



COALEX STATE COMPARISON REPORT - 302

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TOPIC: SURFACE EFFECTS OF UNDERGROUND NON-COAL MINE

INQUIRY: Please conduct a survey to identify those states that regulate the surface effects of underground non-coal mines operations, i.e., subsidence and hydrologic balance. New York State is particularly interested in this information in light of the flooding that occurred in Akzo Nobel's salt mine and the resulting subsidence and cave-ins.

SEARCH RESULTS: Research was conducted using LEXIS and NEXIS. Using your Memorandum and Survey as a basis, statutes and regulations from eleven states were searched. The sections listed here and attached provide definitions and regulations of particular interest. Also included for background are your Memorandum, two newspaper articles on the mine flooding and a Sixth Circuit case addressing enforcement actions relating to a flooded Ohio coal mine.

BACKGROUND MATERIAL

MEMORANDUM from Steve Potter to Bruce McGranahan, "Survey on States Regulating Underground Activities" (1994).

"[M]ost states do not actively regulate underground non-coal mining. Those that do only regulate subsidence, health and safety issues and reclamation of surface lands affected by the underground activity and closure of shafts."

This Memorandum and the accompanying table were used as a basis for the research conducted for this Report.

"Salt Mine Cave-In Brings Pollution and Jobs Debate", The New York Times (April 11, 1994). "Salt mine's collapse shakes Genesee Valley; Economics vs. environment throws area into turmoil", The Dallas Morning News (July 26, 1994).



These articles provide details on the mine flooding and cave-in.

SOUTHERN OHIO COAL CO. v OFFICE OF SURFACE MINING, 20 F 3d 1418 (6th Cir 1994).

Opinion: "In this appeal, we address two similar issues involving the jurisdiction of the District Court over the United States Environmental Protection Agency ('USEPA') and the Office of Surface Mining, Reclamation and Enforcement of the Department of the Interior ('OSM'). Both agencies took or threatened to take enforcement actions related to the flooding of an Ohio coal mine that were at odds with decisions of their respective state counterpart agencies, the Ohio Environmental Protection Agency ('OEPA') and the Ohio Division of reclamation ('ODR'). The court enjoined the federal agencies from acting 'to effect the cessation of pumping at [the mine] unless their respective parallel approved state agencies fail to act vigorously, expeditiously, and in accordance with the law. Because we find that the court lacked jurisdiction to enjoin USEPA and OSM in this manner, we reverse the judgment of the District Court."

STATE STATUTES AND REGULATIONS

ALASKA

1. Alaska Statute Sec. 27.20.061 (1994). Definitions.
"Mining operation" includes all parts of a mine, treatment plant or equipment connected with surface or underground mining "which contributes or may contribute to the mining or treatment of ore or other metalliferous or nonmetalliferous mineral product".

COLORADO

1. C.R.S. 24-65.1-103 (1994). [State Planning] Definitions pertaining to natural hazards.
"(10) 'Ground subsidence' means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by man-made phenomena such as underground mining."
2. C.R.S. 34-20-102 (1994). [Mineral Resources] Definitions.
"(9)(a) 'Mine' means:
"(I) Any area of land from which minerals are extracted in nonliquid form or are extracted in a liquid form while workers are underground;
...
"(b) 'Mine' does not include the facilities defined in section 12-23-101 (3.5), C.R.S., nor does it include earthen dams, sand and gravel pits, clay pits, or rock and stone quarries, including surface limestone and dolomite quarries."
3. Also included are:
 - a. C.R.S. 34-20-101 (1994). [Mineral Resources] Legislative declaration.



- b. C.R.S. 34-24-102 (1994). [Mineral Resources] Coal or other mine maps.
- c. C.R.S. 34-50-105 (1994). [Mineral Resources] Action to recover - inspection.

ILLINOIS

A number of sections from the Fluorspar and Underground Limestone Mines Act are attached:

1. 225 ILCS 710/# (1994) [Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 96 1/2 para. #]
 - a. 710/9.01 Duty to visit [Old site: para. 4215]
 - b. 710/10 Dangerous conditions; notice, remedial action [Old site: para. 4217]
 - c. 710/11 Refusal to allow inspection [Old site: para. 4218]
 - d. 710/22 [Provision of maps] [Old site: para. 4229]
 - e. 710/23 Failure to make maps [Old site: para. 4230]
 - f. 710/37 Required mine outlets [Old site: para. 4245]
 - g. 710/38 [One outlet required] [Old site: para. 4246]
 - h. 710/39 Combustible structures over shaft prohibited [Old site: para. 4247]
 - i. 710/40 Outlet by ladder required [Old site: para. 4248]
 - j. 710/43 Roof inspections [Old site: para. 4251]
 - k. 710/45.30 [Advancing a drift, adit level, or incline] [Old site: para. 4283]
 - l. 710/45.31 [Additional raises, drifts or other workings] [Old site: para. 4284]
 - m. 710/48 Violations; penalties [Old site: para. 4328]
 - n. 710/49 [Effective date] [Old site: para. 4329]
 - o. 710/50 [Administration] [Old site: para. 4330]

