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Surface Mining Control
~~X~~

DRAFT FLOOR AMENDMENTS TO H. R. 11500

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Timing of the Initial Regulatory Procedure

Delete subsection (a) of section 201 and that portion of subsection (b) up to and including the colon prior to paragraph (1), and insert in lieu thereof the following:

"(a) On and after ninety days from the date of enactment of this Act, no person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State regulatory authority unless such person has obtained a permit from such regulatory authority. All such permits shall contain terms requiring compliance with the interim mining and reclamation performance standards specified in subsection (b) of this section.

(b)

Delete section 201(c) and insert in lieu thereof the following:

"(c) Within sixty days from the date of enactment of this Act, the State regulatory authority shall review and amend all existing permits in order to incorporate in them the interim mining and reclamation performance standards of subsection (b) of this section. No later than one hundred and twenty days from the date of issuance of such amended permit, all surface coal mining operations existing at the date of enactment of this Act on lands on which such operations are regulated by a State regulatory authority shall comply with the interim mining and reclamation performance standards in subsection (b) of this section with respect to lands from which the overburden has not been removed."

Explanation

The purpose of this amendment is twofold: (1) to provide a more workable graduation from preenactment to the initial regulatory procedure, and (2) to make clearer that during the initial regulatory procedure the Federal Government will not be issuing permits where a State fails to act.

(1) As reported, section 201 would require new operations to comply with six critical performance standards on and after the date of enactment of the Act. Existing operations would be required to comply within one hundred and twenty days from enactment. These time frames are too short and could result in unnecessary loss of needed coal production for no other reason than bureaucratic inability on the part of State regulatory



authorities to issue permits in such short periods of time. Compliance with these deadlines by the coal industry will be almost impossible. Until State requirements and permits are issued, industry will be unable to determine the application of the interim performance standards. Even assuming that permits could be issued in such short periods, it is questionable as to whether the State regulatory authority could adequately review the permit application within these time frames in order to ensure proper compliance with the standards.

The amendments offered herein would be advantageous both in terms of protecting the environment and allowing the production of coal to continue. Ninety days would elapse before new operations would be required to comply with the six critical performance standards. This grace period would be utilized both by the permit applicant and the State regulatory authority to revise mining plans to assure compliance with the performance standards. Existing operations would still have to be under a permit incorporating the performance standards within sixty days from enactment, however permittees would be authorized up to an additional one hundred and twenty days from the date of issuance of the amended permit to actually comply with the standards. Once again this additional period would be utilized by the permittee to revise his mining plan to assure proper compliance with the standards.

(2) The intent of section 201 is to bring about, as quickly as practicable, uniformity in application of six critical performance standards. State regulatory authorities are expected to ensure the application of these standards with the Federal role being limited to oversight and backup inspections. The use of the phrase "surface coal mining operations on lands on which such operations are regulated by a State regulatory authority" in this amendment, when read in conjunction with section 201(f) clarifies this concept.



Performance Criteria - Initial Regulatory
Authority - Equipment Variance

Delete section 201(b)(7) and insert in lieu thereof the following:

"(7) Upon petition by the permittee or the applicant for a permit and after public notice and opportunity for hearing the regulatory authority may modify the application of the interim mining and reclamation performance standards set forth before the first proviso in paragraph (1) and in any provision of paragraph (2) of this subsection, if the permittee demonstrates by proper documentation and the regulatory authority finds that:

(A) the permittee has not been able to obtain the equipment necessary to comply with such standards;

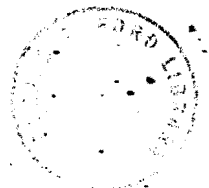
(B) the surface coal mining operation will be conducted so as to meet all other standards specified in subsection (b) of this section and will result in a stable surface configuration in accordance with a mining and reclamation plan approved by the regulatory authority; and

(C) such modification will not cause hazards to the health and safety of the public or significant imminent environmental harm to land, air or water resources.

Any such modification shall be reviewed periodically by the regulatory authority and shall cease to be effective upon implementation of a State program pursuant to section 203 of this Act or a Federal program pursuant to section 204 of this Act."

Explanation

During the term of the initial regulatory authority, equipment shortages will be a constraining factor on coal production. Permittees in many instances will need additional equipment to comply with the initial standards. The variance procedure of section 201(b)(7) as reported is so cumbersome as to be unworkable. The amendment would establish a clear variance procedure with safeguards essential to preclude abuse.



Approximate Original Contour - Spoil on Downslope

Interim program:

Amend section 201(b)(1) to read:

"(1) With respect to coal surface mining on steep slopes, no spoil, debris, soil, waste materials, or abandoned or disabled mine equipment, may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslope; Provided, That the spoil is shaped and graded in such a way as to prevent slides, erosion and water pollution, and is revegetated in accordance with paragraph (3) below. Provided further, That spoil may be placed on areas away from the mined area if the operator demonstrates that such placement will provide equal or better protection of life, property and environmental quality and the spoil is shaped and graded in such a way as to prevent slides and minimize erosion and water pollution and, if such placement is permanent, the area is revegetated in accordance with paragraph (3) below. Provided further, however, That (A) the regulatory authority may permit limited or temporary placement of spoil on a specified area within or adjacent to a plateau with the approved postmining land use of the mine site and (B) the provisions of this subsection (b) shall not apply to those situations in which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area."

Permanent program:

Amend section 211(c)(1) to read:

"No spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may, except as necessary to the original excavation of earth in new mining operations, be placed on the undisturbed or natural surface within or adjacent to the mined area, Provided, That spoil may be placed on areas away from the mined area if the operator demonstrates that such placement will provide equal or better protection of life, property and environmental quality and the spoil is shaped and graded in such a way as to prevent slides and minimize erosion and water pollution and, if such placement is permanent, the area is revegetated in accordance with paragraph (b) below



Explanation

The amendment would provide greater flexibility during the interim and permanent programs so that acceptable mining techniques which involve downslope placement of spoil could be used so long as they also provide equal or better protection of life, property and environmental quality. These spoils could be removed to environmentally appropriate locations away from the mined area, thereby permitting mining methods as head of the hollow fill when conducted in accordance with other performance criteria of the bill.



Amendment No. 4

Approximate Original Contour - Mountaintop Mining

Interim:

Insert the word "mountaintop" before the words "mining operation" the first time it appears.

Delete from section 201(b)(1) the words "create a plateau with no highwalls remaining" and insert in lieu the words "eliminate all highwalls".

Add new subsection 201(b)(8) as follows:

"(8) The regulatory authority may grant exceptions to paragraphs (1) and (2) if the regulatory authority finds that one or more variations from the requirements set forth in paragraphs (1) and (2) will result in the land having an equal or better economic or public use and that such use is likely to be achieved within a reasonable time and is consistent with surrounding land uses and with local, State, and Federal law."

Permanent:

In section 211(d)(1), insert after "residential" the words "agricultural, recreational" and in subparagraph (B) of section 211(d)(1) delete the word "higher" and insert the word "equal".

Delete section 211(d)(3).

Explanation

Undue constraints on mountaintop mining might be imposed under existing language of the bill. The changes would remove doubt about this and assure no unnecessary production losses resulting from prohibitions against mountaintop mining.



Designating Areas Unsuitable for Surface Coal Mining

Revise section 206(a)(2) as follows:

"(2) The State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if it is demonstrated that reclamation pursuant to the requirements of this Act is not physically feasible."


Add a new subsection (e) as follows:

"(e) In those instances where the regulatory authority has determined that an area is unsuitable for all or certain types of surface coal mining operations because it has been demonstrated that reclamation pursuant to the requirements of this Act is not feasible under subsection (a)(2) above, permits to mine such areas will not be issued unless the regulatory authority determines with respect to any such permit that the technology is available to satisfy applicable performance standards."

In section 209(d)(3) delete the words "under study" where they appear and insert in lieu the words "as to which an administrative proceeding has commenced pursuant to 206(a)(4)(D)" and insert after the word "permit" the words "or unless a contrary determination is made pursuant to section 206(e)."

Explanation

Section 206(a)(2) as reported appears to create a general presumption that all areas are unsuitable for surface coal mining unless it is established through the administrative procedures required by the bill (including notice, hearing and formal decision) that surface coal mining is both physically and economically possible. The procedural effect of this could be a nationwide moratorium on surface coal mining, something clearly not intended by the Committee. Surface mining presently accounts for 50 percent of all coal mining or roughly 300 million tons, based on 1973 figures. At the least, the burden of establishing unsuitability should be shifted so that the bill would provide that an area must be designated unsuitable only if it is shown that it is not physically possible to reclaim. In this connection the Administration has on several occasions expressed the view that it is inappropriate to classify areas as unsuitable based on economic criteria. Further, the procedure for designation of areas unsuitable should be improved and the bill should be amended to allow permit-by-permit approval of surface coal mining even in areas designated as unsuitable, where the State finds that in the particular circumstances reclamation subject to the bill's overall requirements will in fact occur.



Amendment No. 6

Exclusion of Surface Coal Mining in National Forests

In section 209(d)(9), delete the phrase, "the national forest". Also, delete the words "in existence on the date of enactment of this Act, or those for which substantial legal and financial commitments were in existence prior to September 1, 1973;" and insert "conducted pursuant to valid existing rights on the date of enactment of this Act."

Explanation

Surface mining of coal in national forests should not be legislatively prohibited. National forests should be left open for coal development under multiple use principles. There are seven billion tons of surface mineable coal reserves in the national forests, of which roughly two billion are non-Federally owned. Although at present hardly any coal mining is occurring on these lands, surface coal mining operations should be permissible as long as proper reclamation can be accomplished.

Moreover, section 209(d)(9) might be judicially construed as a legislative taking of valid existing rights requiring Federal payment for the rights so taken and the amendment would eliminate this possibility.



