

Westmoreland Coal Co. and United Mineworkers of America. Case 11-CA-13166

August 27, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
CRACRAFT AND RAUDABAUGH

On December 31, 1990, Administrative Law Judge Hubert E. Lott issued the attached decision. The Respondent filed exceptions and a brief, and the General Counsel and Charging Party filed briefs in opposition.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record in light of the exceptions and briefs,¹ and has decided to affirm the judge's rulings, findings, and conclusions as modified below and to adopt his recommended Order.

In agreeing with the judge that the Respondent violated Section 8(a)(5) and (1) of the Act by failing to respond to the Union's request for information and failing to furnish such information within a reasonable time, we find that the record clearly shows the relevance of the requested information. We rely particularly on the announcement to employees by the Respondent's chairman of the board on March 10, 1988, that the Company intended to open and operate coal mines in Kentucky as a basis to find that the Union has demonstrated a reasonable belief that the Respondent and its wholly owned corporate subsidiaries which engaged in coal mining in Kentucky might be a single employer. Accordingly, we find that the information which the Union requested that the Respondent supply it regarding these subsidiaries in relation to the pending contractual grievance seeking employment of laid-off unit employees in the Kentucky operations was relevant to the Union's enforcement of article II of its collective-bargaining agreement. See *St. Joseph Equipment Corp.*, 302 NLRB 47 fn. 4 (1991).² In so finding, we reject the Respondent's contention that it has no obligation to furnish the requested information because the Union is violating Sections 8(e), 8(b)(4), 8(b)(3), and 8(b)(1)(A) by attempting to apply article II to the Kentucky operations. More specifically, the Respondent argues that because the Kentucky operations are separate and distinct companies from the Respondent and are not signatories to the 1988-1993 collective-bargaining agreement, the Union's attempt to require them to comply with the collective-bargaining agree-

ment is unlawful secondary activity. The Respondent's contention is premature. It relates to the merits of the Union's grievance. The Respondent does not contend that article II is unlawful on its face; and insofar as its applicability to the Kentucky operations is concerned, we agree with the judge, this is a question for an arbitrator to decide. The question before the Board is whether the Union has a right to have, and the Respondent has a duty to furnish, the requested information. Because the information sought is necessary to determine, at least ostensibly, whether article II has been violated, it is relevant and should be furnished.

In view of the above, we find it unnecessary to rely on the judge's specific finding that the Respondent and its wholly owned subsidiary, Kentucky Criterion Coal Company, are a single employer, except to the extent that the factual findings used to make the single employer finding establish that the information which the Union had requested regarding this company was at all times available to the Respondent. The availability of the information is further evidenced by the fact that the Respondent ultimately provided part of the pertinent information, albeit unreasonably late, 3 days prior to the commencement of the hearing.³

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Westmoreland Coal Co., Abington, Virginia, its officers, agents, successors, and assigns, shall take the action set forth in the recommended Order.

³In this connection, Chairman Stephens finds the instant case distinguishable from *Blue Diamond Co.*, 295 NLRB 1007 (1989), in which he dissented in part, in that the relevance of the information pertaining to the Kentucky operations and employees was plainly established and is an integral part of the grievance.

Rosetta B. Lane and Patricia L. Timmons, Esqs., for the General Counsel.

Thomas Gies and Robert Jones, Esqs. (Crowell and Morin), of Washington, D.C., and *Thomas Rubenstein, Esq.*, for the Respondent.

George Davies, Esq., of Washington, D.C., for the Charging Party.

DECISION

STATEMENT OF THE CASE

HUBERT E. LOTT, Administrative Law Judge. This case was heard at Abington, Virginia, on September 18 and 19, 1989, on an unfair labor practice charge and an amended charge filed on February 2 and March 15, 1989, by the United Mine Workers of America (the Union) against Westmoreland Coal Company (the Respondent or Company) and on a complaint issued March 31, 1989, alleging failure to furnish information in violation of Section 8(a)(1) and (5) of the Act.

¹The Respondent's request for oral argument is denied as the record and briefs adequately present the positions of the parties.

²We note, contrary to the judge, that the Respondent periodically questioned the relevance of certain requested information. We find that the information requested was relevant, under the Board's liberal discovery-type standard, to the Union's pursuit of its grievance against the Respondent. See *NLRB v. Acme Industrial Co.*, 385 U.S. 432 (1967); *Walter N. Yoder & Sons v. NLRB*, 754 F.2d 531 (4th Cir. 1985); *Florida Steel Corp. v. NLRB*, 601 F.2d 129 (4th Cir. 1978).

The issues in this case are whether or not Respondent is obligated to furnish the requested information and whether it delayed furnishing such information. Respondent's answer to the complaint, fully filed, denies the commission of any unfair labor practices.

The parties were afforded an opportunity to be heard, to call, to examine and cross-examine witnesses, and to introduce relevant evidence. Since the close of hearing briefs have been received from the parties.

On the entire record and based on my observation of the demeanor of the witnesses, and in consideration of the briefs submitted, I make the following

FINDINGS OF FACT

I. JURISDICTION

The company is a Delaware corporation with mining operations in several States, including various mines located in the Commonwealth of Virginia where it is engaged in the mining and processing of coal. During the past 12 months, a representative period, the Company purchased and received at its Virginia mines goods and materials valued in excess of \$50,000 directly from points outside the Commonwealth of Virginia. The Company admits, and I find, that it is an employer engaging in commerce within the meaning of Section 2(2), (6), and (7) of the Act. The Respondent further admits, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. UNFAIR LABOR PRACTICES

The Union and the Company's Virginia operations are parties to the National Bituminous Coal Wage Agreement (NBCWA) effective from February 1, 1988, until February 1, 1993. The 1988 NBCWA is an agreement between the Union and the Bituminous Coal Operators Association of America (BCOA) of which Westmoreland is a member.

The agreement includes a provision, article II Job Opportunity and Benefit Security (JOBS), which forms the basis of a dispute between the parties. The article states in pertinent parts:

A. Non-Signatory Operations

1. Except as modified in Section C, the first three out of every five new job openings for work of a nature covered by this agreement and any exiting, new, or newly acquired non-signatory Bituminous Coal operation of the employer shall be filled by classified laid-off employees on the panels of the employer's operations covered by this Agreement. If the newly acquired or non-signatory operation has a panel of laid off employees established pursuant to a valid collective bargaining agreement, those individuals shall first be recalled before this section applies.

2. Nothing in this Section shall operate to extend the bargaining unit as of the date of this Agreement nor expand the rights of the Union with regard to the non-signatory operations, except for the job opportunities made available under this section.

B. Lessee-Licensee

1. For purposes of lawfully preserving and protecting job opportunities for the employees covered by this Agreement, the Employer further agrees that it will not lease, sub-lease, or license out any bituminous coal lands, bituminous coal mining operations and other facilities of the employer unless the conditions set forth in the following paragraphs are satisfied.

2. Leasing, sub-Leasing, or licensing out of such lands or operations shall be permitted where the Lessee licensee agrees in writing that all offers of employment by such lessee-licensee shall first be made to the Employer's panels of the Employer's operations covered by this Agreement, if such employment at the leased, sub-leased or licensed out location is for jobs of the nature covered by this Agreement, and if such employees are qualified for such jobs.

5. Any disputes regarding this section shall be resolved between the prior Employer and the employee under Article XXIII of this Agreement. The employer agrees that it will reserve in any lease, sub-lease or license subject to this section the ability of the Employer to remedy any finding as to non-compliance of an employee's right to be considered for employment opportunity as provided herein. If it chooses in its discretion to permit or sub-lease or sub-license, the Employer shall also require the lessee-licensee to convey this hiring obligation in any sub-lease or sub-license.

7. Within ten (10) days after the lease, sub-lease or licensing out of any bituminous coal lands, coal mining operations and/or other facilities, but in any event prior to the time the work of a nature covered by this Agreement commences, the Employer shall provide notice hereof to the appropriate District president. Such notice shall disclose the identity of all parties to the transaction and the location and identity of the bituminous coal lands, operations and/or other facilities affected thereby including the relevant MSHA legal I.D. number.

On March 10, 1988, chairman of Respondent's Board E. B. Leisenring spoke to company management, union officials, and employees at Andover, Virginia training center. He informed those present that the Company intended to open and operate coal mines in Kentucky as a nonunion operation. In a letter to all Virginia operations employees dated August 16, 1988, Leisenring and Company President Pemberton Hutchinson stated that Westmoreland was not obligated under the 1988 contract to hire laid-off Westmoreland employees at its subsidiaries in Kentucky, and that the Company would not attempt to interfere with existing hiring policies in Kentucky.

On August 25, 1988, seven union locals filed grievances on behalf of their members alleging that Respondent was violating article II of the BCOA by refusing to select and hire panelled members for its nonsignatory operators and/or lessee licensee operations in Kentucky, i.e., Respondent failed to provide job opportunities under article II for its laid-off Virginia employees at its new Kentucky operations.

On September 21, 1988, a third-step grievance meeting was held on the above grievances with many officials of the Company and the Union attending. The Company denied all the grievances contending there was no contract violation.

The Union then submitted a written information request.¹ International Representative Douglas Collier read the request and explained why the Union needed the information. Generally the reason for the request, as stated in writing, was so the Union could monitor compliance with the NBCWA and to prepare for the further processing of the grievances. Specifically, the information was requested so the union could determine which companies in Kentucky came under the terms of the agreement thus giving Westmoreland laid-off employees job opportunity rights. The Union also needed the information to determine whether or not there is common ownership Westcoreland and its subsidiaries and whether Westmoreland and its subsidiaries are a single employer. The Company did not object to the request at the time, and in fact, represented that it would furnish the requested information in 10 days or by September 30, 1988. The Company failed to furnish the information within that time period.

Thereafter, in November and December 1988, Roger Thomlinson, a UMWA District 28 Field Representative, had numerous conversations with Nila Jones, Virginia Division labor relations manager, concerning the information request. During these conversations, Jones assured Thomlinson that the information was almost ready, they needed a few more days, that it was almost complete and the Union would be receiving it soon.

On December 2, 1988, Jones told Thomlinson that she had the information. The following week Jones said she would have to talk with Chris Seglem who is Senior vice president, secretary and the General Counsel for Westmoreland. On December 20, 1988, Thomlinson told Jones that the Union was filing charges with the National Labor Relations Board. On January 10, 1989,² Jones sent Thomlinson information relating to request items 1 and 2. Thomlinson continued to contact Jones on a weekly basis for the remaining information and on February 2, the Union filed 8(a)(1) and (5) charges against Respondent, alleging refusal to furnish information.

On February 2, the Union received complete information relative to information request items 3(a), (b), (c), and (e). On March 10 the Union received lease agreements, mining agreements and contracts with terms, parties names, dates, and other pertinent information redacted in response to request items 3(d), 5-7, and 9-10. The Company provided complete information on request items 3(f), (g), and (h). As of the trial date no information was furnished on items 4 and 11-13. The Company indicated that it had no information to provide on item 8 and the General Counsel withdrew the allegation relating to this item.

In a company letter dated April 21, to the Union, the Company offered to let the Union inspect documents relating to items 12 and 13 at its headquarters in Philadelphia, Pennsylvania. The Company also requested the Union provide it with a list of all items still in dispute. In a July 20 letter the Union set forth in detail the information needed on items 5-9 and 12-13. Basically the Union's complaint centered around the redacted documents which rendered them nothing more than, "blank leases, mining and management agreements."

In a letter dated September 15 the Company provided the Union with the names of the parties to the leases, mining and management agreements but this information was not matched with an agreement.

Christopher Seglem testified that Criterion Coal Company and Kentucky Criterion are wholly owned subsidiaries of Westmoreland. Officers of Westmoreland are also members of the Board of directors of Kentucky Criterion Coal Company. Westmoreland, as the parent company, performed the following functions for its subsidiaries: establishes business strategy, establishes business objectives, monitors performance, consolidates performance, provides administrative services, provides tax preparation and consolidation of tax returns, and in areas of extreme importance provides counsel and monitoring.

Gary Smith is vice president and general manager of Kentucky Criterion. He testified that Kentucky Criterion has contract miners who mine the coal which Kentucky Criterion tips. Kentucky Criterion has six employees and 100-150 employees who work under contract and lease arrangements. He is a member of the Board of directors of Criterion Coal Company along with Christopher Seglem and C. W. Conner who is senior vice president of Westmoreland. He testified that the Board of directors of Criterion Coal gave him complete control over personnel and operational decisions. He stated that the contractors are not affiliated with Kentucky Criterion which has no labor agreement. He further testified that the contractors did not want to furnish their agreements with Kentucky Criterion unless they were redacted and instructed his attorneys to furnish redacted copies; however, there is no confidentiality clause in those agreements.

Seglem testified that when he received the request for information, he was very busy negotiating the sale of Colorado Westmoreland which was finally completed in mid-December 1988. When he received the request he contacted many company officials to enlist their support in providing the requested information. He asked C. W. Conner, president of Criterion Coal to provide information on the subsidiaries, i.e., Kentucky Criterion, Dean Processing Company and EJK River Sewell Company. He asked for assistance from Hershall Hadin, vice president of Virginia operations and Elvy Rushton who was senior vice president of operations for Westmoreland. He also utilized two assistant General Counsels at headquarters and had support groups in headquarters accounting helping him. When the information was assembled he forwarded it to John Schoolcraft, manager of training and labor relations and Nila Jones, who in turn gave the information to the Union. According to Seglem the reasons the company took so long to furnish the information were because the amount requested was voluminous and it took a long time to convince Kentucky Criterion to furnish their agreements and then it would only furnish redacted copies.

He never informed the Union that the information request was too broad or vague and admitted that he intended to comply. He admitted that the reason he sent information to the Union in January on the first two items was to let the Union know that, "We weren't stiffing them on this stuff."

Analysis and Conclusions

Respondent's positions at the hearing, and in brief are many:

¹ The information request is attached to this decision as appendix A.

² All dates hereafter refer to 1989 unless otherwise indicated.

1. The Union's application of article II would extend the agreement to employees of entirely separate employers in violation of Sections 8(e), 8(b)(1)(A) and 8(b)(3).

It is my opinion that an arbitrator should decide whether or not article II applies to Kentucky Criterion, its lessees and contractors. With that said, the central issue before me is whether or not Westmoreland is required to furnish the Union with information so that the article II issue may be fairly arbitrated. I have no 8(e) or 8(b) allegations before me; therefore, I will not decide whether filing a grievance by a union is a violation of any of these sections of the Act. If Respondent wanted this issue resolved, it should have filed charges with the Region. Which is exactly what Respondent did and the charges were dismissed on September 6, 1988. Appeals affirmed the dismissal on November 4, 1988 (C.P. Exh. 1).

2. Westmoreland and Kentucky Criterion are entirely separate employers. Therefore the Company is not obligated to furnish information in furtherance of the Union's object of attempting to extend the agreement to employees of separate employers.

This position is closely related to Respondent's first position and was also addressed by the Region and the Office of Appeals in their dismissal letters. While I am not bound by their action, it does furnish a reason why these Respondent allegations are not before me. Therefore, it is not necessary to decide this issue in order to resolve the refusal to furnish information issue. However, the single employer issue was raised at hearing as part of Respondent's defense so I will address it.

The record evidence indicates that Kentucky Criterion is a wholly owned subsidiary of Westmoreland and, as such, there are Westmoreland offices sitting on the Board of Criterion Coal Company. In addition, the statements made by Chairman Leisenring and President Hutchinson indicate they made the decision on how labor relations would be conducted at the Kentucky operations. The record also reveals that while the Kentucky Criterion general manager decides the day-to-day minor issues, Seglem's testimony indicates that Westmoreland calls the shots on major issues including the labor relations issues involved in this case. Accordingly, I find that Westmoreland and Kentucky Criterion Coal Company are a single employer.

3. Respondent furnished the information requested and the General Counsel did not prove the relevance of information requested.

It should be noted that for almost a year from the date the information was requested, Respondent did not offer relevance as a reason for not furnishing the information. To the contrary, the Company at all times material, indicated to the Union that it would furnish the information, assuring the Union that it was just a matter of assembling the requested information so that it could be delivered. I further find that the information requested is relevant for determining the article II issue.