KENTUCKY

1. KRS Ann. Sec. 351.010 (Baldwin) (1994). [Mines and Minerals] Definitions. "(j) 'Mine' means any open pit or any underground workings from which coal or clay is produced for sale, exchange or commercial use...."
2. Also see these underground mining regulations:
 - a. KRS Ann. Sec. 352.080 (Baldwin) (1994). [Mines and Minerals] New or additional openings; map to be filed.
 - b. KRS Ann. Sec. 352.110 (Baldwin) (1994). [Mines and Minerals] Mines to have two openings; exception.
 - c. KRS Ann. Sec. 352.201 (Baldwin) (1994). [Mines and Minerals] Roof control plan.
 - d. KRS Ann. Sec. 352.450 (Baldwin) (1994). [Mines and Minerals] Map of mine to be filed annually; additional maps.
 - e. KRS Ann. Sec. 352.480 (Baldwin) (1994). [Mines and Minerals] Duplicate maps; survey of abandoned or closed mine.
 - f. KRS Ann. Sec. 352.490 (Baldwin) (1994). [Mines and Minerals] Mine not to extend within 25 feet of property line; liability for damages.



- g. KRS Ann. Sec. 350.240 (Baldwin) (1994). [Mines and Minerals] Clay mining regulations.
- h. KRS Ann. Sec. 351.170 (Baldwin) (1994). [Mines and Minerals] Reports of owner, lessee or superintendent.
- i. KRS Ann. Sec. 352.620 (Baldwin) (1994). [Mines and Minerals] Provisions concerning coal mining applicable to clay mines and clay mining.
- j. KRS Ann. Sec. 354.020 (Baldwin) (1994). [Mines and Minerals] Administration of KRS 354.010 to 354.470 repealed.

NEW MEXICO

- 1. N.M. Stat. Ann. Sec. 69-4-1 (1994). [Mines; Mining Regulation Law; Definitions] Mine. "For the purpose of this act the term "mine" except where qualified in various sections of this act shall include all surface and underground operations to win coal, metals and other mineral substances from their deposits (exclusive of natural gas or petroleum), all tunnel operations, all caisson operations, all mills, ore houses and treatment plants, all quarries, pits, open-cut workings, strippings, placer mines, sand, gravel and similar banks."
- 2. Also included are:
 - a. N.M. Stat. Ann. Sec. 69-26-1 (1994). [Mines; Mines other than coal - Registration and statistical information] Annual registration.
 - b. N.M. Stat. Ann. Sec. 69-26-2 (1994). [Mines; Mines other than coal - Registration and statistical information] Production information.
 - c. N.M. Stat. Ann. Sec. 69-26-3 (1994). [Mines; Mines other than coal - Registration and statistical information] Request for information.
 - d. N.M. Stat. Ann. Sec. 69-30-1 (1994). [Mines; Underground haulage for mines other than coal]
 - e. N.M. Stat. Ann. Sec. 69-35-1 (1994). [Mines; General regulatory provisions in mines other than coal]
 - f. N.M. Stat. Ann. Sec. 72-12A-3 (1994). [Water law; Mine dewatering] Definitions.
 - g. N.M. Stat. Ann. Sec. 72-12A-6 (1994). [Water law; Mine dewatering] Mine dewatering prohibited.
 - h. N.M. Stat. Ann. Sec. 72-12A-7 (1994). [Water law; Mine dewatering] Application for permit.

OHIO

- 1. ORC Ann. Sec. 4151.01 (Baldwin) (1994). [Administration of mining laws] Definitions.
"(A) 'Mine' means an underground or surface excavation or development with or without shafts, slopes, drifts, or tunnels for the extraction of coal, gypsum, asphalt, rock, or other materials containing the same, or for the extraction of natural gas or petroleum by means that are substantially similar to the underground extraction of coal, gypsum, asphalt, rock, or other materials



containing the same, with hoisting or haulage equipment and appliances for the extraction of such materials; and embraces the land or property of the mining plant, the surface, and underground, that is used for or contributes to the mining properties, or concentration of handling of coal, gypsum, asphalt, rock or other materials containing the same or of natural gas or petroleum."

2. Also included are:
 - a. ORC Ann. Sec. 3929.50 (Baldwin) (1994). [Mine subsidence insurance] Definitions.
 - b. ORC Ann. Sec. 4153.03 (Baldwin) (1994). [Mines - Construction] Map of a new mine.
 - c. ORC Ann. Sec. 4153.04 (Baldwin) (1994). [Mines - Construction] Survey and map.
 - d. ORC Ann. Sec. 4153.11 (Baldwin) (1994). [Mines - Construction] Mining near highways.
 - e. ORC Ann. Sec. 4153.111 (Baldwin) (1994). [Mines - Construction] Mining near oil or gas well.
 - f. ORC Ann. Sec. 4153.12 (Baldwin) (1994). [Mines - Construction] Construction regulations to be observed in opening mine.
 - g. ORC Ann. Sec. 4153.14 (Baldwin) (1994). [Mines - Construction] Openings required.
 - h. ORC Ann. Sec. 4153.15 (Baldwin) (1994). [Mines - Construction] Additional opening for protection against inundation.
 - i. ORC Ann. Sec. 4153.33 (Baldwin) (1994). [Mines - Construction] Roof control program.>
 - j. ORC Ann. Sec. 4153.34 (Baldwin) (1994). [Mines - Construction] Contents of program and plan.
 - k. ORC Ann. Sec. 4153.35 (Baldwin) (1994). [Mines - Construction] Approval of plans.
 - l. ORC Ann. Sec. 4153.36 (Baldwin) (1994). [Mines - Construction] Mining methods.