Performance Criteria - Hydrology

In section 211(b)(14), delete subparagraphs (A) through (F) and insert in lieu thereof the following:

"(A) avoiding acid or other toxic mine drainage to the extent practicable by preventing, retaining, or treating drainage to reduce mineral content which adversely affects downstream water uses when it is released to water courses;

(B) casing, sealing, or otherwise managing boreholes, shafts, and wells in a manner designed to prevent acid or other toxic drainage to ground and surface waters;

(C) conducting surface mining operations so as to minimize to the extent practicable the adverse effects of water runoff from the permit area;

(D) if required, removing and disposing of siltation structures and retained silt from drainways in an environmentally safe manner;

(E) restoring to the maximum extent practicable recharge capacity of the aquifer at the minesite to premining conditions; and

(F) relocating surface and ground water in a manner consistent with the permittee's approved mining and reclamation plan."

Explanation

The overly rigid provisions of section 211(b)(14) relating to hydrology may well preclude mining of vast coal areas, particularly in the west. This amendment addresses the same issues as the reported standard, but provides the flexibility needed to accommodate new mining technology which can be expected to develop to favorably resolve the adverse hydrological impacts of western surface coal mining.



Establishment of Right to Bring Citizen Suits

Insert "having an interest which is or may be adversely affected" between "person" and "may" in the second clause of the first sentence of section 223(a).

Delete "regulatory authority" where it first appears in subsection 223(a)(2), and substitute "Secretary."

Insert "Secretary or the" between "the" and regulatory authority" where it appears for the second time in subsection 223(a)(2).

Delete the language "enforce such . . . as the case may be" from the last sentence of subsection 223(a), and substitute therefor the following:

"order such violation or failure to be corrected"

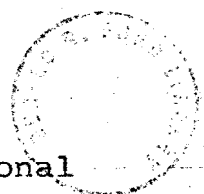
~~Delete subsection 223(b) and renumber succeeding subsections accordingly.~~

Explanation

The amendment would conform the Act's provisions with respect to citizens suits to those of the Federal Water Pollution Control Act Amendments of 1972, and reduce the possibility of abuse of the remedy provided by requiring of plaintiffs in such actions an adverse interest.

The amendments also remedies an apparent violation of Amendment XI of the U.S. Constitution, by deleting the current provision for actions against a State authority in the U.S. District Courts.

Finally, the amendment deletes provisions for recovery of damages, which are inappropriate in provision for citizen suits. This would leave applicable to such actions traditional provisions of tort law.



Amendment No. 9

Approximate Original Contour - Western Area Coal

In Sections 201(b)(2)(B) and 211(b)(8) [in proviso] delete the words "where the operation follows the coal deposit vertically." In section 201(b)(2)(B) [in proviso] delete the words "but not necessarily meeting the revegetation requirements of subsection (3)".

Insert at the end of section 705(22):

"and except that this term shall not be construed or applied to prohibit thick seam area mining where the surface is returned to an appropriate contour considering the surrounding topography and possible future uses of the area."

Explanation

In order to clarify that the approximate original contour requirements will not prohibit mining of thick seam-thin overburden coal mining common in the west, the amendment eliminates the requirement that exceptions for such mining be tied to the requirement of following deposits vertically and also specifies that the definition of approximate original contour shall not be read to prohibit such mining.



Amendment No. 10

Surface Subsidence Incident to Underground Mining

Amend section 212(b)(1) to read:

"(1) as determined in accordance with regulations promulgated by the Secretary of the Interior, provide for adequate support for the ground surface by assuring appropriate underground mine support in order to prevent subsidence to the extent technologically and economically feasible, maximize mine stability, and the value and use of such surface lands, except in those instances where the mining technology used involves planned subsidence in a predictable and controlled manner."

Explanation

This amendment is intended to make clear that any standards promulgated to control surface subsidence from underground operations will not prohibit subsidence and that in the determination of technological and economic feasibility will be made by the Secretary of the Interior. This will assure that an extreme court reading of the statute's language will not be made resulting in the large production losses that could attend a subsidence prohibition.



Mining and Mineral Research Centers

Delete Title VIII in its entirety.

Explanation

The President vetoed a bill passed by the 92nd Congress (S. 635) containing provisions similar to Title VIII because it would have fragmented and undermined the priorities of our current research efforts and because it would have created an inflexible program precluding the best use of available research talents of the nation regardless of location. Adequate authority already exists for support of needed mineral research programs.



Protection of the Surface Owner

Delete section 709 and insert the following:

Section 709(a) In those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include the following:

(1) the written consent of, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface coal mining operations on such land, or, in lieu thereof,

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, in an amount determined by the regulatory authority for the use and benefit of the surface owner or owners of the land, to secure the immediate payment equal to any damages to the surface estate which the operation will cause to the crops or to the tangible improvements of the surface owner as may be determined by the parties involved or as determined and fixed in an action brought against the permittee or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for the reclamation by this Act.

(b) For the purposes of this section, the term "surface coal mining operation" does not include underground mining for coal.

Explanation

Section 709 of the reported bill is objectionable because it required (i) surface owner consent for surface mining Federally owned coal and (ii) either consent or a bond for Federal permit and lease holders before Federal coal can be surface mined. A bonding alternative must be provided to protect the owners of tangible surface rights affected by surface mining. It is also inappropriate to give permit and lease holders a new right to veto the use of Federal coal. We also object to the needless and apparently unworkable provisions relating to the consent or bond requirements for those whose use of water might be affected by mining.



Although the Administration has consistently stated that surface owner consent provisions constitute an unwarranted Federal shifting of rights which are more properly a matter of state law. If surface owner protection provisions are to be included, then they should be properly circumscribed and should provide a bonding alternative, wherever they apply. The bond would cover all expected damage to crops and tangible improvements which could result from mining operations.

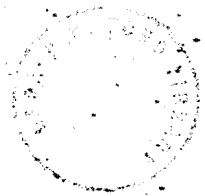


Noncoal Mine Environmental Impact Control
(Designation of Lands Unsuitable for Non-Coal Mining
on Federal lands)

Delete Title VI in its entirety.

Explanation

While the Committee on Interior and Insular Affairs restricted the original provisions of Title VI of H.R. 11500 so that they apply only to Federal lands, we continue to believe they are undesirable. To the extent that the Interior Department already has authority to control use of Federal lands, the provisions are unnecessary. Beyond this, the procedure for designating lands unsuitable for noncoal mining is inappropriate and should be undertaken only in conjunction with a full noncoal regulatory program.

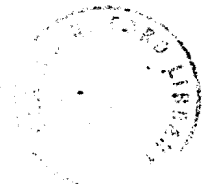


Indian Lands Program

Delete Title III in its entirety. Also, delete the words "or Indian program" and "and Indian land" where they appear in section 201(h) and delete the words "and Indian land" in section 225(g).

Explanation

The surface mining program which would be established by Title III of the bill is unnecessary and ill-advised. The Secretary of the Interior now has adequate authority to protect Indian lands and is exercising that authority. Both Federal and Indian resources would be needlessly diverted to the separate programs which Title III would authorize. This would result in overtaxing the already limited manpower and financial resources available for surface mine reclamation work and dilute the effectiveness of such programs on Indian lands.



Judicial Review: Procedure

In section 221(a)(1) delete the phrase "or disapprove" prior to the words "a State program."

Insert a new subsection 221(a)(2) as follows:

"(2) Any promulgation of regulations by the Secretary pursuant to sections 201(f), 202, 211, and 212 shall be subject to judicial review only by the United States Court of Appeals for the District of Columbia Circuit in accordance with the procedures set forth in paragraph (1) of this subsection."

In section 223(d) after the word "appropriate" in the first sentence insert a comma and the phrase "except that the court shall not award such costs against the United States".

Explanation

Federal regulations of program-wide import (those issued pursuant to sections 201(f), 202, 211 and 212) should be reviewed only in the United States Court of Appeals for the District of Columbia on a petition to review filed within 90 days of the issuance of the regulations. In addition, we believe the language of section 222 permitting judicial review of Secretarial disapproval of State plans should be eliminated. This would be consistent with other environmental laws which preclude review of such decisions. Section 223 should also be modified to delete the provision under which expenses of litigation may be awarded against the Government.



Amendment No. 16

Office of Surface Mining
Reclamation and Enforcement

Delete Title V in its entirety and insert in lieu thereof the following new Title V as follows:

Authority of the Secretary

Sec. 501.(a) In carrying out his responsibilities under this Act the Secretary shall:

(1) administer the State grant-in-aid program for the development of State programs for surface coal mining and reclamation operations provided for in this title;

(2) develop and administer any Federal programs for surface coal mining and reclamation operations which may be required pursuant to this Act and review State programs for surface mining and reclamation operations pursuant to this Act.

(3) maintain a continuing study of surface coal mining and reclamation operations in the United States;

(4) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of this Act;

(5) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(6) conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed materials as necessary to carry out his duties under this Act; and

(7) perform such other duties as may be provided by law and relate to the purposes of this Act.



(b) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

Explanation

Sound administration requires that authority and responsibility for the mined-area protection program run directly to the Secretary of the Interior. This will provide the Secretary with sufficient flexibility to efficiently manage the program, utilizing available Departmental resources where appropriate and adjusting the program as future developments warrant.

Failure to vest authority directly in the Secretary will result in duplication of effort since various agencies within the Department of the Interior are already engaged in activities covered under the Act. For example the Geological Survey serves as the regulatory authority for the administration of coal mining reclamation regulations of the Bureau of Land Management and the Bureau of Indian Affairs. In addition the Bureau of Mines, the Mining Enforcement and Safety Administration, Bureau of Reclamation, Bureau of Outdoor Recreation, National Park Service and Bureau of Sport Fisheries and Wildlife all have expertise which can be utilized in the administration of this Act.

Expertise in the field of surface coal mine reclamation is a scarce commodity. Establishment of a new office within the Interior Department can only drain sorely needed expertise from the above-mentioned bureaus which deal not only with the environmental problems of coal mining but all other mining as well.



Abandoned Mine Reclamation

Delete Title IV in its entirety and substitute:

SEC. 401. (a) There is created on the books of the Treasury of the United States a fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The Secretary is authorized to use the money in the fund for making grants for the purposes of Sec. 404.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall be to achieve the greatest estimated benefits from the costs incurred.

ELIGIBLE LANDS

SEC. 403. Funds for reclamation may be expended under this title only for lands which (i) were mined for coal or the value of which were adversely affected by such mining, wastebanks, coal processing, or other mining processes; (ii) were abandoned prior to the enactment of this Act; (iii) are subject to no continuing responsibility for such reclamation under State or other Federal laws, and (iv) title to which is held by the State or States in which they are located at the time any grants of money are made under this title.

SEC. 404. (a) For the purpose of carrying out the provisions of this title the Secretary is authorized to make grants on a matching basis to States in such amounts as may be provided in subsection (b), but in no event shall any grant exceed 50 per centum of the total cost of the reclamation of the lands for which such grant is made. Any disposal by a State of such lands subsequent to the completion of such reclamation shall be for fair market value as determined by a competitive sale. All moneys from such sale shall be deposited in a State fund which, together with interest thereon shall be used for the purposes of the original grants and without further Federal matching.

(b) The Secretary shall establish entitlement for the various States on the basis of the incidence of abandoned coal mined lands and best estimates of costs of reclamation.



Explanation

The Administration previously has not supported establishing a reclamation fund, not because reclamation of abandoned lands was not an important problem, but because the Administration believed the immediate problem is to reclaim areas that are currently being mined.

The Administration still believes this, but recognizing that Congress strongly believes the orphan lands problem should be addressed at this time, the Administration proposes a reclamation program that is without many of the problems inherent in H. R. 11500 and S. 425. The proposal would be a State-run program with cost sharing from appropriated funds.

The program would not have the problem of windfall profits to private landowners, it would not require a large Federal bureaucracy, it would not penalize current consumers of coal for damages caused in previous decades, States sharing of costs would help assure a well-run program, and it would ensure that the lands reclaimed would be selected by the States.



Amendment No. 18

Confidentiality of Information

Add new section 705 as follows, and remember present sections 706-712 accordingly.

after] "Section 705. Proprietary information submitted to the Secretary or to the regulatory authority pursuant to this Act which if made available to the public would result in competitive injury to the applicant, may be designated confidential and shall not* be disclosed. Any such information submitted to the Secretary shall be subject to the provisions of 18 U.S.C. 1905. Appropriate protective orders against unauthorized disclosure or use of such information by third parties may be issued with respect to such information and violations of such orders shall be subject to the civil and criminal penalties set forth in section 224, and section 224(b) shall not apply to any proceedings to assess such penalty."

Add to section 224(a), after "title" and before "may be assessed" the following:

"and any person who violates a protective order issued pursuant to the provisions of section 705,"

Delete "or" where it appears between "section 222(a)" and "section 222(b)" in section 224(f), and insert between "section 222(b)" and "of this Act" in the same subsection "or section 705."

Explanation

The Act's provisions will require the submission of proprietary information to the regulatory authority or to the Secretary, for the confidentiality of which no adequate protections are provided. The amendment would authorize protective orders against the unauthorized disclosure or use of such information, and civil and criminal penalties for violations of such orders.



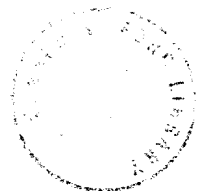
Amendment No.

Interim Federal Enforcement Program

Delete Section 201(f)

Explanation

This subsection is undesirable because it would preempt on-going State activities for controlling surface mining and would add little to the enforcement efforts. This is because most states already have the capability to enforce an Interim program, while an effective on the ground Federal Program would take considerable time to become operational. Over the long term, this subsection would risk a total Federal takeover of State responsibilities in regulating surface mining.



2 p.m.

Mon - H227

Barb meets w/
Minority Mbrs

1. Don't do anything
2. P.C. + state funding information to Cante
3. Messine comp

Fournier



Steger will meet
w/ Jack - upon Monday.

no Boren - Okla.

Steger says no
Arch theme - then.

but get strong
statements

THE WHITE HOUSE
WASHINGTON

John Hill says following
will testify next week.

Jack

Hill

Falkie Tom

634-1300



Steiger will meet
w/ Jack - 2pm Monday.

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Bill Roberts

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Also. Caucus - 10 A.M. June 4

Caucus

Senate Conference

Will be televised



Seville

No postponement -

Caucus

Senate

Metzger's Subverts +
Haskell

No outside assistance

Gov. Bran - doesn't look bright
for him to



STRIP MINING BILL

The President vetoed the Strip Mining Bill H.R. 25 because it:

- (1) Reduces production and increases dependence on high-cost and interruptible oil from abroad;
- (2) Increases unemployment;
- (3) Results in increased electric bills;
- (4) Preempts states from achieving similar objectives.

Additional reasons for the veto could include:

- (5) Forces small mines to merge with larger mines and consequently reduces competition (also small mines are often the source of immediate expansion - should additional coal be needed quickly);
- (6) Increases the likelihood of disabling injuries and additional health problems by encouraging deep mining vs. surface mining.

STEPS TAKEN

- (1) An interagency task force summarized their analyses of the bill (attached) and circulated it to all affected agencies.
- (2) The Administration's analysis of the bill, including the assumptions used was requested by Senator Metcalf and delivered to him last week.

NEXT STEPS

- (1) The Administration's analysis should be shared more broadly than just Senator Metcalf. This could be achieved by:
 - (a) White House press making the letter to Metcalf and/or the analyses available, should a press question be raised on Wednesday, Thursday, or Friday.

- (b) The Administration's analysis could be sent to key newspapers and key news services (e.g., in appropriate geographical locations such as Kentucky, West Virginia, and Virginia, hardest hit by the bill).
 - (c) Administration could use "handle" of either President's speech or sworn testimony to announce full, vigorous compliance and detailed disclosure.
- (2) The Administration's analysis should be used for news media interviews or talk shows between now and the time the testimony is given.
 - (3) Prepare the testimony for its submission to the Committee on Monday, June 2, with a release of the testimony the morning of the testimony (draft of testimony is underway and will be available Thursday, c.o.b.).
 - (4) Post hearing activities
 - (a) Continue public debate through to vote, to maximize vote numbers, sharpen differences between Presidential activity and Congressional inaction ("anti-energy")
 - (b) One on one with individual members of Congress.

WITNESSES

- (1) Frank Zarb has been specifically identified as a witness under oath to testify on overall issues, Administration positions, responses to inquiries regarding data.
- (2) Dr. Tom Falkie, Director, Bureau of Mines, should provide support for the production and reserve losses estimates.
- (3) Another witness should address the unemployment and economic (especially price) effects of the bill.

ISSUES - QUESTIONS

A. Critical Issues from President's letter remaining unresolved:

- (1) Doesn't the bill's accommodation of Administration position on citizen suits mean that litigation delays will not occur?
- (2) Why would the bill's language on siltation prevention remain a problem?
- (3) Aren't the bill's provisions on hydrologic disturbance only reasonable, prudent protection?
- (4) What vagaries and ambiguities remain potential threats to production?
- (5) Has the Administration abandoned opposition to reclamation of orphan lands?
- (6) (a) Why should you object to National Forest prohibition if you don't intend to mine there anyway?
(b) Are those lands included in your loss figures?
- (7) How do you resolve apparent disagreement within Administration on production and reserve tonnage losses?

B. Presidential Letter - Important Issues

- (1) What problems of timing of interim program remain unresolved for the operator?
- (2) How are new vs. existing mines to be handled under the interim program? Is this a problem?
- (3) Why shouldn't Federal Government be involved in interim program? Wouldn't Administration position be business-as-usual?
- (4) Doesn't the bill accommodate the Administration's desire for protection of surface owner rights and mining of Federal coal? What else is needed?

- (5) Why shouldn't Federal lands be subject to state controls? Aren't other facilities subject to state environmental programs and standards?
- (6) What problems remain with provisions to designate lands unsuitable for mining?
- (7) Why do you feel data gathering process of permit application procedure is cumbersome? Doesn't bill resolve this problem?
- (8) Wouldn't authority for variances requested by the Administration give away the whole bill and allow unrestricted development?

C. New Issues

(1) Data Base

- (a) Employment loss estimates are higher than employment itself. How is this explained?
- (b) Won't there in fact be a net gain in employment?
- (c) How is the states success with their programs explained, especially Pennsylvania, without production loss?
- (d) What higher consumer costs are involved? Can't mine companies absorb increased cost without further price rises?

(2) Other

- (a) What's wrong with minimum Federal standards to make state programs more uniform?
- (b) What's wrong with forcing underground mining?

[N.B. - health and safety and experience of subsidence, fires, etc.]

- (c) What anti-competitive effects might occur? Who will suffer more, small or large miners?

- (d) What is the scope of the exception language for anthracite mines and separate regulations?



United States Department of the Interior

BUREAU OF MINES
2401 E STREET, NW.
WASHINGTON, D.C. 20241

IN REPLY REFER TO:

23 May 1975

Dear Mr. Chairman:

Your Committee's staff asked for further clarification of the Administration's estimates of the adverse production and employment impact that enactment of H.R. 25 would produce.

Our estimates of the adverse impacts on production, reserves, and employment, and how they were derived, are attached. The estimates reflect the analysis of the various agencies of the executive branch, including the Bureau of Mines. A copy of the attachments has already been given to your Committee's staff assistant.

Interpretations of specific sections of the legislation by regulatory authorities or the courts can materially affect many of the estimates. The low range of estimates reflects the least restrictive interpretations of the bill's provisions which we consider possible under the specific statutory language and the related legislative history. The higher range indicates the best estimates of the adverse impacts if the language of the bill were to be interpreted strictly, and vigorously enforced by regulatory authorities or the courts.

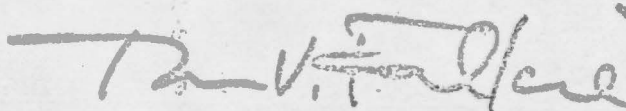
There will be additional but presently unquantifiable adverse effects resulting from delays in production and other inhibiting factors that will develop as the bill is implemented. These include, for instance, litigation delays, restrictive interpretations of other ambiguous language, the costs of obtaining surface owner consent or of complying with water replacement requirements, possible actions by the states with respect to Federal lands, and administrative designations of land as unsuitable for mining.

It should also be noted that this analysis is primarily directed toward domestic impacts of the vetoed legislation. To the extent that domestic coal production is reduced, there will be increased reliance on interruptible and high-priced supplies of imported petroleum. This will not only work against reaching the goals of Project Independence,



but will tend to support higher price levels currently being maintained by foreign producers. Inflationary pressures and national security aspects of this legislation are, therefore, serious.

Sincerely,



Thomas V. Falkie
Director

Honorable Lee Metcalf
Chairman, Subcommittee on Minerals,
Materials, and Fuels
Committee on Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

Attachments



ATTACHMENT I

IMPACT OF H.R. 25 (AS ENROLLED AND VETOES)

1. Loss of coal production during first full year of application -- based on expectation of 350 million tons of strip production and 685 million tons of total production if there were no bill.*

In millions of tons:

small mines	22-52
restrictions on steep slopes, siltation, aquifers	7-44
alluvial valley floor restrictions	<u>11-66</u>
Total -- first full year of application*	<u>40-162</u>
(% of production -- estimated at 685 million tons)	<u>6-24.5</u>

2. Increased oil imports and dollar outflow

assuming 90% replacement by imported oil

◦ million barrels per year (4.3 barrels per ton of coal)	154-627
◦ dollar value (\$12.50 per barrel) -- billions	1.9-7.8

3. Job losses -- assuming 36 tons per man-day, 225 work days per year, and 0.8 additional non-mining jobs lost per mining job lost.

direct job losses	5,000-20,000
indirect job losses	<u>4,000-16,000</u>
Total	9,000-36,000

4. Fee for reclamation fund (in millions) \$109 to \$158

In addition to the reclamation fee, other cost increases would be incurred as a result of operator compliance with provisions of the Act.

*/ Figures shown include no duplication of loss estimates among the categories set forth.



5. Lockup of coal reserves

Estimated reserve losses (billion tons) are:

◦ alluvial valley floor provisions (includes losses from National Forest provisions of 6.3 billion tons and surface owner provisions of 0-14.2 billion tons)	17.0-66.0
◦ National Forest (outside alluvial valleys)	0.9- 0.9
◦ Other provisions (e.g. steep slopes)	0 - 6.5
Total -- <u>billion tons</u>	17.9-73.4



ATTACHMENT II

ADVERSE IMPACTS OF H.R. 25

A. General Assumptions

In estimating the impact of H.R. 25 the following general assumptions have been made:

1. Losses are short falls from projected production levels. Indicated production losses are set forth as amounts by which national coal production will fall short of the projected production. Thus, for the first full year of implementation (1977) production without this bill is estimated to reach a level of 685 million tons. This compares with the 1974 total production of 601 million tons.
2. Time factors will affect the ultimate impact of any regulatory measure such as H.R. 25. Thus, short term impacts will be most severe while at some future date long range adjustments could ameliorate some of the impacts projected for the first full year of implementation.

B. Specific Impacts

1. Production losses. In our judgment an assessment of the final language of H.R. 25 indicates estimated potential production loss figures of from 40 to 162 million tons for the first full year of implementation. These losses occur as a result of the bill's impact in three major areas for which the impacts are shown as follows (million tons):

° small mines	22-52
° steep slopes, siltation, and aquifer provisions	7-44
° alluvial valley floor provisions	<u>11-66</u>
Total	40-162

Additional unquantifiable losses could result from other provisions, including those relating to the designation of lands unsuitable for mining, surface owner protection, and various ambiguous terms.



Any subsequent shifts of mining to other locations or to underground mining methods would in our opinion be negligible during the short term, but some such shifts could be expected to take place over the longer term.

The following methodology was employed in the analysis of the major categories of anticipated potential losses.

a. Small Mines:

An examination of surface coal mines producing less than 50,000 tons per year and located principally in the East resulted in a determination that their ability to comply with the provisions of the bill relating to bonding and permit application was inherently limited. Specifically, the requirements for the collection of extensive hydrologic data, for preparing detailed underground maps, for strata cross-section and test boring, for the preparation and presentation of highly detailed mining and reclamation plans and for the assessment of mine impact on hydrologic balance, are beyond the present capability of many of these small mines.

Our best estimates of potential losses which could result range from approximately 40 percent minimum to virtually all production from small mines for the first full year of implementation. Applying these percentages to the projected production figures if no bill were enacted results in a range of annual production losses from 22 million tons minimum to a 52 million ton maximum. The maximum loss stated is the total loss of production from all mines producing less than 50,000 tons per year with none of this production being otherwise replaced.

b. Steep slopes, siltation and aquifers

It is estimated that the losses arising from provisions relating to slopes, siltation and aquifers would range from 7-44 million tons. This figure can be broken down as follows: Steep slopes (7-25 million tons), aquifers (0-9 million tons) and siltation (0-10 million tons).

In estimating potential production losses from steep slope restrictions, the total amount of surface production derived from slopes over 20°, updated from calculations made by the Council on Environmental Quality in 1973, was examined. Our best estimates are that 6 percent to 23 percent of the projected steep slope production would be affected during the first full year of complete implementation, due to some loss of productivity from nearly every steep slope operation.



In assessing possible production losses from aquifer protection provisions, our estimates are that at worst up to 9 million tons of planned production near an aquifer-fed water source would be abandoned because of an adverse opinion by a regulatory authority or court. At best, regulatory authorities and courts would allow mining to continue as planned.

In estimating potential production losses from siltation inhibitions, it was estimated that up to 10 million tons of production could be lost because of operator's inability to construct the additional diversion ditches, sedimentation structures and water treatment facilities required by the Act. In addition some areas might be mined only if permanent large siltation structures were built. Under the bill large siltation structures must be removed after mining. Such removal could lead to unacceptable sedimentation. Under favorable conditions and interpretation by regulatory authorities no losses would be incurred as a result of siltation provisions, but increases in the cost of production will result and could be substantial.

c. Alluvial Valley Floors

Losses resulting from provisions relating to alluvial valley floors would range from 11 to 66 million tons during the first full year of implementation. To arrive at a possible loss of 66 million tons, surface mine production data were collected for 1974 production west of the 100th meridian west longitude. This amounted to 63 million tons. Based on a mine-by-mine analysis it was judged that approximately 45 million tons of this production was mined from alluvial valley floors as defined in the bill or was being mined in areas that could adversely affect alluvial valley floors. In our view, many undeveloped rangelands could still be considered to be potential farming or ranching lands and could thereby be excluded from mining. By projecting the ratio of 1974 production from such areas to projected production for the first full year, a resulting potential loss of 66 million tons was derived.

The possible minimum loss figure of 11 million tons attributable to the alluvial valley floor provision was determined by examination of actual mining operations and application of three key factors in the language of the Act: (1) the area that is now under intensive agricultural usage (including farming and hay meadows) (2) the amount of undeveloped rangeland and (3) potential farming and ranching as defined in H.R. 25. Each of these factors involves some uncertainty and cannot be clearly determined on a national basis, but based on our assessment and our best professional judgment



of the mining activities in areas of current and potential operations as described in H.R. 25, it is estimated that a loss of approximately 11 million tons could be considered a minimum for the first full year of implementation. This assumes the most favorable possible interpretation of the Act and legislative history.

From an engineering viewpoint, there are contained within this language many ambiguous or difficult-to-define terms such as "significant," "substantial," and "potential," and it is impossible to develop a precise minimum figure.

2. Oil imports and dollar outflow. Lost coal production from surface mines will require increased oil imports. To replace one ton of lost coal production will require 4.3 barrels of imported crude oil. The calculation is based on the most recent cost figures for which data are available, which is \$12.50 per barrel.

The major proportion of lost coal production will require substitution of such imported oil. Exact proportions are difficult to predict; our estimates assume 90 percent petroleum replacement.

3. Employment impacts. The estimates for employment losses are based upon the estimates for lost coal production (40 to 162 million tons) in the first year after enactment, and the national industry average of 36 tons of strippable coal per man-day and 225 work days per year.

Thus, we estimate that a loss of 5,000 jobs related to mining would be directly attributable to a 40 million ton loss in production, and 20,000 workers would be so affected by a 160 million ton production loss.

Based on analyses conducted by the Department of Commerce, it is also assumed that non-mining job losses will occur at the rate of 0.8 per mine job lost. Thus, we estimate that a loss of from 4,000 to 16,000 such jobs would result from the above production loss estimates.

Several additional factors apply with respect to any unemployment analysis.

First, unemployment impacts will be geographically specific and occur most heavily in Appalachia. To a great extent individual mobility of the unemployed is limited by financial, social, or other factors.



Second, it has been suggested that unemployment will be offset by increased employment opportunities resulting from the reclamation activities to be funded by the Act. On a national scale, however, such reclamation activities will produce no net increase in employment, since the funding for such activities will be derived from the reclamation fees, which will draw money and thus jobs out of the national economy.

Third, it has been suggested that lost jobs for workers in surface mine activities will be offset by increased employment in underground mining. In the short term, this is unlikely to occur because of the long lead times required for opening or expanding deep mines.

4. Reclamation Fee. The amount of the reclamation fees expected in the first full year of implementation has been based upon estimates of production under the Act. Other costs would include additional reclamation costs to the operator and administration costs.
5. Estimated Reserve Loss. Estimated reduction in coal reserves under H.R. 25 are based upon the lost production indicated in item B(1), above.

Reserves in National Forest lands were included in this calculation. Such reserves were not included in calculating production losses, because of the negligible coal mining activities now in National Forests.



IMPACT OF THE HOUSE AND SENATE PASSED BILLS
ON COAL PRODUCTION, RESERVES, OIL IMPORTS,
DOLLAR OUTFLOW AND JOBS

~~4-7~~

H.R. 25

1. Loss of coal production in the first full year of the bills' application *based on 685 million tons.* (covers only those features for which estimates can be made; does not cover potential losses from delays due to litigation or restrictive interpretation of ambiguous provisions):

In millions of tons:

. Small Mines	22- 52	22- 52
. Restrictions on steep slopes, siltation, aquifers	7- 44	7- 44
. Alluvial valley floor restrictions	11- 66	<u>22- 66</u>
Total	40-162	<u>52-162</u>
(% of 1977 production-estimated at <u>750 million tons.</u>)	5- 22%	8- 22%

maybe down to →

(Note: Administration bill would also have impacted coal production -- in the range of 33-80 million tons.) By way of contrast, the vetoed bill involved a potential production loss of 48-141 million tons and the Administration's bill could reduce ¹¹⁻¹² expected production by 33-80 million tons.

