



COALEX STATE INQUIRY REPORT - 225

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TOPIC: SMCRA, SUBSIDENCE AND ABATEMENT OF A PUBLIC NUISANCE

INQUIRY: Are there any cases or other materials which discuss the regulation of mining, particularly subsidence, as an abatement of a public nuisance? A coal company is alleging a "taking by regulation" because conditions on their permit restrict mining under a public building. [This is a continuation of COALEX Report 189 and includes COALEX Report 213.]

SEARCH RESULTS: Using the COALEX Library, other materials in LEXIS and prior COALEX Reports, a number of relevant cases were identified. These are discussed below. Copies are attached unless otherwise indicated.

NUISANCES

SUBSIDENCE IN A PUBLIC STREET AS A NUISANCE:

SCRANTON v PEOPLES COAL CO., 256 Pa 332, 100 A 818 (Pa 1917).

The court denied the injunction restraining Peoples Coal from mining coal under and adjacent to a public street; however, Peoples had to comply with certain restrictions and specifications intended to prevent "subsidence or other injury".

"If the removal of coal causes such a subsidence in a public street as to constitute a nuisance therein, it is no defense that the mining is skillfully done."

Also see:

ANNOTATION, "Relative rights, as between municipality and abutting landowners, to minerals, oil, and gas underlying streets, alleys, or parks", 62 A.L.R. 2d 1311 (1992).

ACID MINE DRAINAGE AS A PUBLIC NUISANCE:



COMMONWEALTH OF PA v BARNES & TUCKER CO., 455 Pa 392, 319 A 2d 871 (Pa 1974), aff'd COMMONWEALTH OF PA v BARNES & TUCKER CO., 371 A 2d 461 (Pa 1977).

"[T]he condition [acid mine drainage] created by Barnes & Tucker's past mining operations constitutes a public nuisance which requires abatement."

Also see:

COMMONWEALTH OF PA v PBS COALS, INC. AND FETTEROLF MINING, INC., 534 A 2d 1130 (Pa Commw Ct 1987), involving the replacement of polluted water supplies, which cites the case above.

Fetterolf "disputes that it may be held liable under either statutory or common law nuisance theories.... Fetterolf states that some contamination of the groundwater is an unavoidable consequence of mining activities. While that may well be true, it does not follow that the contamination is thus excused."

CHEMICAL WASTE LANDFILL AS A PUBLIC NUISANCE:

VILLAGE OF WILLSONVILLE v SCA SERVICES, INC., 426 NE 2d 824 (Ill 1981).

The court found that operation of a chemical waste disposal site, located above an abandoned coal mine which was subject to subsidence, was a public nuisance "both presently and prospectively".

"In this case there can be no doubt that it is highly probable that the chemical-waste-disposal site will bring about a substantial injury. Without again reviewing the extensive evidence adduced at trial, we think it is sufficiently clear that it is highly probable that the instant site will constitute a public nuisance if, through either an explosive interaction, migration, subsidence, or the 'bathtub effect,' the highly toxic chemical wastes deposited at the site escape and contaminate the air, water, or ground around the site. That such an event will occur was positively attested to by several expert witnesses. A court does not have to wait for it to happen before it can enjoin such a result. Additionally, the fact is that the condition of a nuisance is already present at the site due to the location of the site and the manner in which it has been operated."

PRIVATE NUISANCE:

NATIONAL ENERGY CORP. v O'QUINN, 286 SE 2d 181 (Va 1982).

SYLLABUS: "The operator of a coal preparation plant, cleaning raw coal, maintained a private nuisance which damaged plaintiffs by decreasing the value of their neighboring property and depriving them of the quiet, comfortable use of their residences".



Also see:

SMITH v THE PITTSTON CO., 127 SE 2d 79 (Va 1962) and WALKER v L.G. EVERIST, INC., 701 P 2d 382 (NM Ct App 1985).

TAKINGS

STATE'S RIGHT TO LATERAL SUPPORT:

SIMPSON v IOWA STATE HIGHWAY COMMISSION, 195 NW 2d 528 (Iowa 1972).

