COALEX STATE INQUIRY REPORT – 157
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James Ellerhof
Division of Soil Conservation
Wallace Building
Des Moines, Iowa 50319

TOPICS: DEFINITION OF "ADJACENT TO" UNDER "SURFACE MINING OPERATIONS"

INQUIRY: What materials are available which discuss the definition of the phrase "adjacent to" as it is found in the definition of "surface coal mining operations" at 30 CFR Section 701(28) and 30 CFR 700.5? Specifically, does the moving of a dragline over an area "adjacent to" a permitted area fall under the definition of "surface coal mining operations" and, therefore, is a permit required for this activity?

SEARCH RESULTS: Research was conducted using the COALEX Library, and other materials available on LEXIS, and existing COALEX State Inquiry Reports.

Research on the meaning of the phrase "adjacent to" retrieved Interior administrative decisions, state cases, federal decisions and legislative history material which address, primarily, the meaning of the phrases "in connection with" and "at or near" under the definition of "surface coal mining operations", the topic of an existing COALEX State Inquiry Report. That earlier Report is attached. An Interior Board of Land Appeals decision which rules on the need to obtain a permit for constructing a "private way" for moving a dragline is also attached.

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1. WILLOWBROOK MINING CO. v OSM, 108 IBLA 303, IBLA 87-487 (1989).

"The construction of a private way for the sole purpose of moving a dragline from a site at which it had been used for surface mining to another site where it would again be used for surface mining is construction incidental to surface mining, and is therefore a surface mining activity which requires a permit under SMCRA."

2. COALEX STATE INQUIRY REPORT - 136, "Definition of 'in connection with' under 'surface mining operations'" (1989, updated 1990).

[See attached report.]

ATTACHMENTS

   A. WILLOWBROOK MINING CO. v OSM, 108 IBLA 303, IBLA 87-487 (1989).

B. COALEX STATE INQUIRY REPORT - 136, "Definition of 'in connection with' under 'surface mining operations'" (1989, updated 1990).