2. Lock up of coal reserves. The U.S. demonstrated reserve base which are potentially mineable by surface methods is 137 billion tons. Estimate reserve losses are (billion tons):

. Alluvial valley floor provisions (includes losses from national forest provisions of 6.3 billion and surface owners provisions of 0-14.2 billion)	10.8-65.0	32.5-66.0
. National forest (outside alluvial valleys)	.9	.9
. Other provisions (e.g., steep slopes)	0- 6.5	<u>0- 6.5</u>
Total - <u>billion tons</u>	11.7-72.4	<u>22.4-73.4</u>



3. Increased oil imports and dollar outflow - assuming 80% of lost coal production was replaced by oil. (20% by underground mining.)

- million barrels per year
(4.3 barrels per ton of coal)
- dollar value (\$11 per barrel) - billions

~~S. 7~~
~~138-559~~
~~1.5-6.1~~

176-559
215-559
1.9
~~2.4-6.1~~

4. Job losses (assuming 36 tons per day per miner and 225 work days per year; and .8 non-mining jobs per miner)

- direct job losses -
- indirect job losses -
- Total

~~5,000 to 20,000~~ to ~~6,000 to 20,000~~
~~4,000 to 16,000~~ to ~~5,000 to 16,000~~
9,000 to 36,000 to 14,000 to 36,000

5. Inflationary Impact - In addition to higher cost foreign oil -- would include (in million).

- Fee for reclamation fund
- Higher production and reclamation costs
- Costs of Federal and State program ~~administration~~



~~\$130~~
~~\$171~~
~~\$110 to \$160~~

* 168
~~\$204~~
198-264
~~\$171~~
* 90
~~\$100 to \$160~~

*¹ Production from some small underground mines could be exempt from the fee under the bill but not significant
 *² Law not include any estimate for unemployment benefits

There is no question that the environment must be protected. However the ~~primary~~ question in fact is whether such damage to the environment is ~~inevitable~~



Skulby

There is no question that we must protect the environment. However the immediate question is whether our ~~environmental~~ energy needs are so vital that any action steps that irreparable damage should be temporarily waived until we are out of the woods except as our energy needs are concerned.

Every state has adequate laws to protect against ^{an} irreparable damage that might result from surface mining today. The addition of any top reclamation tax, other direct cost of surface mining that will result from this measure can only result in a higher cost for fuel at a time the American people can afford. The ~~bill~~ ^{bill} ~~is~~ ^{is} ~~too~~ ^{too} ~~low~~ ^{low} ~~and~~ ^{and} ~~for~~ ^{for} ~~the~~ ^{the} ~~reason~~ ^{reason} ~~done~~ ^{done} ~~should~~ ^{should} ~~be~~ ^{be}

defold



Mike Peters for the Dayton Daily News

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Corrected

This morning's Washington Post asserts that the strip mining bill would increase rather than decrease employment.

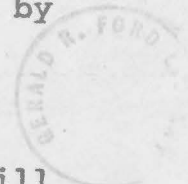
The assertion is incorrect. If the bill were to become law there would be a significant decrease in employment. It would cause a significant loss of jobs beginning as soon as the law became effective. Since some apparently are confused about this point, I think it's worth taking a few minutes to explain the impact of the bill on employment and unemployment.

First, there is the impact of the coal production losses -- which Interior and FEA professional mining experts have estimated as 40 to 162 million* tons in 1977 for those provisions for which some estimates can be made. The employment loss numbers cited by the President are only those resulting from the 40 to 162 million tons of coal production loss. These job losses would occur most heavily in Appalachia.

Second, Labor Department experts have indicated that we should expect no net increase in U.S. employment because of the provisions of the bill requiring reclamation of abandoned strip mining lands. This will be the case because any such reclamation efforts will be paid for out of a trust fund derived from excise taxes which are expected to accumulate about *one hundred* fifty million dollars in 1977. Any job increase for this reclamation will be offset by decreases in employment elsewhere in the economy because the funds used to pay the tax won't be available for jobs. At best the loss of jobs because of the new tax will be offset by the gains in reclaiming abandoned mines.

Third, there would be somewhat lower productivity per man in surface mining because of the reclamation and other requirements applicable to current mining activities. Normally you might think that lower productivity per man means more jobs. This is unlikely to occur because the real impact will be to put smaller or less efficient mine operations -- which already have low productivity -- out of business. Thus, there is unlikely to be any gains in total employment because of lower productivity caused by the bill's provisions.

*These estimates do not cover some provisions of the bill for which production loss estimates simply can't be made (such as the surface owners refusing consent to mining, designating lands unsuitable, and others), or the product on impact of regulatory and court delays while the meaning of the complex bill is being fought out in the regulatory agencies and the courts.



Fourth, some believe that the loss in surface mining production would be offset by employment in deep mining. There is a possibility that some part of the lost surface mining production would, after a few years, be offset by deep mining activity and it is the case that more workers are needed in underground mining. Any significant offsets should not be expected for the next four to ~~five~~^{year} because deep mining activity cannot be expanded quickly. Furthermore, there is the often overlooked problem that underground mining results in more deaths and disabling injuries than surface mining.

In view of the above, I am convinced that anyone who believes that employment losses are likely to be offset, particularly in the next few years when we need all the jobs we can get, simply have not looked carefully at the problem.



ISSUE

CONFLICT OF INTEREST

Administration
Position:

No such provision.

Senate Bill as
Passed:

No such provision.

House Bill as
Passed:

Floor amendment to title II, proposed by Representative Dingell, was adopted, to the effect that no employee having any duties under the Act may own a direct or indirect financial interest in coal mining operations except that ownership of stock up to 100 shares, total, is permitted. Any such interest must be disclosed. A criminal penalty of up to \$2,500, or 1 year imprisonment is imposed for knowing violations.

Proposed Status
for Conference:

~~Not a big issue~~ To the extent that it reinforces existing conflict of interest prohibitions, it is a desirable provision; the 100-share exception is undesirable and should be deleted. ~~However the prohibition should be clarified so as not to prohibit ownership of shares in mutual funds or in companies principally oriented to matters other than minerals, but having minor interests in mining.~~ OK

Rationale for
Administration
Position:

Conflicts of interest should be avoided and controls are to be considered desirable. The 100-share exception does not appear to be consistent with the purpose of the amendment, and it could permit quite substantial holdings that present a direct conflict with an employee's official duties. By way of comparison, the Bureau of Mines and Geological Survey conflict of interest laws do not permit any ownership of stock or other interests where a conflict is present. Their policy is that any holding, much less one of 100 shares, is to be forbidden.

On the other hand, provisions should not be so broad as to prohibit holdings that include mining only on a minimal basis, such as mutual funds or companies whose principal interests are other than mining or minerals.

The new House amendment is to a large extent duplicative of existing conflict of interest laws and regulations. If the House provision is not accepted by the Conferees, then OMB would exercise the control over the various forms, and conflict



of interest situations would be governed by the Department's regulations on Statements of Employment and Financial Interests, 43 CFR §20.735-41 et seq. and Executive Order 11222 (1965) requiring financial disclosure of high level Executive Branch officials. The Department's general financial disclosure regulations apply only to high level officials; do not prohibit ownership of stock; and do not provide criminal sanctions. Exception is made by statute for U.S.G.S. and Bureau of Mines employees. All employees of the Geological Survey are prohibited from having any "personal or private interests in the lands or mineral wealth of the region under survey. . ." (43 U.S.C. 31), and this has been interpreted to mean that no U.S.G.S. employees may own an interest in oil or mining enterprises. The Bureau of Mines has a similar conflict of interest prohibition against any employee having "any personal or private interest in any mine or the products of any mine under investigation. . . ." Neither provision carries any criminal penalty for violation.





Item 1

Fail OK

H.R. 25 provides a specific finding for the reclamation program in Title IV.

Item 2

OK

H.R. 25 includes "agricultural productivity" as an objection from adverse effects of surface mining along with environmental values.

Item 3

Discuss

H.R. 25 places the Office under the Assistant Secretary for Land and Water Resources and raises the pay of the Director to level 4. Both of these changes are aimed at strengthening the Office and making it more independent of existing functions in the Department of Interior related to energy development.

Item 4

? OK

H.R. 25 includes "agricultural productivity" along with environmental considerations as conditions to be reflected in the development of State programs.

Item 5

OK

H.R. 25 specifies that inspection personnel from MESA are not to be used for surface coal mining inspection unless the Secretary finds and publishes in the Federal Register that such inspectors are not needed under the Coal Mine Health and Safety Act of 1969.



OK
H.R. 25 makes a newly created office an independent Federal agency, so that its forms and questionnaires are approved by GAO rather than the Office of Management and Budget. The GAO is now doing this for a number of Federal agencies: FPC, ICC, and FTC pursuant to provisions contained in the 1973 Alaskan Pipeline legislation. Approval by GAO has proven to be faster and less burdensome on the industry than the present OMB approval process.

OK
H.R. 25 contains a general provision concerning conflict of-interest and specifies that Federal employees administering this act may only hold nominal interest in coal companies and coal conversion companies which are registered with the SEC.

Item 6

Discuss
S. 7 broadens the eligibility of universities to receive such funds by including the criteria "or a curriculum which provides for" substantial instruction in mining or mineral research. H.R. 25 and the Conference Report limit eligibility to particular schools, divisions, or departments within the university -- a structural element.

Both S. 7 and H.R. 25 specify that only four full-time faculty members are needed in the university unit to meet eligibility requirements.

Item 7

OK
S. 7 deletes the requirement to avoid any undue displacement of key personnel engaged in mining and mineral



resources research through the implementation of this program.

Item 8

S. 7 deletes the word "coal" from the heading of the reclamation fund.

Conform to decision on other

Item 9

S. 7 deletes the specific provision requiring the Secretary to adjust the reclamation fee to reflect changes in the cost of living index at three-year intervals.

Discuss

H.R. 25 alters the reclamation fee to 35¢ a ton for

surface mined coal and 10¢ a ton for underground mined coal.

Discuss

Lignite coal production will pay a reclamation fee at a

rate of 5% of the value of the coal or 35¢ per ton, whichever

(No) Accept

is less. In addition, even though the reclamation fee

accrues upon coal produced upon the date of enactment,

payments to the fund are not required prior to the end of

the first calendar quarter of 1976 (March 31, 1976) and

Discuss

subsequent payments are specified to be collected on a

quarterly basis at the end of the quarter following that in

which the coal is produced.

H.R. 25 also specifies that an operator may credit up

to one-half of the Federal reclamation fee those monies paid

into a State program created for the same purposes as the

reclamation fund.

Discuss - Accept in principle but clarify.

Item 10

S. 7 specifies that reclamation of previously mined land

Discuss



is first priority under this program.

Item 11

OK
H.R. 25 specifies that reclamation for "agricultural productivity" is a specific objective of the rural lands program.

Item 12

Discuss
S. 7 increases the acreage limit to one hundred acres and specifies that under limited circumstances the Secretary of Agriculture can fund reclamation at 100% of cost where off-site benefits warrant such action.

H.R. 25 increases the acreage limit to 160 acres and specifies that the proportion of Federal cost-sharing (up to 80%) is to be based on expected income-producing potential of lands after reclamation. The higher the potential income, the lower the Federal cost-sharing should be.

Item 13

Discuss
H.R. 25 includes language identifying that "reclamation easements" can be a type of suitable interest the Federal government may take in land in order to allow reclamation under the provisions of this section.

Item 14

OK
H.R. 25 specifies that the Secretary of Interior shall utilize the experience of "State" personnel as well as Federal personnel in preparing specifications for the reclamation of lands.



OK

S. 7 directs the Secretary of Interior to utilize all available data pertaining to reclamation needs and technique specifically including that developed by the Corps of Engineers pertaining to the impact of unreclaimed lands on various water resource projects. In addition, this provision specifies that the Secretary may contract with the Corps of Engineers in order to carry out reclamation work to protect such facilities.

Item 16

(OK) Accept

S. 7 drops the modifying word "housing" before facilities thus broadening the basis for decisions on facility investment

Discuss

H.R. 25 changes "coal" to "energy" thus allowing the use of funds for infrastructure investment for any type of energy development impacts, not just those limited to coal.

Item 17

Discuss

S. 7 specifies that reclamation funds may be used to fill and close voids, tunnels and shafts from all types of mining, not just coal, providing that such tunnels and shafts could endanger life and property or be a hazard to public health or safety.

Item 18

Discuss

S. 7 places a specific limit of 30 months for the development of a State program, after which the Secretary must implement a Federal program.

OK

In addition, S. 7 specifies that certain subsections



(reference inaccurate) shall not apply for a period of one year following the date of implementation of the Federal program.

Item 19

Dispute
Both S. 7 and H.R. 25 make provision for the continuatic of all mining operations in the event of administrative dela with respect to approval under an approved State program.

Item 20

S. 7 provides a general exception for permits not to expire after three years if mining has not been initiated.

OK
H.R. 25 provides a specific exception based on the construction of a coal conversion plant for synthetic fuels for the non-expiration of a mining permit if mining has not started within three years of the date of issuance of such permit.

Item 21


OK
H.R. 25 specifies that "other qualified personnel at State universities" may be used to prepare technical aspects of maps in the mining application.

Item 22

OK
H.R. 25 includes in the reclamation plan requirements a specific requirement for the proposed revegetation plan and the assurance that viable seeds are available to carry out such a plan.

Item 23

OK
H.R. 25 makes clear that reclamation plans always include



revegetation, regardless of whether or not vegetation exist immediately prior to mining or not. This is to cover those instances in which mining might occur on previously unreclaimed lands or in other instances where vegetation is needed for surface stabilization and for one reason or another was not existent prior to mining.

Item 24

Discuss
S. 7 includes the phrase "to the maximum extent possible using the best available technology" to modify the type of analysis and planning required by this provision.

Item 25

OK
H.R. 25 clarifies an area's eligibility for mining by indicating that a "study" must be underway with respect to designating unsuitable for mining rather than "considering" such an area for such designation.

Item 26

Discuss
S. 7 limits the ban on mining on alluvial valley floors to those areas which would not have a substantial adverse affect on crop lands or hay lands where such land uses are significant to farming and ranching operations.

H.R. 25 bans mining on lands overlying alluvial valley floors where there is sufficient water for irrigation or natural subirrigation. Mining is also limited where it would adversely affect the quantity or quality of water in surface or underground systems supplying such valley floors and in those instances where it would alter a



channel of a water-course flowing an average of 250 gallons per minute or more during 120 days per year and having a drainage of 10,000 acres or more.

Item 27

Discuss H.R. 25 includes a resource protection criterion to limit blasting and excavation for surface mining in such a way as not to preclude the subsequent underground mining of known coal resources. This provision addresses the sequence and timing of mining operations in order to allow for the maximum resource recovery.

Item 28

OK S. 7 requires statement showing the legal right for such exploration and notice to the surface owner.

Item 29

OK S. 7 provides for sediment control "to maximum extent possible using best available technology."

H.R. 25 was amended to achieve the same purpose specifying "to the extent possible using the best technology currently available."

Item 30

Discuss S. 7 includes a requirement to replace water from some underground sources if affected by the mining operation. Only owners of interests in real property are eligible for such water supply replacement.

H.R. 25 includes a requirement to replace water from



surface and underground sources being adversely impacted by the mining operation. Similar eligibility requirements are included.

H.R. 25 also includes other provisions relating to replacing water supply, see Item 66 and 67.

Item 31

Discuss S. 7 specifies that the hydrologic integrity (function) of alluvial valley floors need be preserved "to the maximum extent possible, using the best available technology".

Item 32 S. 7 modifies the location requirements of mined waste impoundment dams so that danger to health or safety of the public is "minimized" if failure occurs.

Discuss H.R. 25 places the Corps of Engineers in charge of all aspects of mine waste impoundments as used in their public works program.

Item 33

Discuss H.R. 25 provides greater specificity with respect to the disposal of toxic and combustible wastes.

Item 34

Discuss H.R. 25 provides for only "temporary" placement downslope of the initial cut of the spoil resulting from the short linear or initial block cut necessary to obtain initial access to the coal seam.

Discuss Item 35 } Same as previous item

S. 7 D. 1 Item 36 }



Item 37

OK H.R. 25 included a subsection in the provisions relating to underground mining which specified that the Secretary may make modifications in some environmental standards in section 515 in order to achieve the environmental protection objectives of the bill on the basis that there are inherent differences between surface and underground mining.

Item 38

OK H.R. 25 provides a conflict-of-interest provision covering employees of State regulatory authorities performing any function or duty under this act. This provision is the same as that included in H.R. 25 covering employees in "the Office of Surface Mining Reclamation and Enforcement", see Item 5.

Item 39

Discuss H.R. 25 includes section 520 as well as section 521 with respect to mandatory assessment of civil penalties. Section 520 includes decisions resulting from citizen suits.

Item 40

Discuss H.R. 25 provides a technical amendment clarifying the applicability of the enforcement section (521) in compliance with an order issued pursuant to citizen suits (sec. 520) with respect to the penalties contained in the paragraph. Similar inclusion of sections 520, 521 and 526 are clarified in subsection (g).



Item 41

OK H.R. 25 modifies the description of the mine site contained in the public notice for bond release by including the word "precise" before the phrase "location of the land affected."

Item 42

*Discuss
Combine* S. 7 specifies that partial bond release is contingent upon water quality (sediment) runoff meeting values stated in the permit.

H.R. 25 specifies that partial bond release is contingent upon water quality (sediment) runoff keyed to background levels prior to any mining. It is inherent that such data be provided in the application and therefore the permit.

Item 43

Discuss --Citizen suits

Item 44

Discuss H.R. 25 further restricts cessation orders to violations, practices or conditions which cause "irreparable" environmental harm.

Item 45

Discuss S. 7 specifies that petition to designate an area unsuitable for mining must be decided upon by the regulatory authority within one year of the date of submission. If the regulatory authority does not render a decision within this time, the petition pending toward designating such an



area shall not be the basis for denying a permit.

Item 46

Discuss S. 7 includes the proviso stipulating that the Secretary of Interior may permit surface coal mining on Federal lands prior to the completion of the review of Federal lands to determine which are unsuitable for all or certain types of surface coal mining operations.

Item 47

OK H.R. 25 restates the provisions pertaining to the availability of Federal coal to all classes of buyers in order to allow legitimate, integrated (or captive) lease and production.

Item 48

Discuss
Combines Item 49

Item 50

OK S. 7 further limits the applicability of this special bituminous coal mine section to those resources owned up to February 27, 1975.

Item 51

Discuss The entire section concerning special provisions relating to some aspects of regulating anthracite surface coal mining was deleted in S. 7.

Item 52

Discuss H.R. 25 includes an Indian lands program providing three options for any tribe.



First, an Indian tribe may develop their own program on the same basis and under the same conditions as States pursuant to this Act.

Second, an Indian tribe may request the Secretary of Interior to be the regulatory authority for surface mining operations on their lands. Under such an approach, the tribe retains certain powers, e.g., approval of leases, mining plans, etc.

The third option, which is the provision in the Conference Report, specifies the tribe may request a study on the best management approach for regulating surface coal mining. In this instance, some environmental standards would govern all mining operations and be under the control of the Secretary of Interior.

Item 53

Discuss H.R. 25 broadens the basis under which lands may be designated unsuitable for non-coal mining operations by including the protection of historic, cultural, scientific or aesthetic ~~natural~~ values or natural systems of more than local significance, or where such mining could unreasonably endanger human life and property.

