

Resolution

Interstate Mining Compact Commission

BE IT KNOWN THAT:

WHEREAS, the Surface Mining Control and Reclamation Act of 1977 (SMCRA) provides for the vesting of exclusive jurisdiction with the states for the regulation of surface coal mining and reclamation operations within their borders following approval of a state program by the Secretary of the Interior; and

WHEREAS, over the past 35 years, the states have established and been recognized for their commitment to implementing the goals and objectives of SMCRA; and

WHEREAS, under the primacy regime envisioned by Congress under SMCRA, a stable, consistent and effective state/federal partnership was anticipated based on principles of comity and federalism; and

WHEREAS, a disregard for these principles will undermine the effective implementation of SMCRA; and

WHEREAS, pursuant to the enhanced federal oversight initiative contained in the June 2009 Memorandum of Understanding between the U.S. Department of the Interior, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, the Office of Surface Mining Reclamation and Enforcement (OSMRE) has issued three directives concerning the use of Ten-Day Notices (INE-35) in primacy states and the annual evaluation of state program implementation (REG-8 and REG-23); and

WHEREAS, the result of these directives has been a noticeable increase in the issuance of TDNs in primacy states and in some cases, as a follow on to the TDNs, the filing of notices of intent to sue and/or complaints for declaratory action; and

WHEREAS, at the same time that OSMRE is proposing to cut regulatory grants to states, these actions also result in a significant drain on limited state resources for the implementation of regulatory programs and often erode the state/federal working relationship under SMCRA

NOW THEREFORE BE IT RESOLVED:

That the Interstate Mining Compact Commission reasserts its commitment to the principles of primacy and federalism that underlie implementation of the Surface Mining Control and Reclamation Act of 1977; and

That the IMCC looks for the same commitment from the Interior Department and the Office of Surface Mining Reclamation and Enforcement and anticipates the continuation of an effective state/federal partnership under SMCRA; and

That, in light of the above, the IMCC urges OSMRE to rescind the Ten-Day Notice Directive (INE-35) and to work cooperatively with the states in re-designing Directives REG-8 and REG23 concerning the annual evaluation of state programs to address state concerns.

Issued this 12th day of October, 2012

ATTEST:

A handwritten signature in cursive script, appearing to read "Gregory Leonard", written in black ink.

Executive Director