



**COALEX STATE INQUIRY REPORT - 50**  
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**TOPIC:** BOND RELEASE (Addendum to COALEX STATE INQUIRY - 39)

**INQUIRY:** COALEX STATE INQUIRY - 39 dealt with an operator's liability after the bond release. Several cases dealing with this issue were identified. In *ALTERNATE FUELS INC. v CLARK* (1985), ALJ Morehouse granted temporary relief to Alternate Fuels pending a decision on the merits. The purpose of this Report is to update the previous Report with ALJ Storehouse's recent decision.

**SEARCH RESULTS:** See below.

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**ALTERNATE FUELS, INC. v OSM, No. TV 5-23-R (July 11, 1985).** Alternate Fuels operated a 53 acre mining operation in Kansas. In December, 1982, Alternate applied to the Kansas Mined Land Conservation and Reclamation Board for release of its bond. At the hearing for final bond release, OSM opposed the release of the reclamation bond, alleging violations of OSM's interim regulations. Notwithstanding OSM's opposition, the Kansas Board released the final portion of the bond. OSM made no attempt to appeal the decision. Some twenty months after the bond release, an OSM inspector visited the site and issued a "ten-day notice" to the Kansas Board alleging violations at the site. The Kansas Board stated that it lacked statutory authority to take any action with respect to Alternate since final and complete bond release had been approved. OSM then issued a NOV to Alternate.

ALJ Morehouse vacated the NOV on estoppel principles. Kansas was operating under an OSM-approved program. Furthermore, OSM took part in the final bond release proceeding and made no attempt to prevent the bond release approved by the Kansas Board. Judge Morehouse rejected OSM's contention that its jurisdiction to enforce the requirements of SMCRA and thus the operator's liability could extend indefinitely. Noting that the matter had already been decided by the Kansas Board, Judge Morehouse vacated the notice of violation.

**ATTACHMENT**

Alternative Fuels. Inc. v OSM, No. TV 5-23-R (July 11, 1985).