

replacement requirements of section 720(a) of SMCRA and the implementing Federal regulations. Specifically, Illinois indicated that the State program excludes water supplies, and Illinois believes no authority exists to retroactively apply a state regulation. Illinois has no formal regulation or policy on water replacement due to diminution or contamination from mine subsidence. Illinois also stated that it does not have authority to investigate citizen complaints of water loss caused by underground mining operations conducted after October 24, 1992.

Nevertheless, in the few instances where water loss was part of a citizen complaint, Illinois has investigated and worked with the citizen and company to address allegations of water loss or contamination if attributed to mine subsidence. Illinois has investigated two citizen complaints alleging subsidence-related water supply loss or contamination as result of underground mining operations conducted after October 24, 1992: (1) Complaint No. 1 alleged that a spring fed stream went dry, and the stream served the landowner by watering cattle. The mining may or may not have occurred after October 24, 1992. The spring fed stream crosses both pre- and post-October 24, 1992, mining panels. The coal company immediately provided a trough and trucked water for continued cattle watering. The coal company has since installed waterline to a cattle watering device to maintain the water supply. (2) Complaint No. 2 alleged well water developed odor and different taste as a result of mining adjacent to but not under the well. Illinois sampled the water and found no quality problems that could be attributable to mining. This landowner is also connected to a public water supply in addition to the private well.

On February 3, 1995, Illinois proposed water replacement regulations. Proposed 62 Ill. Adm. Code 1817.121(c)(3) requires the operator to:

Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation operations permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

Once passed and a date is established, the application form will be revised appropriately. Illinois' current rulemaking package should be finalized in a year or less. In addition to proposed 62 Ill. Adm. Code 1817.121(c)(3), an inventory of all drinking, domestic and residential water supplies in place at the time of permitting will be necessary to

fully implement section 720(a)(2) of SMCRA. Based on this information, Illinois may require pre- and post-mining monitoring of certain planned subsidence operations. This will be determined on a case by case basis.

By letter dated April 25, 1995, Illinois stated that the approved regulatory program administered by the Illinois Department of Mines and Minerals, Land Reclamation Division (Department) is in compliance with the subsidence-related mandates of the Energy Policy Act (Administrative Record No. IL-1533). Specifically:

Illinois' current regulations codified at 62 Ill. Adm. Code 1817.121(c)(2) require repair or compensation for subsidence-related material damage to any structure. This would include repair of or compensation for damage to water delivery systems such as wells, cisterns and water lines.

On February 3, 1995, the Department submitted a proposed regulatory program amendment to OSM that requires the replacement of drinking, domestic and residential water supplies adversely affected by underground coal mining operations. The Department's proposed amendment mirrors the Energy Policy Act's language regarding water replacement.

The Department has conducted a survey of the six coal companies that conduct planned subsidence coal mining operations in Illinois. This survey has proven that water replacement is rarely an issue in this State. First of all, underground coal mining operations are conducted in thinly populated rural areas; very few residences are ever impacted by planned subsidence operations. Secondly, of the six companies survey, two companies purchase all residences prior to mining, one company avoids residences in its high extraction retreat mining operation, and the other three companies have existing internal policies providing for water replacement should the need arise.

The Department has received only two citizen's complaints involving water replacement issues during the period from October 24, 1992, through the present. The Department thoroughly investigated each complaint and worked with the companies involved to resolve any disputes. One complaint proved to be unfounded. The other complaint was successfully resolved when a waterline was installed. The Department received excellent cooperation from the companies involved during the course of these investigations and is confident that it can effectively resolve any future water replacement issues. However, as previously indicated, the likelihood of

receiving any further complaints regarding this issue is extremely remote.

In summary, the Department is effectively implementing the Energy Policy Act in Illinois. The Department's regulations currently require underground coal mine operators to repair or compensate for subsidence-related damage to structures, as mandated by the Energy Policy Act. In addition, the Department will diligently pursue finalization of the water replacement regulations currently pending with OSM in order to formally render Illinois' coal mine regulatory program no less effective than counterpart Federal regulations. Finally, the Department will continue to conduct thorough investigations of any water replacement complaints that do arise and work with coal mining companies and the public at large to resolve disputes relating to this issue.

Comments. On April 7, 1995, OSM published in the **Federal Register** (60) FR 17734) an opportunity for a public hearing and a request for public comment to assist OSM in making its decision on how the underground coal mine subsidence control and water replacement requirements should be implemented in Illinois. The comment period closed on May 8, 1995. Because OSM did not receive a request for one, OSM did not hold a public hearing. OSM did not receive any comments in response to its notice.

Director's Decision. Based on the information provided by Illinois, the Director has decided that initial enforcement of the water replacement requirements in Illinois is not reasonably likely to be required and that implementation will be accomplished through the State program amendment process. On February 3, 1995, Illinois submitted a proposed regulatory program amendment to OSM that requires the replacement of drinking, domestic, and residential water supplies adversely affected by underground coal mining operations. These revisions are intended to make the Illinois regulations consistent with the revised Federal regulations. Twenty-five underground mines produced coal in Illinois since October 24, 1992.

There have been only two citizen complaints concerning water replacement issues and Illinois has investigated them in a thorough and complete manner. Once Illinois has amended its program to be in accordance with the revised SMCRA and Federal regulations, it will enforce its State statutory and regulatory provisions. The Director has decided that initial enforcement of the underground coal mine subsidence