The Highway Commission appealed the award of damages for the taking by the Commission of an easement to construct and maintain jetties near a highway bridge. The court remanded to case for retrial in order for the court to consider all of the factors affecting the market value of the appropriated property.

In addressing the Highway Commissions's claim concerning "the State's right to lateral support for its bridge abutments" the court stated:

"The State is constitutionally prohibited from restricting the rights of adjacent landowners or enlarging their duties in the absence of condemnation proceedings which would include such restrictions or enlargements. The right to use property up to the property line is a valuable right. Restriction of this right by reason of the fact that the neighboring property is used for public purpose would be taking which must be compensated....

"The State has built jetties in the stream bed owned by plaintiffs. The purpose is to protect the bridge and supporting structures. The State now (in its lateral support proffer) contends damages for this taking should be limited to surface value because excavation so near the bridge would be wrongful in any event. But such a position is contra to the general law of lateral support in the State and would constitute an uncompensated detriment to the contiguous property."

TAKING BY LOCAL ZONING REGULATION:

BOARD OF SUPERVISORS OF SHENANGO TOWNSHIP v MCCLIMANS, et al., 142 Pa Commw 470 (Pa Commw Ct 1991).

The court affirmed prior rulings which found that the Shenango Township zoning ordinance prevented Amerikohl Land Company (landowner and lessee) from gaining access to their coal effecting a taking of the property without just compensation. [See Report - 213]

TAKING BY STATE STATUTE:

WESTERN ENERGY CO. v GENIE LAND CO., 227 Mont 74, 737 P 2d 478 (Mont 1987).

The court found unconstitutional Montana's "Owner Consent Statute". The statute required the owner of minerals to receive permission of the surface owner to enter and commence strip-



mining operations prior to applying for a permit to mine. In its ruling, the court found analogies to PENNSYLVANIA COAL CO. v MAHON, 260 US 393 (1922) and distinguished KEYSTONE BITUMINOUS COAL ASSOC. v DE BENEDICTIS, 480 US 470 (1987):

"Mahon makes clear that a taking may arise from an inverse condemnation, where property use or value is interfered with the state regulatory or police action."

"The Court in Keystone found that coal mining activity in certain instances was akin to a public nuisance. Therefore the state was not estopped from exercising its police power under the Fifth and Fourteenth Amendments to abate such activity.... We are not asked to, nor can we, characterize strip mining in Montana as a nuisance, thus placing it within the narrow exception which permits a taking in order to prevent 'a misuse or illegal use.'"

[See Report- 189 for additional discussion of Mahon and Keystone]

GENERAL TAKINGS ISSUES:

COALEX STATE INQUIRY REPORT - 189, "Subsidence and public land use; takings" (1991).

This inquiry involved the deletion of acreage from a renewed underground mining permit, subsequent reinstatement of the acreage accompanied by the addition of special conditions to the renewed permit. The conditions were set because of fear that subsidence resulting from the underground mining would the high-tech state prison planned for the surface area. The coal company alleged that the conditions added to the permit constituted a taking. The materials included with the Report discuss VER and takings.

COALEX STATE INQUIRY REPORT - 213, "Lands unsuitable; valid existing rights; takings" (May, 1992).

Without considering briefings or testimony, the state court added additional acreage to an area being petitioned as unsuitable for mining because of an underlying aquifer. Materials included with the Report discuss VER, takings and aquifers.

NOTE: Included as an update to these two Reports is the recent Supreme Court case: LUCAS v SOUTH CAROLINA COASTAL COUNCIL, 112 S Ct 2886 (1992).

ATTACHMENTS

- A. SCRANTON v PEOPLES COAL CO., 256 Pa 332, 100 A 818 (Pa 1917).
- B. ANNOTATION, "Relative rights, as between municipality and abutting landowners, to minerals, oil, and gas underlying streets, alleys, or parks", 62 A.L.R. 2d 1311 (1992).
- C. COMMONWEALTH OF PA vBARNES & TUCKER CO., 455 Pa 392, 319 A 2d 871 (Pa 1974), aff'd COMMONWEALTH OF PA v BARNES & TUCKER CO., 371 A 2d 461 (Pa 1977).