PENNSYLVANIA

1. 52 P.S. Sec. 3303 (1994). [Noncoal Surface Mining Conservation and Reclamation Act] Definitions.
"MINERALS.' Any aggregate or mass of mineral matter, whether or not coherent, that is extracted by surface mining. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay; but is does not include anthracite or bituminous coal or coal refuse, except as provided in section 4, or peat."
2. Also included are:
 - a. 52 P.S. Sec. 3309 (1994). [Noncoal Surface Mining Conservation and Reclamation Act] Bonding.
 - b. 52 P.S. Sec. 3311 (1994). [Noncoal Surface Mining Conservation and Reclamation Act] Rulemaking.



TEXAS

1. Two sections of the Uranium Surface Mining and Reclamation Act are attached:
 - a. Tex. Nat. Res. Code Sec. 131.004 (1994). [Uranium Surface Mining and Reclamation Act] Definitions.
 - b. Tex. Nat. Res. Code Sec. 131.102 (1994). [Uranium Surface Mining and Reclamation Act] Reclamation standards.

UTAH

1. Utah Code Ann. Sec. 40-8-4 (1994). [Mined land reclamation] Definitions.

"(3)(a) 'Deposit' or 'mineral deposit' means an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained or which is extracted by underground mining methods for underground storage.

"(b) 'Deposit' or 'mineral deposit' excludes sand, gravel, rock aggregate, water, geothermal steam, and oil and gas as defined in Title 40, Chapter 6, but includes oil shale and bituminous sands extracted by mining operations."
2. Also included are:
 - a. Utah Code Ann. Sec. 40-8-2 (1994). [Mined land reclamation] Legislative findings.
 - b. Utah Code Ann. Sec. 40-8-3 (1994). [Mined land reclamation] Purpose.
 - c. Utah Code Ann. Sec. 40-8-5 (1994). [Mined land reclamation] Coordination of procedures.
 - d. Utah Code Ann. Sec. 40-8-12 (1994). [Mined land reclamation] Objectives.
 - e. Utah Code Ann. Sec. 40-8-13 (1994). [Mined land reclamation] Notice of intention required prior to mining operations.
 - f. Utah Code Ann. Sec. 40-8-20 (1994). [Mined land reclamation] Applicability.
 - g. Utah Code Ann. Sec. 40-8-22 (1994). [Mined land reclamation] Division cooperation.

VIRGINIA

1. Va. Code Ann. Sec. 45.1-180 (1994). [Mines and mining; Permits for certain mining operations; Reclamation of land; General provisions] Definitions.

"(l) Mineral. -- Ore, rock, and any other solid homogeneous crystalline chemical element or compound that results from the inorganic processes of nature other than coal."
2. Also see:
 - a. Va. Code Ann. Sec. 45.1-180.2 (1994). [Mines and mining; Permits for certain mining operations; Reclamation of land; General provisions] Legislative findings; declaration of policy.



WYOMING

1. Wyo. Stat. Sec. 35-11-103 (1994). [Public health and safety; Environmental quality; General provisions] Definitions.

"(e) Specific definitions for land quality:

...

"(ii) 'Minerals' means coal, clay, stone, sand, gravel, bentonite, scoria, rock, pumice, limestone, ballast rock, uranium, gypsum, feldspar, copper ore, iron ore, oil shale, trona, and any other material removed from the earth for reuse or further processing".

ATTACHMENTS

- A. Memorandum from Steven M. Potter summarizing Underground Non-Coal Regulation From Other States (May 17, 1994).
- B. "Salt Mine Cave-In Brings Pollution and Jobs Debate", The New York Times (April 11, 1994).
- C. "Salt mine's collapse shakes Genesee Valley; Economics vs. environment throws area into turmoil", The Dallas Morning News (July 26, 1994).
- D. Southern Ohio Coal Co. v Office of Surface Mining, 20 F 3d 1418 (6th Cir 1994).
- E. Alaska Statutes/Regulations:
- F. Colorado Statutes/Regulations:
- G. Illinois Statutes/Regulations:
- H. Kentucky Statutes/Regulations:
- I. New Mexico Statutes/Regulations:
- J. Ohio Statutes/Regulations:
- K. Pennsylvania Statutes/Regulations:
- L. Texas Statutes/Regulations:
- M. Utah Statutes/Regulations:
- N. Virginia Statutes/Regulations:
- O. Wyoming Statutes/Regulations: