



Chapter 11

Underground Disposal of Slurry and Coal Refuse in Mine Voids: Does the Coal Owner/Lessee Have the Legal Right to Dispose of Slurry and Coal Refuse in the Mine Voids?

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§ 11.01. Introduction.

In preparation of coal for market, coal operators must separate non-combustible materials from clean coal product. This processing of the coal creates various by-products, referred to as “slate,” “gob,” “slurry” or “refuse” which the operator is required to dispose of in connection with its mining operations. On a yearly basis, United States coal operators dispose approximately two billion tons of fine coal or slurry produced as by-product in the preparation of raw coal for market.¹ Traditionally, the by-product created by coal processing has been disposed in landfills or sediment ponds. Due to increased disposal costs resulting from inflated land values, site development, transportation and other factors, the coal industry has been forced to pursue disposal alternatives.

One alternative is utilization of underground mine workings for such disposal. Underground disposal of coal by-product presents many issues for coal operators relating to the ownership of underground mine workings and the legal rights necessary to use the underground mine workings for disposal purposes.

§ 11.02. Determination of Disposal Rights Conveyed by Coal Grant.

On some properties, the express terms of the grant contained in the deed or lease will govern disposal into mined-out voids following the extraction of coal, either permitting it or forbidding it. More commonly, disposal is not addressed in the document and a determination of the right of use of the mined-out voids will depend upon whether the coal operator possesses sufficient implied incidental mining rights or whether the coal owner possesses a continued and valid ownership interest in the mining voids following the extraction of coal.

¹ *Interim Final Technical Report for the period September 1, 2005, through August 31, 2006*, Howard S. Meyer, Gas Technology Institute.