- D. COMMONWEALTH OF PA v PBS COALS, INC. AND FETTEROLF MINING, INC., 534 A 2d 1130 (Pa Commw Ct 1987).
- E. VILLAGE OF WILLSONVILLE v SCA SERVICES, INC., 426 NE 2d 824 (Ill 1981).
- F. NATIONAL ENERGY CORP. v O'QUINN, 286 SE 2d 181 (Va 1982).
- G. SMITH v THE PITTSTON CO., 127 SE 2d 79 (Va 1962).
- H. WALKER v L.G. EVERIST, INC., 701 P 2d 382 (NM Ct App 1985).
- I. SIMPSON v IOWA STATE HIGHWAY COMMISSION, 195 NW 2d 528 (Iowa 1972).
- J. BOARD OF SUPERVISORS OF SHENANGO TOWNSHIP v MCCLIMANS, ET AL., 142 Pa Commw 470 (Pa Commw Ct 1991).
- K. WESTERN ENERGY CO. v GENIE LAND CO., 227 Mont 74, 737 P 2d 478 (Mont 1987).
- L. COALEX STATE INQUIRY REPORT - 189, "Subsidence and public land use; takings" (1991). [WITHOUT ATTACHMENTS]
 - A. MANSFIELD, "Regulatory Takings, Expectations and Valid Existing Rights", 5 J. Mineral Law & Policy 3, p. 431 (1990).
 - B. MCGINLEY, "Of Pigs and Parlors: Regulatory Takings in the Coal Fields", 5 J. Mineral Law & Policy 3, p. 473 (1990).
 - C. ANNOTATION, "Validity and Construction of Statutes Regulating Strip Mining", 86 A.L.R. 3d 27 (1990).
 - D. ANNOTATION, "Supreme Court's views as to what constitutes 'taking' within meaning of Fifth Amendment's command that private property not be taken for public use without just compensation", 57 L Ed. 2d 1254.
 - E. PENNSYLVANIA COAL CO. v MAHON, 260 U.S. 393 (1922).
 - F. PENN CENTRAL TRANSPORTATION CO. v NEW YORK CITY, 438 U.S. 104 (1978), reh den, PENN CENT. TRANSP. CO. v NEW YORK, 439 U.S. 883 (1978).
 - G. AGINS v CITY OF TIBURON, 447 U.S. 255 (1980).
 - H. KEYSTONE BITUMINOUS COAL ASSN. v DEBENEDICTIS, 480 U.S. 470 (1987).
 - I. NOLLAN v CALIF. COASTAL COMMN., 483 U.S. 825 (1987).
 - J. WHITNEY BENEFITS, INC. v UNITED STATES, 926 F 2d 1169 (Fed Cir 1991), cert. den. UNITED STATES v WHITNEY BENEFITS, Inc. 502 U.S. 952 (1991).
 - K. WHITNEY BENEFITS, INC. v UNITED STATES, 18 Ct. Cl. 394 (Ct Cl 1989, corrected 1990).
 - L. WHITNEY BENEFITS, INC. v UNITED STATES, 752 F 2d 1554 (Fed Cir 1985).
 - M. DEPT. OF NATURAL RESOURCES (DNR) v INDIANA COAL COUNCIL, INC., 542 NE 2d 1000 (Ind 1989), cert. den. INDIANA COAL COUNCIL, INC. v INDIANA DEPT. OF NATURAL RESOURCES, 493 U.S. 1078 (1990).
 - N. COALEX STATE INQUIRY REPORT - 106, "Constitutionality of the 300 foot waiver requirements" (1989). [Enclosed without attachments.]
 - A. WILLOWBROOK MINING CO. v COMMONWEALTH OF PENNSYLVANIA, 499 A.2d 2 (1985)