Item 54

Discuss H.R. 25 deleted reference to "surface operation and impacts incident to an underground coal mine" from the definition of surface coal mining operations.



Item 55

H.R. 25
OK

S. 7 includes language with respect to the reclamation program in the definition of "surface coal mining and reclamation operations" which pertain to operations after the date of enactment.

Item 56

OK

S. 7 specifies that "Indian lands" pertains to lands within the exterior boundaries of any "Federal" Indian reservation.

Disagree

H.R. 25 specifies that "Indian lands program" is that program established under Title VI. (See Item 52).

Item 57

H.R. 25
OK

S. 7 specifies that certain actions taken under the coal mine regulatory program constitute major action within the meaning of the National Environmental Policy Act of 1969 and therefore requiring environmental impact statements.

Item 58

H.R. 25
OK

S. 7 directs the Secretary of Interior to recognize efforts of the Interstate Mining Compact Commission in carrying out certain information and coordination functions with respect to approval of "State programs" and allotments to "mineral research institutes".

Item 59

H.R. 25
OK

H.R. 25 deleted the provision to give preferential treatment to persons adversely affected by the regulatory aspects of the Act in contracting for reclamation work



under provisions of Title IV.

Item 60

Discuss
H.R. 25 deleted the provisions providing unemployment assistance to workers displaced due to the implementation of the regulatory program of Title V.

Item 61

Accept 1/22/75
H.R. 25 specifies that coal mines eligible for the special Alaska provisions must have produced coal during the 12 calendar months preceding the date of enactment.

Item 62

Discuss
H.R. 25 directs special attention to the potential environmental problems related to oil shale ^{hand} development in the study of non-coal mine regulation.

Item 63

Accept 4/22/75
OK
H.R. 25 directs the Secretary of Interior to coordinate activities with ERDA in conducting research under the authority granted for development of alternative coal mine technologies.

Item 64

Discuss
S. 7 moved the date for "surface owner consent" over Federal coal to February 27, 1975, from December 3, 1974. This would allow the ^{leasing} ~~mining~~ of that coal for which consent was given in that period.

Item 65

Ability → S. 7 stipulates that where the U.S. is the surface



owner, the provisions of the "surface owner consent" section do not apply or in those instances where minerals are held by non-Federal parties.

Item 66

OK H.R. 25 included a statement that provisions of the Act do not alter existing rights of individuals to protect interests in water resources.

Item 67

H.R. 25 includes provisions setting forth procedures to replace water supplies disrupted or damaged by mining operations.



Sec. 525(b)

S.7 inserts a provision into paragraph (b) requiring that the Secretary issue a written decision within 30 days from receipt of an application for review of an order or notice, except where temporary relief has been granted.

47
Sec. 525(c)

In subparagraph (c), a similar provision is added by S.7 requiring expeditious issuance of the Secretary's decision either granting or denying temporary relief from an order or notice.

The requirement of holding a local hearing prior to the Secretary issuing his decision would be waived in cases where an order to cease surface mining operations or to abate a violation under subparagraphs (a) (2) or (a) (3) of section 521 is involved.

Sec. 426(c)

CF
In subparagraph (c), S.7 eliminates the prohibition against the granting of temporary relief by a Federal court where the Secretary's order has been issued under the enforcement provisions of section 521.

In S.7, the granting of temporary relief is specifically allowed from orders of the Secretary to cease surface mining operations or to abate a violation under subparagraphs (a) (2) or (a) (3) of section 521.



N 37
X 6
- 0

24

273. HR 11500. Surface Mining. Hosmer (R Calif.) amendment, in the nature of a substitute to the committee bill, to provide for the regulation of surface mining and reclamation of mined lands. Rejected 156-255: R 103-82; D 53-173 (ND 16-135; SD 37-38), July 18, 1974. The President did not take a position on the amendment. (The amendment would have imposed less stringent environmental safeguards on surface mining and reclamation than did the committee bill.) (Story, p. 1917)

274. HR 11500. Surface Mining. Hechler (D W.Va.) amendment, in the nature of a substitute to the committee bill, to phase out all surface mining for coal over a 54-month period. Rejected 69-336: R 3-178; D 66-158 (ND 61-84; SD 5-74), July 18, 1974. A "nay" was a vote supporting the President's position. (Story, p. 1917)

275. HR 11500. Surface Mining. Udall (D Ariz.) motion to limit the remaining debate on amendments to the findings and purposes section of the bill (Title I) to 10 additional minutes. Motion agreed to 217-176: R 39-138; D 178-38 (ND 128-17; SD 50-21), July 18, 1974. The President did not take a position on the motion. (Story, p. 1917)

276. HR 11500. Surface Mining. Hosmer (R Calif.) amendment inserting language in the bill to emphasize in establishing the legislative history of the bill that coal was essential to meet the nation's energy requirements and to reduce the environmental emphasis in the purposes outlined in the bill. Rejected 146-250: R 102-76; D 44-174 (ND 7-138; SD 37-36), July 18, 1974. The President did not take a position on the amendment. (Story, p. 1917)

		- KEY -							
		Y Voted for (yea). ✓ Paired for. † Announced for. N Voted against (nay). X Paired against. - Announced against. P Voted "present." ● Voted "present" to avoid possible conflict of interest. ? Did not vote or otherwise make a position known.							
						X			
		273	274	275	276				
						CONNECTICUT 1 Cotter N N ? ? 2 Steele (Dodd) N N N N 3 Giaimo N N Y N 4 McKinney N N N N 5 Sarasin N N N N 6 Grasse (Moffett) ? ? ? ?			
						DELAWARE AL duPont N N N N			
						FLORIDA 1 Sikes N N ? ? 2 Fuqua N N Y N 3 Bennett N Y Y N 4 Chappell Y N Y N 5 Gunter (Kelly) N N Y N 6 Young N N N N 7 Gibbons N N Y N 8 Haley N N Y N 9 Frey N N N Y 10 Bafalis N Y N N 11 Rogers N N Y N 12 Burke N N N N 13 Lehman N Y Y N 14 Pepper N N Y N 15 Foscell N Y Y N			
						GEORGIA 1 Ginn N N N N 2 Mathis N N N Y 3 Brindley N N Y N 4 Blackburn (LeVitts) Y N N Y 5 Young N Y N N 6 Flynt Y N ? ? 7 Davis (McDonald) ? ? ? ? 8 Stuckey Y N Y N 9 Landrum N N ? ? 10 Stephens Y N Y Y			
						HAWAII 1 Matsunaga N N Y N 2 Mink N N Y N			
						IDAHO 1 Symms Y N N Y 2 Hansen (G. Hansen) Y N ? ?			
						ILLINOIS 1 Metcalfe N ? Y N 2 Murphy, M. Y N Y N 3 Hanrahan (Russo) Y N N N 4 Derwinski Y N N Y 5 Kluczynski Y N ? ? 6 Collier (Myda) Y N Y Y 7 Collins N Y Y N 8 Rostenkowski N N Y N 9 Yates N N N N 10 Young (Mikva) Y N N N 11 Annunzio Y N Y N 12 Crane Y N N Y 13 McClory Y N N N 14 Erlenborn Y N Y Y 15 Arends (Hall) Y N N Y 16 Anderson N N N N 17 O'Brien N N N N 18 Michel Y N N Y 19 Railsback Y N N N 20 Findley N N Y Y 21 Madigan N N N N 22 Shipley N N Y N 23 Price N N Y N 24 Gray (Simon) Y N Y Y			
						INDIANA 1 Madden N ? Y N 2 Landgrebe (Fithian) Y N N Y 3 Brademas N Y N N 4 Roush N Y N N 5 Hillis Y N Y Y 6 Bray (Evans) Y N N Y 7 Myers Y N N Y 8 Zion (Hayes) Y N Y Y 9 Hamilton N N N N 10 Dennis (Sharp) Y N N Y 11 Hudnut (Jacobs) Y N N Y			
						IOWA 1 Masvinsky N N Y N 2 Culver (Blouin) N N Y N 3 Gross (Grassley) Y N N Y 4 Smith N N Y N			
						ALABAMA 1 Edwards Y N N Y 2 Dickinson Y N N Y 3 Nichols Y N N Y 4 Bevill Y N N Y 5 Jones Y N Y Y 6 Buchanan Y N N Y 7 Flowers Y N N Y			
						ALASKA AL Young Y N N Y			
						ARIZONA 1 Rhodes Y N N Y 2 Udall N N Y N 3 Steiger Y N N Y 4 Conlan Y N N Y			
						ARKANSAS 1 Alexander N N Y Y 2 Mills Y N ? Y 3 Hammer-schmidt Y N N Y 4 Thornton N N Y Y			
						CALIFORNIA 1 Clausen Y N N Y 2 Johnson Y N Y N 3 Moss ? Y N N 4 Leggett N N Y N 5 Burton, P. N Y Y N 6 Burton, J. N N Y N 7 Dellums N Y Y N 8 Stark N Y Y N 9 Edwards N N Y N 10 Gubser (MINEA) Y N N Y 11 Ryan N Y Y N 12 Talcott N N N Y 13 Lagomarsino N N N N 14 Walters (MILLER) N Y Y N 15 McFall N N Y N 16 Sisk Y N Y N 17 McCloskey N N Y N 18 Mathias (KREBS) N N Y ? 19 Melnick (WAXMAN) Y ? N Y 20 Moorhead Y N N Y 21 Hawkins ? Y ? N 22 Corman N Y Y N 23 Clawson ? ? ? ? 24 Rousselot Y N N Y 25 Wiggins Y N N Y 26 Rees N N Y N 27 Goldwater Y N N N 28 Bell N N N N 29 Danielson N N Y ? 30 Roybal N Y Y N 31 Wilson N N Y N 32 Hoover (HARRARD) Y N N Y 33 Pettis Y N N Y 34 Hanna (PATTERSON) N N ? ? 35 Anderson N Y Y N 36 Ketchum Y N N Y 37 Burke N Y Y N 38 Brown N Y Y N 39 Hinshaw Y N N Y 40 Wilson Y N Y Y 41 Van Deerdin N Y Y N 42 Burgener Y N Y Y 43 Weaver (LLOYD) Y N N Y			
						COLORADO 1 Schroeder N N Y N 2 Brotzman (WIRTH) N N N N 3 Evans N N Y N 4 Johnson N N N N 5 Armstrong Y N N N			



Democrats Republicans

FACT SHEET

WHY IS THE SURFACE MINING BILL (H. R. 11500) RECENTLY REPORTED BY THE HOUSE INTERIOR COMMITTEE UNACCEPTABLE TO THE ADMINISTRATION?

