

Date Issued: March 25, 1981 (AGO 81-30)

Requested by: Tom P. Slorby, Ward County State's Attorney

- QUESTION PRESENTED -

Whether the apportionment of revenue provisions of section 57-62-02(3)(b) of the North Dakota Century Code apply when a currently active coal-mining operation lies in one county but the tipple for the same lies in another non-coal-producing county.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the apportionment of revenue provisions of section 57-62-02(3)(b), N.D.C.C., apply when a currently active coal-mining operation lies in one county but the tipple for the same lies in another non-coal-producing county.

- ANALYSIS -

Section 57-62-02(3)(b), N.D.C.C., provides, in part:

If the tipple of a currently active coal mining operation in a county is within fifteen miles 24.14 kilometers of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows. . . .

This language does not require the tipple to be in the same county as the currently active coal-mining operation.

Section 1-02-02, N.D.C.C., states that "words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears. . . ." Webster's Dictionary defines the word "of" as meaning "belonging to." Certainly a tipple belonging to a currently active coal-mining operation in one county is "within fifteen miles of another county in which no coal is mined" if that tipple is actually located in a non-coal-producing county. This interpretation fulfills the apparent intent and purpose of the Legislature in enacting section 57-62-02(3)(b), N.D.C.C.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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