- B. HODEL v VIRGINIA SURFACE MINING & RECLAMATION ASSOCIATION, 452 U.S. 264 (1981)
- C. HODEL v INDIANA, et al., 452 U.S. 314 (1981)
- D. NATIONAL WILDLIFE FEDERATION v HODEL, 839 F.2d 694 (1988)
- E. WILLIAMSON COUNTY REGIONAL PLANNING COMMISSION v HAMILTON BANK OF JOHNSON CITY, 473 U.S. 172 (1985)
- F. BURLINGTON NORTHERN RAILROAD CO. v U.S., 752 F.2d 627 (1985)
- G. Ainsley v. U.S., 8 Cl. Ct. 394 (1985)
- H. GINN v CONSOLIDATION COAL CO., 437 N.E.2d 793 (1982)
- I. SMITH v NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET, 712 S.W.2d 951 (1986)
- O. COALEX STATE INQUIRY REPORT - 139, "Valid existing rights" (1990).
[Enclosed without attachments.]
 - A. STATE INQUIRY REPORT - 13.
 - B. US v POLINO, 131 F Supp 772 (ND W Va 1955).
 - C. 44 FR 14902 (MARCH 13, 1979). Permanent Program Final Rule.
[Excerpts only attached.]
 - D. 44 FR 67942 (NOVEMBER 27, 1979). Notice of suspension of certain rules in 30 CFR Chapter VII. [Excerpts only attached.]
 - E. 45 FR 8241 (FEBRUARY 6, 1980). Proposed rulemaking. [Excerpts only attached.]
 - F. 45 FR 51547 (AUGUST 4, 1980). Notice of suspension and statement of policy regarding effect on State programs. [Excerpts only attached.]
 - G. 47 FR 25278 (JUNE 10, 1982). Proposed rules. [Excerpts only attached.]
 - H. 48 FR 41312 (SEPTEMBER 14, 1983). Final rules. [Excerpts only attached.]
 - I. IN RE PERMANENT SURFACE MINING REGULATION LITIGATION, 22 ERC 1557, Mem op (D DC March 22, 1985).
 - J. 51 FR 41952 (NOVEMBER 20, 1986). Final rule; suspension.
 - K. 52 FR 2421 (JANUARY 22, 1987). Notice of intent to prepare an environmental impact statement (EIS) and a preliminary regulatory impact analysis (RIA).
 - L. 53 FR 52374 (DECEMBER 27, 1988). Proposed rules.
 - M. 54 FR 989 (JANUARY 11, 1989). Notice.
 - N. 54 FR 4837 (JANUARY 31, 1989). Notice of public hearings.
 - O. 54 FR 9847 (MARCH 8, 1989). Notice of reopening of public comment period.
 - P. 54 FR 30557 (JULY 21, 1989). Withdrawal of proposed rule.
 - Q. DASET MINING CORP v COMMONWEALTH OF PENN., DEPT OF ENVIRONMENTAL RESOURCES (DER), 1981 EHB 109 (1981).
 - R. WILLOWBROOK MINING CO. v COMMONWEALTH OF PENN., DEPT OF ENVIRONMENTAL RESOURCES, 92 Pa Commw 163, 499 A 2d 2 (Pa Commw Ct 1985).



