



COALEX STATE INQUIRY REPORT - 188

July 1991

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TOPIC: ABANDONED MINE LAND (AML) RECLAMATION; EXCESS SPOIL DISPOSAL [Includes COALEX Reports 28 & 176]

INQUIRY: Can the state regulatory authority contract with an operator of an active mine to reclaim an abandoned mine on land adjacent to the permitted area without amending the operator's permit or issuing a new one? Can the operator take excess spoil materials from the permitted site to use in reclaiming the AML site? Please locate all relevant materials which discuss these issues.

SEARCH RESULTS: Research was conducted using the COALEX Library, other materials in LEXIS and existing COALEX Inquiry Reports. No materials were identified which discuss the specific fact situation indicated above. One Interior Board of Land Appeals (IBLA) decision with some similarities to the fact situation in question was identified and is discussed below. Two COALEX reports which discuss related topics are also discussed. Copies of all materials are attached.

MADLINE MAYNARD, N.O.R. MINING & BLACKHAWK MINING CO. v OSM, 115 IBLA 49, IBLA 87-798, 88-466 (1990).

Blackhawk purchased and removed soil and other material from land owned by Madeline Maynard to reclaim a highwall on Blackhawk's adjoining, permitted site. Subsequently, N.O.R. removed coal from the seam exposed by Blackhawk's soil removal under a two-acre permit issued in Maynard's name. OSM claimed that the area from which Blackhawk removed spoil to reclaim its highwall should have been included in the Maynard two-acre permit. The Administrative Law Judge found, and the IBLA affirmed, that the parties were not related and were not engaged in a joint venture.

COALEX STATE INQUIRY REPORT - 28, "Reclamation of previously disturbed area" (February 26, 1985).

The inquiry requested information on a permittee's responsibility to reclaim portions of previously disturbed areas which were permitted but not redisturbed. No decisions were identified that were directly on point; however, the report does include IBSMA decisions which



discuss reclamation of orphaned highwalls, relevant federal regulations and a district court settlement.

COALEX STATE INQUIRY REPORT - 176, "Substituting alternative materials for topsoil" (April, 1991).

The ALJ decisions and Federal Register notices address the question of what material is to be used to cover a previously mined area: Should the material be from the mine's old spoil pile or does "best available" material mean material from anywhere in the permit area?

ATTACHMENTS

- A. MADELINE MAYNARD, N.O.R. MINING & BLACKHAWK MINING CO. v OSM, 115 IBLA 49, IBLA 87-798, 88-466 (1990).
- B. COALEX STATE INQUIRY REPORT - 28, "Reclamation of previously disturbed area" (February 26, 1985).
- C. COALEX STATE INQUIRY REPORT - 176, "Substituting alternative materials for topsoil" (April, 1991).