

40-10-14 Division's findings issued to applicant and parties to conference -- Notice to applicant of approval or disapproval of application -- Hearing -- Temporary relief -- Appeal to district court -- Further review.

- (1) If a conference has been held under Subsection 40-10-13(2), the division shall issue and furnish the applicant for a permit and persons who are parties to the proceedings with the written finding of the division granting or denying the permit in whole or in part and stating the reasons, within the 60 days after the conference.
- (2) If there has been no conference held under Subsection 40-10-13(2), the division shall notify the applicant for a permit within a reasonable time as set forth in rules, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not written objection to the application has been filed, whether the application has been approved or disapproved in whole or part.
- (3) Upon approval of the application, the permit shall be issued. If the application is disapproved, specific reasons shall be set forth in the notification. Within 30 days after the applicant is notified of the final decision of the division on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination. The board shall hold a hearing pursuant to the rules of practice and procedure of the board within 30 days of this request and provide notification to all interested parties at the time that the applicant is notified. Within 30 days after the hearing the board shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the board granting or denying the permit in whole or in part and stating the reasons.
- (4) Where a hearing is requested pursuant to Subsection (3), the board may, under conditions it prescribes, grant temporary relief it deems appropriate pending final determination of the proceedings if:
 - (a) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;
 - (b) the person requesting the relief shows that there is a substantial likelihood that the person will prevail on the merits of the final determination of the proceedings; and
 - (c) the relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.
- (5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses or written or printed materials, compel attendance of the witnesses or production of the materials, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this chapter shall be made, and a transcript made available on the motion of any party or by order of the board.
- (6)
 - (a) An applicant or person with an interest which is or may be adversely affected who has participated in the proceedings as an objector, and who is aggrieved by the decision of the board, may appeal the decision of the board directly to the Utah Supreme Court.
 - (b) If the board fails to act within the time limits specified in this chapter, the applicant or any person with an interest which is or may be adversely affected, who has requested a hearing in accordance with Subsection (3), may bring an action in the district court for the county in which the proposed operation is located.
 - (c) Any party to the action in district court may appeal from the final judgment, order, or decree of the district court.
 - (d) Time frames for appeals under Subsections (6)(a) through (c) shall be consistent with applicable provisions in Section 63G-4-401.

Amended by Chapter 382, 2008 General Session