COALEX STATE INQUIRY REPORT - 220

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TOPIC: PETITIONS FOR COSTS, EXPENSES AND ATTORNEY'S FEES

INQUIRY: I am interested in a listing of all administrative decisions which rule on the award of costs, expenses and attorney's fees. In particular, I am looking for "cost petition" cases that seek awards under SMCRA Secs. 520(d) [30 USC 1270(d)] and 525(e) [30 USC 1275(e)]. In addition, please send a list of the materials available in the Legislative History files of the COALEX Library.

SEARCH RESULTS: The COALEX Library and the other materials available in LEXIS were used to research this report. The list of materials available in the SMCRA Legislative History are organized by type of document (Congressional Hearings, Reports, etc.) and are in chronological order.

The "cost petition" cases are grouped in chronological order according to the agency or court. Not all of the cases included cited to the SMCRA sections indicated above. Interior Administrative Law Judge (ALJ) decisions were checked against the Interior Board of Land Appeals (IBLA) decisions; related cases are listed together. State administrative cases were also researched; relevant "cost petition" cases were retrieved from the Pennsylvania Environmental Hearing Board file, none were identified in the Illinois or Ohio material available in LEXIS. Several state decisions are also listed.

Copies of some of the requested citation lists are attached rather than being reproduced in the Report proper. One page containing "key words in context" are attached for the cases listed below. A 1982 Colorado case which provides an excellent discussion of the "calculation of reasonable attorney fees" and June, 1992 Supreme Court decision on attorney's fees are also included.

LEGISLATIVE HISTORY

CONGRESSIONAL HEARINGS


4. Surface Mining, Hearings on S 2777 and S 3000 Before the Subcommittee on Minerals, Materials and Fuels of the Senate Committee on Interior and Insular Affairs, 92nd Cong, 1st Sess (February 24, 1972), Serial No 92-13 Part 3.

5. Regulation of Surface Mining Operations Part 1, Hearings on S 425 and S 923 Before the Senate Committee on Interior and Insular Affairs, 93rd Cong, 1st Sess (March 13, 14, 15, & 16, 1973).


10. Surface Mining Control and Reclamation Act of 1977, Hearings on S 7 Before the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources, 95th Cong, 1st Sess (February 7, and March 1, 2, & 3, 1977), Serial No 95-32.

11. Surface Mining Control and Reclamation Act of 1977, Hearings on HR 2 before the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs, 95th Cong, 1st Sess (February 8, 16, & 22, 1977), Serial No 95-1 Part II.


13. Surface Mining Control and Reclamation Act of 1977, Hearings on HR 2 Before the Subcommittee on Energy and the Environment of the House Committee on Interior and
Insular Affairs, 95th Cong, 1st Sess (February 28 and March 4, 1977), Serial No 95-1 Part IV.


15. ICF Inc. Study Inquiry, Hearings Before the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources, 95th Cong, 1st Sess (May 11, 1977), Serial No 95-35.


17. Implementation of Public Law 95-87, Hearings Before the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources, 95th Cong 2nd Sess (April 24, 1978), Serial No 95-122.

COMMITTEE PRINTS

1. Legislative Proposals Concerning Surface Mining of Coal: A History of Legislative Proposals and An Analysis of Pending Measures, 92nd Cong, 1st Sess (September 1, 1971) [Senate Committee on Interior and Insular Affairs].

2. The Issues Related to Surface Mining: A Summary Review, Serial No 92-10, 92nd Cong, 1st Sess (December, 1971) [Senate Committee on Interior and Insular Affairs].

3. Coal Surface Mining and Reclamation: An Environmental and Economic Assessment of Alternatives, Serial No 93-8 (92-43), 93rd Cong, 1st Sess (March, 1973) [Senate Committee on Interior and Insular Affairs].


CONGRESSIONAL REPORTS

1. Surface Mining Reclamation Act of 1972, S Rep No 1162, 92nd Cong, 2nd Sess (September 18, 1972) [Senate Committee on Interior and Insular Affairs, S 630].

2. Surface Mining Reclamation Act of 1973, S Rep No 402, 93rd Cong, 1st Sess (September 21, 1973) [Senate Committee on Interior and Insular Affairs, S 425].