Specifically, on request items 3(d), 5-7, and 9-10 the Company furnished redacted copies of contract mining agreements, lease agreements and a management agreement. In effect, Respondent furnished blank agreements because all the relevant information was omitted. Respondent asserts that it did not have access to the information but I do not accept this reason because it did furnish the agreements and shortly

before the trial, it furnished the Union with some information contained in the agreements. I further find that no information was furnished on request items 4 and 11-13.

I also find that Respondent unreasonably delayed furnishing what information it did provide. Reasons given for the delay are not convincing considering the amount of assistance that was available. Moreover, at the outset, Respondent promised to provide all the information in 10 days. This uncontradicted promise indicates that the Company would have no difficulty in complying with the request. Further company promises and assurances given to the Union contradict all Respondents defenses taken at the hearing.

Accordingly, I find that Respondent violate Section (a)(1) and (5) of the Act by not furnishing information requested in Appendix A, items 3(d), 4-7, and 9-13 and by unreasonably delaying the furnishing of such information.

CONCLUSIONS OF LAW

1. Respondent is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The United Mine Workers of America is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent has violated Section 8(a)(1) and (5) of the Act by refusing to furnish information requested by the Union and by delaying in providing the requested information.

4. The requested information is relevant and necessary for the Union to monitor compliance with the 1988 NBCWA and to process grievances.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that Respondent engaged in acts and conduct violative of Section 8(a)(1) and (5) of the Act, I shall recommend that it be order to cease and desist therefrom. As a remedy, I shall recommend Respondent promptly furnish information requested in Appendix A, paragraphs 3(d), 4-7, and 9-13.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended³

ORDER

The Respondent, Westmoreland Coal Company, Abington, Virginia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to furnish and delaying the furnishing of information requested by the Union in the attached Appendix A.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the information requested by the Union in attached Appendix A.

³If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(b) Post at its facilities in Virginia and Kentucky copies of the attached notice marked "Appendix B."⁴ Copies of the notice, on forms provided by the Regional Director for Region 11, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

⁴If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX A

UNITED MINE WORKERS OF AMERICA

Telephone
AREA CODE (703) 523-3910

DISTRICT 28, SUB-DISTRICT 3
SUITE D-1, CLOVERLEAF SQUARE
BIG STONE GAP, VA 24219

September 21, 1988

INFORMATION REQUEST:

In order for the Union to adequately monitor compliance with the 1988 National Bituminous Coal Wage Agreement and to prepare for the processing of grievances regarding Article II, the Union requests Westmoreland Coal Company to provide the following information:

1. Please identify any and all subsidiaries and/or affiliates of Westmoreland Coal Company which operate and or control coal lands in Kentucky. Please provide name(s) of such entity, corporate address and provide Articles of Incorporation.

2. Identify all of Criterion Coal Company and Kentucky Criterion subsidiaries and/or affiliates. Provide name, address and titles of incorporation.

3. For each of the following named companies, please provide the requested information for the time period from October 1, 1984 to the present:

Westmoreland Coal Company
Criterion Coal Company
Elk River Sewell Coal Company
Kentucky Criterion Coal
Deane Processing Company
Rattlesnake Branch Company
Any other subsidiary and/or affiliate of Westmoreland Coal Company operating and/or controlling coal lands in Kentucky.

a. Identify the name, title(s), and the company of any officer, shareholder, director or any other management representative who holds a position in Westmoreland Coal Company and any other above-named

company(ies). In each case, also identify the applicable time period.

b. Identify the name, job title(s), and the company of any person who holds a function related to labor-relations in Westmoreland Coal Company and any other above-named company(ies). In each case, also identify the applicable time period and the job duties of the individual in question.

c. Identify the customers of Westmoreland Coal Company which are now or formerly customers or vice versa, of any of the above-named companies. In each case, also identify the applicable, time period and the specific company per customer.

d. Identify the name, job title, and company of any individual who performs any service, including clerical, administrative, bookkeeping, managerial, personnel, engineering, sales, estimating or other services for Westmoreland Coal Company and any of the above-named companies. For each such person, also identify the time period, company, and the service in question.