- S. COGAR et al. v FAERBER AND SPRING RIDGE COAL CO., 371 SE 2d 321 (W Va 1988).
- T. COGAR et al. v SOMMERVILLE; SPRING RIDGE COAL CO, INC; AND PARDEE & CURTIN LUMBER CO, 379 SE 2d 764 (W Va March, 1989).
- U. EVANGELINOS v DIV. OF RECLAMATION, Case No. 88-B-12, 1989 Ohio App LEXIS 3618 (Ohio Ct App September, 1989).
- V. RUSSELL v ISLAND CREEK COAL CO AND FAERBER, No. 19104, 1989 W Va LEXIS 986 (W Va December, 1989); rehearing refused February, 1990.
- W. Illinois: 54 FR 118 (JANUARY 4, 1989).
- X. Kansas: 53 FR 39467 (OCTOBER 7, 1988).
- Y. Ohio: 53 FR 51543 (DECEMBER 22, 1988).
- Z. Oklahoma: 54 FR 37454 (SEPTEMBER 11, 1989).
- AA. Pennsylvania: 54 FR 29704 (JULY 14, 1989).
- BB. Tennessee: 49 FR 38874 (OCTOBER 1, 1984).
- CC. Texas: 45 FR 78635 (NOVEMBER 26, 1980).
- DD. TABLE OF REGULATIONS
- M. COALEX STATE INQUIRY REPORT - 213, "Lands unsuitable; valid existing rights; takings" (May, 1992). [WITHOUT ATTACHMENTS] {Gaps in the lettering scheme indicate that a particular document, according to the indication above, is either not attached or is part of one of the enclosed Reports.}
 - A. COALEX STATE INQUIRY REPORT - 156, "Lands unsuitable for mining: definition of 'renewable resource' and 'fragile or historic lands'" (1990).
 - A. CFR sections
 - 1. 30 CFR 762.5 Definitions.
 - 2. 30 CFR 762.11 Criteria for designating lands as unsuitable.
 - B. COALEX STATE INQUIRY REPORT - 85, "Legislative History of SMCRA sec. 522(a)(3)(A) and (B)" (1987).
 - C. IN RE PERMANENT SURFACE MINING REGULATION LITIGATION, 620 F Supp 1519 (DC DC July 15, 1985).
 - D. 44 FR 14902 (MARCH 13, 1979). Subchapter F - Areas Unsuitable for Mining. [Excerpts.]
 - E. 44 FR 14902 (MARCH 13, 1979). Subchapter F - Areas Unsuitable for Mining. 30 CFR Part 762 - Criteria for Designating Areas as Unsuitable for Surface Coal Mining. Section 762.5 Definitions. [Excerpts.]
 - F. 44 FR 14902 (MARCH 13, 1979). Subchapter A - General. 30 CFR Part 701 - Permanent Regulatory Program. Section 701.5 Definitions. [Excerpts.]
 - G. 47 FR 25278 (JUNE 10, 1982). Proposed rules. Areas Unsuitable for Surface Mining. [Excerpts.]
 - H. 48 FR 41312 (SEPTEMBER 14, 1983). Final rules. Areas Unsuitable for Surface Coal Mining. [Excerpts.]
 - I. 50 FR 257 (JANUARY 3, 1985). Notice of suspension.



- J. 50 FR 30408 (JULY 25, 1985). Proposed rule. Definitions of Fragile Lands and Historic Lands.
- K. 51 FR 44484 (DECEMBER 10, 1986). Proposed rule. Reopening of comment period. Definitions of Fragile Lands and Historic Lands.
- L. 52 FR 18792 (MAY 19, 1987). Final rule. Definitions of Fragile Lands and Historic Lands.
- M. COALEX STATE INQUIRY REPORT - 35, "Water Rights and Replacement" (1985).
- N. COALEX STATE INQUIRY REPORT - 39, "Water Replacement, Bond Release" (1985).
- O. COALEX STATE INQUIRY REPORT - 93, "Water Rights and Replacement" (1988).
- P. VILLAGE OF PLEASANT CITY v DIV. OF RECLAMATION, No. CA-835, slip op (Ohio Ct App 1987).
- Q. 52 FR 6836 (FEBRUARY 14, 1989). Criteria for Identifying Critical Aquifer Protection Areas.
- R. 52 FR 32342 (AUGUST 27, 1987). EPA designation of a sole-source aquifer.
- S. US v MATTIACE INDUSTRIES, INC., CARGO TRUCKING, INC., AND INTERSTATE CIGAR CO., INC., 73 Bankr. 816; 17 ELR 21004 (ED NY 1987).
- T. NATURAL RESOURCES DEFENSE COUNCIL, INC. (NRDC) et al. v US EPA, 824 F 2d 1258 (1st Cir 1987).
- U. FLORIDA WILDLIFE FEDERATION et al. v GOLDSCHMIDT, 506 F Supp 350 (SD Fla 1981).
- B. VILLAGE OF PLEASANT CITY v DIV. OF RECLAMATION, 1991 Ohio App LEXIS 2198 (Ohio Ct App April 7, 1992).
- C. PENN CENTRAL CORP. v OHIO DEPT. OF NATURAL RESOURCES (DNR), Case No. C-2-90-208, slip op. (SD Ohio December 18, 1990).
- D. [Document not attached or is part of one of the enclosed Reports.]
- E. COALEX STATE INQUIRY REPORT - 139, "Valid existing rights" (1990). [Enclosed without attachments.]
- F. COALEX STATE INQUIRY REPORT - 155, "Lands unsuitable for mining and valid existing rights in a severed mineral situation" (1990).
 - A. RONALD JOHNSON, 5 IBSMA 19, IBSMA 80-86-1 (1983).
 - B. GATEWAY COAL CO. v OSM, STOUT, INTERVENOR, Docket No. CH 2-50-R (1988 [Amends 1984 and 1986 Orders]).
 - C. WILLOWBROOK MINING CO v COMMONWEALTH OF PENN., DEPT OF ENVIRONMENTAL RESOURCES, 92 Pa Commw 163, 499 A 2d 2 (Pa Commw Ct 1985)
 - D. COGAR et al. v FAERBER AND SPRING RIDGE COAL CO., 371 SE 2d 321 (W Va 1988).
 - E. COGAR et al. v SOMMERVILLE; SPRING RIDGE COAL CO, INC; AND PARDEE & CURTIN LUMBER CO., 379 SE 2d 764 (W Va March, 1989).



