



COALEX STATE INQUIRY REPORT - 177

May 1, 1991

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1615 Washington Street, East
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TOPIC: SUBSIDENCE CONTROL: 6 MONTH NOTICE

INQUIRY: If an operator notifies a landowner at least 6 months prior to mining and the landowner subsequently sells that property, is the operator required to notify the new landowner? If there is a time lapse between the notification and the beginning of underground operations, is the operator required to notify landowners again? Please locate any administrative decisions or other materials which discuss this issue. [WV Section 38-2-16.1; 30 CFR 817.122]

SEARCH RESULTS: Using the COALEX Library and the other materials available in LEXIS, the following materials were retrieved (copies are attached).

PATTON v REPUBLIC STEEL CORP. AND LAWYERS' ABSTRACT CO., 342 Pa Super 101, 492 A 2d 411 (Pa Super Ct 1985).

The court ruled that Republic was required to notify new landowners when it recommenced mining operations in 1980. It had originally notified landowners in 1967. The court cited to the notice provisions of the Pennsylvania Bituminous Mine Subsidence and Land Conservation Act of 1966.

OLD BEN COAL CO. v DEPT. OF MINES AND MINERALS, 207 Ill App 3d 1088, 566 NE 2d 813 (Ill App Ct 1991).

The court held that Old Ben was subject to the 6 month notice requirement of the Illinois permanent program rules even though at the time of the NOV, Old Ben was operating under an interim permit.

M & J COAL CO. v OSM, 115 IBLA 8, IBLA 88-564 & 88-568 (1990).
M & J COAL CO. v OSM, Docket Nos. CH 6-15-R, CH 7-1-P (1988).

The Board upheld the issuance of the CO, finding that M & J's mining operations "caused subsidence which resulted in damage to residences and which condition created an imminent danger to the public health and safety." On the same day as the CO was issued, NOVs were issued citing "failure to submit a proper subsidence control plan" and "failure to notify property owners at least 6 months prior to mining beneath their property".



Also attached are the following Federal Register Notices and relevant CFR sections:

55 FR 21304 (MAY 23, 1990). Approval of amendment for the West Virginia Program.

45 FR 71590 (OCTOBER 29, 1980). Disapproval of amendment for the Kentucky Program.

48 FR 24638 (JUNE 1, 1983). Final rule.

30 CFR 817.121 Subsidence control.

30 CFR 817.122 Subsidence control: Public notice.

ATTACHMENTS

- A. PATTON v REPUBLIC STEEL CORP. AND LAWYERS' ABSTRACT CO., 342 Pa Super 101, 492 A 2d 411 (Pa Super Ct 1985).
- B. OLD BEN COAL CO. v DEPT. OF MINES AND MINERALS, 207 Ill App 3d 1088, 566 NE 2d 813 (Ill App Ct 1991).
- C. M & J COAL CO. v OSM, 115 IBLA 8, IBLA 88-564 & 88-568 (1990).
- D. M & J COAL CO. v OSM, Docket Nos. CH 6-15-R, CH 7-1-P (1988).
- E. 55 FR 21304 (MAY 23, 1990). Approval of amendment for the West Virginia Program.
- F. 45 FR 71590 (OCTOBER 29, 1980). Disapproval of amendment for the Kentucky Program.
- G. 48 FR 24638 (JUNE 1, 1983). Final rule.
- H. 30 CFR 817.121 Subsidence control.
- I. 30 CFR 817.122 Subsidence control: Public notice.