e. Identify any common insurance carrier(s) used by Westmoreland Coal Company and any of the above-named companies for every insurance-related employment benefit, including health and Pension insurance and benefits. Specify the exact period and company, per item, as well as time period during which such insurance carrier was utilized.

f. Identify any equipment exchanged, sold or leased between Westmoreland Coal Company, its subsidiaries and/or affiliates and any of the above-named companies. Identify the approximate date and the parties involved in the arrangement.

g. Identify any employees, supervisory personnel, consultants, or managers who have transferred between Westmoreland Coal Company and any of the above-named companies. For each person, give job title, current company, approximate date of transfer and company from which the individual transferred. For purposes of this inquiry, the term "transfer" is defined as any personnel action by which an individual has been reassigned from one company to another *or* has moved from the payroll of one company to the payroll of another company without more than a six (6) month gap in time in payment of salary.

h. Identify any fringe benefit program for supervisory personnel and/or management which is common to Westmoreland Coal Company and any other of the above-named company(ies).

4. Please provide copies of all purchase agreements and any other document(s) by which Westmoreland Coal Company or any subsidiary obtained control of coal lands and/or operations in Kentucky, since October 1, 1984.

5. Please provide copies of all leases, subleases, mining agreements or any other legal document pursuant to which another entity is mining or processing coal on coal lands under the control of Westmoreland Coal Company and/or any of its subsidiaries and/or affiliates in Kentucky.

6. If not already covered by item numbered 5 above, please provide copies of all mining agreements and/or other legal documents by which any and all "outside contractors" identified in Westmoreland Coal Company's *attached memorandum* of August 16, 1988 are operating in Kentucky.

7. Identify the three (3) contractors identified in Westmoreland Coal Company's *attached memorandum* of August 16, 1988, and provide copies of the "legally binding agreements," to which they are purportedly bound and which purportedly provides them "exclusive employment rights."

8. Please provide copies of any correspondence or documents by which these contractors and/or lessees identified in Westmoreland Coal Company's *attached memorandum* of August 16, 1988, have "made it plain that they will consider no interference with their employment policies."

9. For any work of a classified nature performed in Kentucky since February 1, 1988 by Westmoreland Coal Company and/or of its subsidiaries and/or affiliates, please identify the following:

- (a) Date on which the work began;
- (b) Type of work;
- (c) Location of work;
- (d) Name of company which performed such work and its business address;
- (e) Number of employees and job title per pay period who performed such work;
- (f) Copy of the payroll(s) covering said employees for the time period of such work; and
- (g) Provide a copy of the mining agreement and/or other legal document pursuant to which said entity performed the work.

10. For any work of a classified nature performed in Kentucky since February 1, 1988 by any contractor or any other entity on coal lands owned or controlled by Westmoreland Coal Company and/or by any of its subsidiaries and/or affiliates, please identify and provide the following:

- (a) Date on which the work began;
- (b) Type of work;
- (c) Location of work;

(d) Name of company which performed such work and its business address;

(e) Number of employees and job title per pay period who performed such work;

(f) Copy of the payroll(s) covering said employees for the time period of such work; and

(g) Please provide a copy of the mining agreement and/or other legal document pursuant to which said entity performed this work.

11. Provide Federal and State Tax Returns from 1984 through the present to include quarterly filings, of Westmoreland Coal Company and its subsidiaries and/or affiliates.

12. Provide the name(s), job title(s) or position(s) and employing company of the individuals who initiated and/or participated in the negotiations for the purchase of coal lands/operations from Kenacre Land Corporation, Bethlehem Steel Corporation, and Beth-Energy Mines, Inc.

13. Provide all memorandum, notes, and meeting dates related to the negotiations described in question #12.

APPENDIX B

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to furnish information requested by the Union to service the 1988 Labor Agreement.

WE WILL NOT delay giving the requested information to the Union.

WE WILL NOT in any like or related manner restrain or coerce employees in the exercise of their rights guaranteed them by Section 7 of the Act.

WE WILL promptly furnish the information requested by the Union in Appendix A.

WESTMORELAND COAL CO.