

NOTICE OF DEPARTMENTAL RECOMMENDATION

This Recommendation does not constitute a renewal of the permit.

Renewal Application for # 14/19-4279

Conference # PREN 19-05 IC

- Permit
- Revision
- Renewal

Concerning the application of **Farrell Cooper Mining Company Inc.**, for a permit renewal of a surface mining and reclamation operation, in an area of 601.4 acres, more or less, in Sections 27 and 34, Township 10 North, Range, 21 East in Haskell County, State of Oklahoma. The Oklahoma Department of Mines (ODM) hereby gives notice that said renewal application:

- is recommended for approval.
- is recommended for conditional approved as modified.
- is recommend for denial.

After review of the informal conference findings, the conference exhibits, the testimony, and the applicable regulations, I find that:

Applicable Regulations:

1. OAC 460:20-15-8 (d) and OAC 460:20-17-4 (a) A valid permit, issued pursuant to an approved regulatory program, shall carry with it a **right of successive renewal**, within the approved boundaries of an existing permit, upon the expiration of the term of the permit.
2. OAC 460:20-17-4 (c) (1) requires that the Department **shall approve** a complete and accurate application for permit renewal, **unless** it finds in writing that: (A) the terms and conditions of the existing permit are not being satisfactory met; (B) the present surface coal mining and reclamation operations are not in compliance with environmental protection standards of the Act and the regulatory program; (C) the requested renewal substantially jeopardizes the operator's continuing ability to comply with the Act and the regulatory program on existing areas; (D) the operator has not provided evidence of having liability insurance or self-insurance; (E) the operator has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal; and (F) additional revised or updated information required by the Department has not been provided by the applicant.
3. OAC 460:20-17-4 (c) (2) **Burden of proof**. In the determination of whether to approve or deny a renewal of a permit, the burden of proof shall be on the opponent of the renewal.

Evidence and Testimony put forth by the Objectors:

The Objectors asserted that the April 25, 2019, newspaper publication of the Notice and Order Setting Informal Conference for May 3, 2019, was misleading to the public. In response the May 3, 2019, conference was cancelled and a new Notice and Order Setting this conference on June 6, 2019, was issued and advertised.

The Objectors offered no evidence or testimony in regards to OAC 460:20-17-4 (c) (1) (C), (D), (E), or (F).

Objector Johnson's main stated objections to the permit renewal centered on the need to closely monitor the water pumped from existing mining pit for dissolved solids or salts. Mr. Johnson was also concerned with the protection of the stream bottom feeders that might be affected by the pumped pit water, if the water had a high concentration of dissolved solids or salts. Since the objector provided no documentation of water quality issues on permit 14/19-4279, there is no basis to deny the renewal under OAC 460:20-17-4 (c) (1) A B or C.

Conclusion:

I find that the Applicant has satisfied the requirements of the OAC 460:20-17-4 and recommend the permit renewal for approval.

Rhonda Dossett
Coal Program Director

Dated

This recommendation may be appealed to formal review pursuant to OAC 460:2 and the Administrative Procedure Act, Oklahoma Statutes Title 75. A request for review must be filed in writing with the Oklahoma Department of Mines within 30 days of receipt of this recommendation. If no request is received, the recommendation of the Department will become final. 460:20-19-2.

CERTIFICATE OF MAILING

This is to certify that on the 5th day of July, 2019, I mailed a true and correct copy of the above and forgoing Notice of Departmental Recommendation to:

Mr. Foster Johnson
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