



## COALEX STATE INQUIRY REPORT - 26

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**TOPIC:** TRANSPORTATION FACILITIES/SURFACE MINING OPERATIONS/BRIDGES & STRUCTURES/AML ELIGIBILITY

**INQUIRY:** (1) To what extent are transportation facilities (railroad, conveyors, ports, etc.) part of a surface mining operation? And, to what extent does differing corporate ownership affect whether a transportation facility is part of a surface coal mining operation? (2) With regard to determining land and water eligible for reclamation pursuant to the Abandoned Mine Land Program, were any limits envisioned which could exclude bridges or other certain structures from eligibility under that program, assuming that these structures were built to facilitate coal mining?

### **SEARCH RESULTS:**

#### Transportation Facilities/Surface Mining Operations

Since the promulgation of the federal interim regulations, the question of when a facility is to be considered a part of a surface mining operation has been a recurring problem. At this date, there does not appear to be a single, definitive answer. Judge Flannery, in his July, 1984 ROUND I opinion, remanded to the Secretary for revision both 30 CFR Sec. 700.5 (surface coal mining operation) and Sec. 701.5 (coal preparation and coal processing). (IN RE: PERMANENT SURFACE MINING REGULATION LITIGATION II, ROUND I, Civ. No. 79-1144 (DDC July 6, 1984))

A COALEX SIGNIFICANT ISSUE REPORT addressing past application of the phrase "surface coal mining operation" is being prepared and will follow as an addendum to this Report.

#### Bridges & Structures/Aml Eligibility

The only reference identified concerning AML funding for structures addressed housing construction. SMCRA Sec. 407(h) states that "No part of the funds provided under this title may be used to pay the actual construction cost of housing."

No information specifically referencing AML eligibility for bridges or coal mining structures was identified. Nor did we find a prior situation in which AML funds have been used for that purpose.

In the current FY85 appropriations, Congress has approved seed money for subsidence insurance. Presently under agency consideration are proposed regulations to allow the subsidence insurance money to be used for structures as well as land.