COALEX STATE INQUIRY REPORT - 295

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Division of Reclamation
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TOPIC: "BURDEN OF PROOF" REQUIREMENTS AT DIFFERENT ADMINISTRATIVE HEARINGS

INQUIRY: A company requested temporary relief from a cessation order ("CO"). In issuing the final order denying the temporary relief, the administrative law judge made specific findings that the company was conducting surface coal mining operations and that they failed to follow state blasting requirements. The company did not appeal that order. Is the presentation of evidence by the company at the hearing on the CO considered res judicata/collateral estoppel or is there a difference between the burden of proof required at a hearing for a temporary relief versus an administrative hearing on the CO itself? Please locate any relevant decisions.

SEARCH RESULTS: Research was conducted using the COALEX Library and the other decisions available in LEXIS. No materials were identified that specifically discussed the differences in the "burden of proof" required at different administrative hearings. However, a number of federal court and Interior administrative decisions were retrieved that discuss "administrative res judicata". These, and three other relevant items, are listed below; copies are attached.

PRIMARY MATERIAL

US v UTAH CONSTRUCTION & MINING CO., 384 US 394 (1966).

In expressing the concept of "administrative res judicata" the Court, in this breach of contract case, stated that when "an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata to enforce repose."

DELAMATER v SCHWEIKER, No. 83-6029, No. 1440 (2nd Cir 1983).

The court cited to the above decision in this case involving disability insurance benefits:

"The implication in these statements is that if the administrative proceeding has not been an adjudicative nature, a decision arrived at by the administrative agency cannot have res judicata effect."

"In it initial action on Delamater's application for disability benefits in 1976, the SSA denied his claim. This decision was an administrative one, which the SSA was free to reconsider and which it shortly did reconsider after Delamater submitted another report from his physician. Its new decision to grant benefits was, no less than its initial decision to deny, an administrative determination. There was no hearing, no testimony, no subpoenaed evidence, no argument, no opportunity to test any contention by confrontation."

PANTEX TOWING CORP. v GLIDEWELL, 763 F 2d 1241 (11th Cir 1985).

This admiralty tort case also cited to U.S. v Utah Construction and Mining:

I."[1] Issues of fact litigation and decided in a prior administrative proceeding may have collateral estoppel effect on issues of fact presented in a subsequent judicial action. The parties agree that when an administrative body has acted in a judicial capacity and has issued a valid and final decision on disputed issues of fact properly before it, collateral estoppel will apply to preclude relitigation of fact issues only if: (1) there is identity of the parties or their privies; (2) there is identity of issues; (3) the parties had an adequate opportunity to litigate the issues in the administrative hearing; (4) the issues to be estopped were actually litigated and determined in the administrative proceeding; and (5) the findings on the issues to be estopped were necessary to the administrative decision."

MUSKINGHAM MINING CO. v OSM AND LACY, INTERVENOR, 113 IBLA 352, IBLA 90-171 (1990).

The Board cited to Pantex Towing Corp. v Glidewell.

SYLLABUS: "If a party has moved for certification of a ruling by an Administrative Law Judge that does not finally dispose of a case in accordance with 43 CFR 4.1124, the party may petition the Board for permission to appeal from the interlocutory ruling by the Administrative Law Judge in accordance with 43 CFR 4.1272. The Board may grant the petition if the correctness of the ruling sought to be review involves a controlling issue of law and the resolution of which will materially advance final dispositions of the case."

SECONDARY MATERIAL

NEW RIVER COALS, LTD. v OSM, Docket No. NX 5-8-R (1985).

At the end of the hearing, the ALJ denied New River's application for temporary relief from the CO. A written opinion confirming denial of the temporary relief followed, which stated in part:

"If the undersigned is not notified by a party that an additional hearing is necessary within 60 days of the receipt of this opinion, the undersigned will enter a final opinion in this case based on the transcript of the hearing for temporary relied and the exhibits introduced into evidence at that hearing. If the parties desire to file proposed findings of fact and conclusions of law they may do so within the said 60-day period."

Neither party made a request for an additional hearing; therefore, the earlier opinion became final.

TURNER BROS., INC. v OSM, 102 IBLA 111, IBLA 86-378 (1988).

SYLLABUS: "4. Estoppel -- Res Judicata. The Department has long recognized the need to apply the administrative counterpart of the principle of res judicata -- the doctrine of administrative finality -- to preclude reconsideration of a decision of an agency official when a party, or his predecessor in interest, had an opportunity to obtain review within the Department and no appeal was taken, or an appeal was taken and the decision was affirmed. The rule is subject to the exception that review is available to correct or reverse an erroneous decision upon a showing of compelling legal or equitable reasons such as violations of basic rights or the need to prevent an injustice."

PEABODY COAL CO. v RALSTON, 578 NE 2d 751 (Ind Ct App 1991).

The issue addressed here "concerns whether DNR applied the correct standard regarding burden shifting in approving a finding of violation. Substantial evidence is irrelevant, since DNR failed to adhere to this fundamental precept in reviewing Peabody's alleged violations."

ATTACHMENTS

A. US v UTAH CONSTRUCTION & MINING CO., 384 US 394 (1966).
B. DELAMATER v SCHWEIKER, No. 83-6029, No. 1440 (2nd Cir 1983).
C. PANTEX TOWING CORP. v GLIDEWELL, 763 F 2d 1241 (11th Cir 1985).
D. MUSKINGHAM MINING CO. v OSM AND LACY, INTERVENOR, 113 IBLA 352, IBLA 90-171 (1990).
E. NEW RIVER COALS, LTD. v OSM, Docket No. NX 5-8-R (1985).
F. TURNER BROS., INC. v OSM, 102 IBLA 111, IBLA 86-378 (1988).
G. PEABODY COAL CO. v RALSTON, 578 NE 2d 751 (Ind Ct App 1991).