- F. EVANGELINOS v DIV OF RECLAMATION, Case No. 88-B-12, 1989 Ohio App LEXIS 3618 (Ohio Ct App September, 1989).
- G. RUSSELL v ISLAND CREEK COAL CO. AND FAERBER, No. 19104, 1989 W Va LEXIS 986 (W Va December, 1989); rehearing refused February, 1990.
- G. OSM TEMPORARY DIRECTIVE, Subject No. 90-03, Transmittal No. 587, "Interim procedures for determination of valid existing rights" (Issued November 30, 1989). [Incorporates Directive No. 91-2 (December 11, 1990)]
- H. OSM TEMPORARY DIRECTIVE, Subject No. 88-1, Transmittal No. 419, "Interim procedures for determination of valid existing rights" (Issued January 25, 1988).
- I. BELVILLE MINING CO. v UNITED STATES, 763 F Supp 1411 (S.D. Ohio 1991).
- J. BELVILLE MINING CO. v LUJAN, 1991 U.S. Dist. LEXIS 12821 (S.D. Ohio 1991).
- K. THE STEARNS CO., 110 IBLA 345, IBLA 87-262 (1989).
- L. 44 FR 14902 (MARCH 13, 1979). Permanent program preamble - final rule.
 - 1. Part 764 State processes for designating areas unsuitable.
 - 2. Part 769 Petition process for designation of federal lands as unsuitable.
- M. 44 FR 77440 (DECEMBER 31, 1979). Final rule. Reclamation operations.
- N. [Document not attached or is part of one of the enclosed Reports.]
- O. [Document not attached or is part of one of the enclosed Reports.]
- P. [Document not attached or is part of one of the enclosed Reports.]
- Q. [Document not attached or is part of one of the enclosed Reports.]
- R. 52 FR 21904 (JUNE 9, 1987). Proposed rule. Designating lands unsuitable.
- S. 52 FR 49322 (DECEMBER 30, 1987). Final rule. Designating lands unsuitable.
- T. [Document not attached or is part of one of the enclosed Reports.]
- U. 56 FR 33152 (JULY 18, 1991). Proposed rule. Areas unsuitable for mining; Areas designated by Act of Congress.
- V. 56 FR 65612 (DECEMBER 17, 1991). Final rule. Areas unsuitable for mining. [Excerpt]
- W. COLORADO: Adams County.
 - (1) 49 FR 5699 (FEBRUARY 14, 1984).
 - (2) 48 FR 7820 (FEBRUARY 24, 1983).
 - (3) 48 FR 51551 (NOVEMBER 9, 1983).
- X. MONTANA: Southeastern area near the Tongue River.
 - (1) 46 FR 61929 (DECEMBER 21, 1981).
 - (2) 46 FR 46008 (SEPTEMBER 16, 1981).
 - (3) 46 FR 30202 (JUNE 5, 1981).
- Y. NORTH CAROLINA: Deep River Basin.



