industry and SMRD, it is evident that TMRA's previously suggested language may not have adequately explained our intent and position. Specifically, Industry suggests that public roads not originally constructed for mining purposes (e.g. County or State Roads), but later intended for limited use to support mining activities such as dewatering, general access etc., should not be required to meet the document submittal requirements of Section 780.154 of the Regulations. Industry does understand, however, that any changes to existing design would require submittal and approval of plans and drawings in accordance with the Regulations prior to that action.

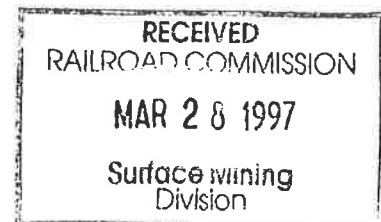
Industry considers it reasonable to assume that these public roads have been engineered and constructed using prudent engineering practices, therefore such roads would not necessitate design approval from the agency. This approach should enable the appropriate level of use of such roads, while maintaining necessary environmental protection.

Thank you for your consideration of this recommendation. Please contact me if you have any questions or further recommendations.

Sincerely,

A handwritten signature in black ink that reads "Stephen F. Smith". The signature is written in a cursive style with a large initial 'S'.

Stephen F. Smith
Chair, Environmental Committee



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TEXAS MINING AND RECLAMATION ASSOCIATION