3. Surface Mining Control and Reclamation Act of 1974, HR Rep No 1072, 93rd Cong, 2nd Sess (May 30, 1974) [House Committee on Interior and Insular Affairs, HR 11500].
4. Surface Mining Control and Reclamation Act of 1974, HR Rep No 1522, 120 Cong Rec 38259, 93rd Cong, 2nd Sess (December 5, 1974) [House Committee on Interior and Insular Affairs, S 425, Conference Report].
5. Surface Mining Control and Reclamation Act of 1975, S Rep 28, 94th Cong, 1st Sess (March 5, 1975) [Senate Committee on Interior and Insular Affairs, S 7].
6. Surface Mining Control and Reclamation Act of 1975, HR Rep No 45, 94th Cong, 1st Sess (March 6, 1975) [House Committee on Interior and Insular Affairs, HR 25].
7. Surface Mining Control and Reclamation Act of 1975, HR Rep No 189, S Rep No 101, 121 Cong Rec 12933, 121 Cong Rec 13009, 94th Cong, 1st Sess (May 2, 1975) [Conference Report, HR 25].
8. Surface Mining Control and Reclamation Act of 1976, HR Rep No 896, 94th Cong, 2nd Sess (March 12, 1976) [House Committee on Interior and Insular Affairs, HR 9725].
10. Surface Mining Control and Reclamation Act of 1977, HR Rep No 218, 95th Cong, 1st Sess (April 22, 1977) [House Committee on Interior and Insular Affairs, HR 2].
11. Surface Mining Control and Reclamation Act of 1977, S Rep No 128, 95th Cong, 1st Sess (May 10, 1977) [Senate Committee on Energy and Natural Resources, S 7].
12. Surface Mining Control and Reclamation Act of 1977, HR Rep No 493, S Rep No 337, 123 Cong Rec H6938, 95th Cong, 1st Sess (July 12, 1977) [Conference Committee Report, HR 2].

BILLS

1. S 630, 92nd Cong, 2nd Sess (September 18, 1972).
2. S 425, 93rd Cong, 1st (September 21, 1973).
3. HR 11500 93rd Cong, 2nd Sess (May 30, 1974).
4. S 425, 93rd Cong, 1st (December 5, 1974).
5. HR 25, 94th Cong, 1st Sess (January 14, 1975).
7. S. 7, 94th Cong, 1st Sess (March 5, 1975).
8. HR 25, 94th Cong, 1st Sess (March 6, 1975).
10. HR 25, 94th Cong, 1st Sess (May 2, 1975) [Conference Committee].
11. HR 9725, 94th Cong, 1st Sess (September 19, 1975).
12. HR 9725, 94th Cong, 1st Sess (March 12, 1976).
15. HR 2, 95th Cong, 1st Sess (January 4, 1977).
17. HR 2, 95th Cong, 1st Sess (April 1, 1977).
21. HR 2, 95th Cong, 1st Sess (June 20, 1977).
22. HR 2, 95th Cong, 1st Sess (July 12, 1977) [Conference Committee].

HOUSE DOCUMENTS

1. Proposing Legislation to Provide for Cooperation between the Secretary of the Interior and the States with Respect to the Regulation of Surface Coal Mining Operations, H Doc 94-44, 94th Cong, 1st Sess (February 6, 1975).

CONGRESSIONAL RECORD

See attached list.

ADMINISTRATIVE DECISIONS - INTERIOR & PENNSYLVANIA

INTERIOR ADMINISTRATIVE LAW JUDGE (ALJ) DECISIONS

1. PENGROVE COAL CO. v OSM, Docket No CH 1-23-R (September 8, 1981).
5. THOMAS F. MURPHY v CONSOLIDATION COAL CO., Docket No CH 3-1-D (January 14, 1985).


NOTE: The citation list of all cases found in response to the search is attached for reference.

INTERIOR BOARD OF LAND APPEALS (IBLA) AND INTERIOR BOARDS OF SURFACE MINING APPEALS (IBSMA) DECISIONS

1. DENNIS R. PATRICK v OSM, 1 IBSMA 248, IBSMA 79-21 (September 14, 1979).
2. KENTUCKY CONSERVATION COMMITTEE, INC. AND CUMBERLAND CHAPTER OF THE SIERRA CLUB v OSM, 2 IBSMA 370, IBSMA 81-9 (November 25, 1980).
6. DONALD ST. CLAIR et al., 84 IBLA 236, IBLA 84-264 (January 2, 1985).
7. VIRGINIA CITIZENS FOR BETTER RECLAMATION; VIRGINIA HILL, 88 IBLA 126, IBLA 84-838 (August 2, 1985).
8. FRESCA CONSTRUCTION CO., INC. v OSM, 102 IBLA (not known), IBLA 88-295 (April 18, 1988).
12. AMERICAN GILSONITE CO., 111 IBLA 1, IBLA 87-617 (September 19, 1989).
13. SAVE OUR CUMBERLAND MOUNTAINS, INC., 111 IBLA 197, IBLA 89-410 (October 11, 1989).

ADMINISTRATIVE DECISIONS - PENN. ENVIRON. HEARING BD.


COURT DECISIONS

STATE COURT DECISIONS

1. FIDEL RAMOS, et al. v RICHARD D. LAMM, 539 F Supp 730 (D Col 1982). [Full text of case attached.]


FEDERAL COURT DECISIONS


ATTACHMENTS

A. The list of Congressional Records entries available in Legislative History files in the COALEX Library.
B. Interior ALJ decisions listed above: First page in "KWIC".
C. The list of all ALJ cases retrieved in response to the search request (the request is also included).
D. IBLA and IBSMA decisions listed above: First page in "KWIC".
E. Pennsylvania Environmental Hearing Board decisions: First page in "KWIC".
F. FIDEL RAMOS, et al. v RICHARD D. LAMM, 539 F Supp 730 (D Col 1982). [Full text of case.]
G. State court decisions listed above: First page in "KWIC".