COALEX STATE INQUIRY REPORT – 121
July 20, 1989

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State of Alabama
Surface Mining Commission
P.O. Box 2390
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TOPIC: COAL FINES

INQUIRY: A coal mining company wishes to recover some previously mined coal fines from
the surface of the ground. The recovery of these coal fines will not involve any actual excavation
of overburden, dirt, etc. Is the act of merely recovering the coal fines considered surface coal
mining under the Surface Mining Control and Reclamation Act of 1977 (SMCRA)?

SEARCH RESULTS: Research was conducted using the federal and state decisions on LEXIS.
Copies of the relevant decisions are attached.

Four relevant decisions were identified. All four courts determined that the removal of coal from
refuse piles or culm banks or the removal of anthracite silt "when no below-surface activity
occurs" constitutes "surface coal mining operations under SMCRA." Permits are required and the
operators are liable for reclamation fees. U.S. v KENNEDY, 806 F.2d 111 (7th Cir. 1985).

ATTACHMENTS

A. U.S. v KENNEDY, 806 F.2d 111 (7th Cir 1985).
B. U.S. v TRI-NO ENTERPRISES, INC., 819 F.2d 154 (7th Cir. 1987).
C. U.S. v DEVIL'S HOLE, INC., 747 F.2d 895 (3rd Cir. 1984).
D. GINTER COAL CO. v ENVIRONMENTAL HEARING BOARD, 9 Pa. Commw. 263,