



COALEX STATE INQUIRY REPORT - 331

February 1995

Interstate Mining Compact Commission
459-B Carlisle Drive
Herndon, Virginia 20170

TOPIC: ACID MINE DRAINAGE/HYDROLOGIC BALANCE (Update of Report No. 192)

INQUIRY: Please update Report No. 192

SEARCH RESULTS: The enclosed materials update COALEX STATE INQUIRY REPORT - 192, "Acid Mine Drainage" (1991).

REGULATORY HISTORY

55 FR 47430 (NOVEMBER 13, 1990). Proposed rule. Hydrologic balance.

Enclosed for background.

59 FR 28744 (JUNE 2, 1994). Proposed rule. Lands eligible for remining.

Due to the possibility of a remining operation unintentionally causing a sudden discharge of water releasing acid mine drainage, the operator applying for a remining permit must "identify the potential environmental and safety problems associated with the site, maximum impacts associated with these problems, and the probability for each type of problem to occur."

PENNSYLVANIA ADMINISTRATIVE CASES

**AL HAMILTON CONTRACTING CO. v COMMONWEALTH OF PENN., DER, EHB
Docket No. 85-392-W, 1991 Pa Envirn LEXIS 188 (1991).**

"Hamilton failed to demonstrate that it would prevent damage to the hydrologic balance". DER's expert witness concluded that there was a strong likelihood of acid mine drainage and that Hamilton's proposed treatment plan was insufficient to remedy the drainage problems. The Board ruled that the certainty requirement did not apply to the expert's opinions:



"The Department need not show that discharge of pollution will result; it will prevail if it shows that the potential for pollution exists."

C. W. BROWN COAL CO., INC. v COMMOWNEALTH OF PENN., DEPT. OF ENVTL. RESOURCES, 1991 Pa. Envirn. LEXIS 114, EHB Docket No. 83-159-G (1991).

A surface mine operator appealed compliance orders issued "for unauthorized discharges from its mine site causing degradation of a stream, pond, and springs and for failure to reclaim". DER's orders to treat the mine drainage and complete reclamation of the site were sustained:

"A mine operator is responsible for all mine drainage on its permitted area and is required to treat it in order to meet the applicable effluent limits, whether or not the mine drainage predated operation of the mine."

WEST VIRGINIA STATE AMD CASES

STATE OF WEST VIRGINIA EX REL. LAUREL MOUNTAIN/FELLOWSVILLE AREA CLEAN WATERSHED ASSN., INC. v CALLAGHAN, 418 SE 2d 580 (W VA 1992).

"[T]he Commissioner of the Division of Environmental Protection has a duty to utilize the proceeds from forfeited bonds to accomplish the completion of reclamation of affected lands of a surface mine."

STATE OF WEST VIRGINIA EX REL. WEST VIRGINIA HIGHLANDS CONSERVANCY, INC. v WEST VIRGINIA DIV. OF ENVTL. PROTECTION, 447 SE 2d 920 (W VA 1994).

West Virginia DER "has a mandatory, nondiscretionary duty to utilize moneys from the Special Reclamation Fund...to treat acid mine drainage at bond forfeiture sites when the proceeds from forfeited bonds are less than the actual cost of reclamation."

"Whenever changes to laws or regulations that make up the approved State program are proposed by the State, the State shall immediately submit the proposed changes to the Director [of OSM] as an amendment. No such change to laws or regulations shall take effect for purposes of a State program until approved as an amendment."

ATTACHMENTS

- A. COALEX STATE INQUIRY REPORT - 192 , "Acid mine drainage" (1991).
- B. 55 FR 47430 (NOVEMBER 13, 1990). Proposed rule. Hydrologic balance.
- C. 59 FR 28744 (JUNE 2, 1994). Proposed rule. Lands eligible for remining.
- D. AL HAMILTON CONTRACTING CO. v COMMONWEALTH OF PENN., DER, EHB Docket No. 85-392-W, 1991 Pa Envirn LEXIS 188 (1991).



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

- E. C. W. BROWN COAL CO., INC. v COMMONWEALTH OF PENN., DEPT. OF ENVTL. RESOURCES, 1991 Pa. Environ. LEXIS 114, EHB Docket No. 83-159-G (1991).
- F. STATE OF WEST VIRGINIA EX REL. LAUREL MOUNTAIN/FELLOWSVILLE AREA CLEAN WATERSHED ASSN., INC. v CALLAGHAN, 418 SE 2d 580 (W VA 1992).
- G. STATE OF WEST VIRGINIA EX REL. WEST VIRGINIA HIGHLANDS CONSERVANCY, INC. v WEST VIRGINIA DIV. OF ENVTL. PROTECTION, 447 SE 2d 920 (W VA 1994).