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.

ROBERT O. WEFALD Attorney General

Prepared by: Nancy K. Hoff Assistant Attorney General