



Recent Permitting and Enforcement Measures to Combat Acid Mine Drainage — Are They in Contravention of SMCRA?

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Synopsis

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**§ 10.01. Introduction.**

Environmental agencies are trying new solutions to prevent and remediate an old problem in the coal industry — acid mine drainage. To prevent the problem, these agencies have recently adopted “policies” of refusing mining permits where there may be a need for long-term treatment of acid mine drainage. To remediate the problem, the agencies have started using water pollution laws to force parties other than the coal operator — such as landowners and lessors — to bear the expense of cleaning up sites contaminated by acid mine drainage. This chapter examines the problem of acid mine drainage, reviews the measures traditionally available to environmental agencies to combat it, and explores whether the new “solutions” now being used by these agencies are in conflict with existing law.

**§ 10.02. The Problem of Acid Mine Drainage.**

Mine drainage has always been a part of the mining industry. Its significance, however, has changed tremendously. In the industry’s earlier days, it was little more than an impediment to mining efficiency. During mining, operators routinely encountered water that threatened to flood or otherwise interfere with mining operations. Typically, the water was removed by pumps and ditches and simply transported to the nearest river or stream. Few cared — or even realized — that the water that was being removed was often different from and harmful to the streams and rivers to which it was being sent.<sup>1</sup>

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<sup>1</sup> See generally, Crickmer and Zegeer, *Elements of Practical Coal Mining*, p. 669-670 (1981)[hereinafter cited as Crickmer and Zegeer].