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U.S. Department of the Interior

- (1) 54 FR 8605 (MARCH 1, 1989).
 - (2) 52 FR 44499 (NOVEMBER 19, 1987).
- Z. TENNESSEE: Flat Fork Creek watershed.
1. 55 FR 18189 (MAY 1, 1990).
 2. 55 FR 10848 (MARCH 23, 1990).
 3. 54 FR 42999 (OCTOBER 19, 1989).
 4. 53 FR 32115 (AUGUST 23, 1988).
 5. FROZEN HEAD STATE PARK ASSOCIATION et al., 102 IBLA 32, IBLA 86-246 (1988).
- AA. TENNESSEE: North Chichamauga Creek watershed.
- 1.53 FR 12196 (APRIL 13, 1988).
 - 2.52 FR 33659 (SEPTEMBER 4, 1987).
 - 3.52 FR 9960 (MARCH 27, 1987).
 - 4.51 FR 31177 (SEPTEMBER 2, 1986).
- AB. TENNESSEE: Rock Creek watershed.
- 1.52 FR 10174 (MARCH 30, 1987).
 - 2.51 FR 35570 (OCTOBER 6, 1986).
 - 3.51 FR 10119 (MARCH 24, 1986).
 - 4.50 FR 50357 (DECEMBER 10, 1985).
- AC. TEXAS: Camp Swift Military Reservation, Bastrop County.
1. PRAGER v HODEL, 793 F 2d 730 (5th Cir 1986).*
 2. 47 FR 35042 (AUGUST 12, 1982).
 3. 47 FR 20040 (MAY 10, 1982).
 4. 46 FR 60279 (DECEMBER 9, 1981).
 5. 46 FR 49963 (OCTOBER 8, 1981).
- *NOTE: Case sites several law journal and review articles which may be of interest. These are not included here.
- AD. UTAH: Southern Utah near Bryce Canyon National Park.
- 1.45 FR 78816 (NOVEMBER 26, 1980).
 - 2.45 FR 68762 (OCTOBER 16, 1980).
 - 3.45 FR 60495 (SEPTEMBER 12, 1980).
 - 4.45 FR 33738 (MAY 20, 1980).
 - 5.45 FR 27836 (APRIL 24, 1980).



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

- AE. UTAH: Kane County.
- 1.54 FR 11576 (MARCH 21, 1989).
- AF. WASHINGTON: Black Diamond and John Henry Mine No. 1.
1. 53 FR 35565 (SEPTEMBER 14, 1988).
 2. 52 FR 44643 (NOVEMBER 20, 1987).
 3. 51 FR 10679 (MARCH 28, 1986).
 4. 50 FR 19495 (MAY 8, 1985).
 5. 49 FR 32686 (AUGUST 15, 1984).
 6. 49 FR 25052 (JUNE 19, 1984).
 7. DONALD B. PETERSON, 97 IBLA 314, IBLA 85-76 (1987).
 8. PETERSON v OSM; STEBLY v OSM, Docket Nos. DV 6-2-PR, DV 6-3-PR (1986).
- AG. WEST VIRGINIA: Monongahela National Forest.
1. 45 FR 69567 (OCTOBER 21, 1980).
 2. 45 FR 52467 (AUGUST 7, 1980).
- AH. WYOMING: Medicine Bow.
1. 48 FR 11780 (MARCH 21, 1983).
 2. 48 FR 2452 (JANUARY 19, 1983).
 3. 48 FR 6201 (FEBRUARY 10, 1983).
- AI. WYOMING: Red Rim coal lease tract.
1. 51 FR 18966 (MAY 23, 1986).
 2. 50 FR 48844 (NOVEMBER 27, 1985).
 3. 49 FR 49388 (DECEMBER 19, 1984).
 4. 49 FR 13440 (APRIL 4, 1984).
 5. 49 FR 8092 (MARCH 5, 1984).
 6. 49 FR 521 (JANUARY 4, 1984).
 7. 48 FR 48724 (OCTOBER 20, 1983).
 8. 48 FR 28861 (JUNE 29, 1983).
 9. 48 FR 523 (JANUARY 5, 1983).
- AJ. COALEX STATE INQUIRY REPORT - 189, "Subsidence and public land use; takings" (1991).
- N. LUCAS v SOUTH CAROLINA COASTAL COUNCIL, 112 S Ct 2886 (1992).