



COALEX STATE INQUIRY REPORT - 322

April 1995

Michael Sponsler
Division of Reclamation
Department of Natural Resources
PO Box 147
201 W. Main Street
Jasonville, Indiana 47438

TOPIC: SETTLEMENT OF CIVIL PENALTIES

INQUIRY: Can a civil penalties case be settled by having the violator perform reclamation or other remedial work or must a monetary penalty be paid? Please locate any material that addresses this issue.

SEARCH RESULTS: Using LEXIS, an OSM Directive and a number of relevant Interior Administrative Decisions were identified. Copies of these materials are attached.

INTERIOR ALJ CONSENT DECISIONS

The settlement agreements in the consent decisions listed below include requirements to complete the outlined remedial work in a timely and satisfactory manner in return for a reduction of the civil penalties. In some cases, the penalties are reduced to zero.

TARHEEL ENERGY, INC. v OSM, Docket Nos. NX 7-191-R, NX 88-45-R (1988).

TRIPLE I COAL CO. v OSM, Docket No. NX 7-37-P (1988).

GEORGE LAMBERT v OSM, Docket Nos. NX 7-7-p, NX 7-42-R (1988).

GREATER WISE, INC. v OSM, Docket Nos. NX 88-15-R, NX 88-19-P (1988).

B & B CONSTRUCTION v OSM, Docket No. NX 7-83-R (1988).

AMERICAN STANDARD COAL DOCKS, INC. v OSM, Docket No. NX 7-165-R (1988).

GAINSBORO PORT AUTHORITY v OSM, Docket No. NX 7-167-R (1988).



FAULKNER CONSTRUCTION CO v OSM, Docket Nos. NX 7-26-R, NX 7-27-R, NX 7-28-R (1987).

BUD COAL CO., INC. v OSM, Docket No. NX 5-138-R (1987).

UNITED ENERGY CORP. v OSM, Docket No. NX 6-27-P (1986).

SHANNOPIN MINING CO. v OSM, Docket No. CH 1-92-R (1981).

KEM COAL CO. v OSM, Docket No. NX 0-170-P (1980).

ADDITIONAL INTERIOR DECISION

J & M COAL CO. v OSM, 122 IBLA 90, IBLA 89-504 (1992).

HEADNOTES:

"A letter from counsel for OSM to an operator that...(3) invites the operator to contact him after completion of reclamation if it is still interested in settlement, creates no basis on which the operator may reasonable rely that OSM agreed that the civil penalties for the NOV's would be settled when reclamation was completed."

OSM DIRECTIVE

OSM DIRECTIVE, Subject No. CAA-2-2, Transmittal No. 485, "Settlement Guidelines" (Issued 9/26/89).

"This directive establishes [OSMRE] guidelines regarding the settlement of debts incurred as a result of civil penalty fines or AML fees under [SMCRA]."

"Settlement" is defined as: "The resolution of a debt either through payment in full, a payment agreement, a compromise agreement, or termination of the debt."

Under "Compromise of Debt" [accepting less than the full amount of the claim], the Guidelines state:

"Only those cases in which abatement has been performed or is scheduled to be performed through an approved abatement plan, or performance has been ruled not feasible, will be considered for compromise."

ATTACHMENTS

- A. TARHEEL ENERGY, INC. v OSM, Docket Nos. NX 7-191-R, NX 88-45-R (1988).
- B. TRIPLE I COAL CO. v OSM, Docket No. NX 7-37-P (1988).
- C. GEORGE LAMBERT v OSM, Docket Nos. NX 7-7-p, NX 7-42-R (1988).
- D. GREATER WISE, INC. v OSM, Docket Nos. NX 88-15-R, NX 88-19-P (1988).
- E. B & B CONSTRUCTION v OSM, Docket No. NX 7-83-R (1988).



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
U.S. Department of the Interior

- F. AMERICAN STANDARD COAL DOCKS, INC. v OSM, Docket No. NX 7-165-R (1988).
- G. GAINSBORO PORT AUTHORITY v OSM, Docket No. NX 7-167-R (1988).
- H. FAULKNER CONSTRUCTION CO. v OSM, Docket Nos. NX 7-26-R, NX 7-27-R, NX 7-28-R (1987).
- I. BUD COAL CO., INC. v OSM, Docket No. NX 5-138-R (1987).
- J. UNITED ENERGY CORP. v OSM, Docket No. NX 6-27-P (1986).
- K. SHANNOPIN MINING CO. v OSM, Docket No. CH 1-92-R (1981).
- L. KEM COAL CO. v OSM, Docket No. NX 0-170-P (1980).
- M. J & M COAL CO. v OSM, 122 IBLA 90, IBLA 89-504 (1992).
- N. OSM DIRECTIVE, Subject No. CAA-2-2, Transmittal No. 485, "Settlement Guidelines" (Issued 9/26/89).