Background

- In February 1971 and again in February 1973, the Administration proposed to the Congress legislation that would establish reasonable standards and requirements for environmental protection and reclamation in mining activities.
- On May 14, 1974, the House Committee on Interior and Insular Affairs, by a vote of 26 to 15 ordered approved a bill which provides for the regulation of surface, and in some cases underground, coal mining.
- On May 29, 1974, the Secretary of the Interior advised the Committee Chairman that the bill:
 - Would have a substantial adverse impact on coal production,
 - Does not strike the right balance between our need for environmental protection and our energy requirements,
 - Is unacceptable to the Administration in its current form.
- Also, on May 29, the Administrator of the Federal Energy Administration provided to Congressman Hosmer, in response to his request, estimates of the impact of the bill on coal production, which also illustrate why the bill is unacceptable.
- Over the past few months the Department of the Interior, on behalf of the Administration, in three separate letters, advised the Committee that legislation it was considering was defective in many respects.

Objections to the Bill

- Impact on coal production, reserves, and costs
 - The bill, if enacted, could prevent the production of from 31 to 187 million tons of coal in 1975. (Total coal production in 1973 was about 595 million tons.) The exact amount of lost coal production would depend on the interpretation and implementation of the bill. In 1980, the bill could prevent the production of from 33 to 271 million tons of coal.
 - In addition, the bill could remove from consideration for mining as much as 32 percent of our total coal reserve base.



- The requirements of the bill would also substantially increase coal production costs in many cases. The increased costs will eventually be borne by consumers, principally in the form of higher electric bills and consumer goods. (Approximately 70 percent of the Nation's coal production is used in electric power plants.)
- The adverse impact on coal production is particularly significant because:
 - .. It would come at a time where there is a growing demand for coal and efforts are being made to make greater use of coal.
 - .. Coal must play a much greater role in fulfilling the Nation's energy requirements in the years immediately ahead and is the key ingredient in meeting the objective of demonstrating the capability of self-sufficiency in energy.
 - .. Each ton of coal that is not available from domestic resources will, in effect, mean the importation of about four barrels of foreign oil-- thus contributing to the Nation's growing dependence on foreign energy supplies and adversely affecting our balance of trade and payments. (For example, loss of production of 50 million tons of coal in 1975 would increase foreign oil imports by about 200 million barrels and, at current world prices, would result in added foreign payments of about \$2 billion.)
- Some States (e. g., Pennsylvania) have already established standards and requirements which provide effective environmental protection and reclamation--without rigidities and adverse production impact of the magnitude that could result from H. R. 11500.
- During 1973, 49 percent of the Nation's coal production came from surface mines. This percentage is expected to grow to 56 percent in 1980 and 58 percent in 1985.

Unacceptable provisions of the Bill

Major features of the bill that are considered unacceptable include:

- Interim Requirements. The interim compliance requirements of the bill during the period from its enactment until permanent standards are established are unworkable. The requirements would prevent opening new mines and bring existing mining to a halt because adequate time is not allowed for specifying interim requirements.
- Designating Lands Unsuitable for Mining. The bill appears to create a general presumption that all lands are unsuitable for mining unless the contrary case is justified in accordance with burdensome and time-consuming procedures.



- Surface Subsidence of Underground Mining. Rigid and unrealistic requirements for control of surface subsidence could prevent the mining of 17 to 117 million tons of coal in 1975.
- Exclusion of Surface Mining in National Forests. Coal could not be mined in national forest lands even when the best application of multiple use principles demonstrated that such mining was the best use of the lands.
- Performance Criteria. The bill's provision with respect to maintenance of hydrological balance, mining on steep slopes, and returning lands to "approximate original contour" would amount to an outright prohibition of mining in some areas and an adverse impact on production in others (e. g., provisions relating to mountaintop mining, thick seams and spoil on the downslope would result in a production loss of up to 59 million tons in 1975).
- Surface Owner Provisions. The bill in effect would provide a new right to surface owners of lands where the Federal Government owns subsurface rights.
- Permit Application Data. Extensive data required by the permit applicant would adversely affect small operators who mined 34 million tons in 1972.
- Reclamation of Past Mined Land. The bill would result in charges to current consumers of coal for correcting past practices. First priority must be given to reclaiming land associated with current surface mining.
- Program for Non-Coal-Mine Environmental Impact Control. Non-coal mine regulations should be included only in conjunction with a full non-coal regulatory program and not be included in coal surface mine legislation.
- Citizen Suits. The bill would go beyond the scope of any citizen suit provision presently in other environmental laws; it could subject operators, the Federal Government, and State regulatory authorities to serious risk of undue harassment. This could result in the frustrating implementation of the Act and prevent the needed increase in coal production.
- Mining and Mineral Research Centers. The bill would authorize establishment of mining and mineral research centers in a manner which would fragment and undermine current research efforts and priorities. (A bill passed by the 92nd Congress containing similar provisions was vetoed by the President.)



SURFACE MINING LEGISLATION ACCEPTABLE
TO THE ADMINISTRATION

Background

- . The Administration requested legislation establishing standards for environmental protection and reclamation in connection with mining activities in February 1971 and again in February 1973.
- . H. R. 11500 as initially reported by two subcommittees of the House Interior Committee was objectionable to the Administration, as indicated in Undersecretary Whitaker's February 6, 1974 letter.
- . The Administration, on February 14, 1974, provided to Congressman Hosmer a completely rewritten bill as a drafting service.
- . Congressman Hosmer introduced a modified version of the drafting service bill as H. R. 12898.
- . On February 22, 1974, Undersecretary Whitaker advised Congressman Hosmer that the Administration would support enactment of H. R. 12898 if modified to deal with 12 problems.
- . The House Interior Committee failed to adopt H. R. 12898 as a vehicle for markup (by a vote of 21-19) and instead proceeded with H. R. 11500 which was ordered reported on May 14, 1974, by a vote of 26 to 15.
- . On May 29, Secretary Morton advised House Interior Committee Chairman Haley that the Administration feels strongly that H. R. 11500 as reported is unacceptable in its present form, particularly because of unacceptable adverse effects on coal production.

Comments on H. R. 12898

The Administration again reviewed H. R. 12898 in light of developments concerning surface mining legislation, including a study of the Bureau of Mines of the coal production impacts of H. R. 11500.

The Administration could support a new substitute bill -- along the lines of H. R. 12898 -- but that it would have to be changed to deal with several problems. This is essentially the same position taken in Undersecretary Whitaker's February 22 letter.

Specifically, the Admin indicates 5 changes are essential. These are explained below & specific



language appears in attachments 1-5. There are seven other areas where the Administration believes changes are desirable. These seven are explained and specific language provided in attachments 6-12.

1. Spoil on the downslope. The Administration believes that sections 201(c)(1) and 213(c), relating to the placement of spoil on the downslope, must be changed, but the Administration has modified previous recommendations in an attempt to find an acceptable solution.

The Administration is opposed to the H. R. 12898 provision as drafted because it permits placement of spoil and other material in or adjacent to the mined area on the downslope of the first cut for an undetermined length beyond the initial block of short linear cut necessary to obtain access to the coal seam. This, the Administration believes, would weaken a key requirement of surface mining and reclamation legislation intended to require operators to greatly reduce the adverse environmental impact of surface coal mining on steep slopes using proven, established, economically viable methods which can achieve a greater assurance of slope stability while affecting less land. While the Administration believes placement of spoil should generally not be allowed (except for the initial cut) on the immediate downslope, H. R. 11500 is too restrictive in this regard since, for example, it may be read to prevent removal of spoil to environmentally appropriate locations away from the mined area and thereby preclude such acceptable mining methods as head-of-the-hollow fill.

2. Surface Disturbance Incident to Underground Mining. The Administration believes the treatment of H. R. 12898 of adverse surface disturbances from underground mining is troublesome in two respects:

- (a) The Administration believes the matter of subsidence from underground mining should be covered by the bill and by regulations. The Interior Department has carried out studies of surface effects of underground mining and in certain instances has developed subsidence control criteria. Where information on which to base standards is not now adequate, Interior plans to undertake necessary studies. The Administration believes the study called for in section 302 should be directed toward the development of such standards.
- (b) As now drafted, section 214(a) of H. R. 12898 would impose all of the permit application, permit approval and denial and bonding requirements of Title II upon the "adverse effects of surface



operations incident to underground mining." Due to the inherent differences between surface and underground coal mining, the Administration believes that the Secretary should have authority to establish by rulemaking the applicability of these requirements to the surface effects of underground mining.

3. Open pit coal mining. The Administration believes the broad definition of open pit mining set forth in section 310(22) of the bill is objectionable, because it would include bituminous coal open pit mining. The Administration believes the open pit definition should extend only to anthracite mining and thus opposes any broader coverage.
4. Air and water quality-concurrence of EPA. The Administration believes EPA should have authority to ensure complete compatibility between programs under the bill and under EPA authorities and thus that the bill should specify that EPA must concur in permanent mining and reclamation regulatory procedures and the approval of State programs which will affect major programs administered by EPA that require the promulgation of guidelines and the imposition of compliance schedules and permit requirements upon the coal mining industry.
5. Federal enforcement. The Administration believes that, because of the many and varied types of activities which occur during surface coal mining and reclamation operations, conditions or practices may occur on such operations which are not specifically covered by the requirements of the Act or the conditions of the permit. The Administration further believes that if conditions or practices not specifically covered by the Act or permit create imminent danger or environmental harm as described above, the Federal inspector needs closure authority to control such conditions or practices.



Amendments

Essential

1. Spoil on the Downslope
2. Surface Disturbances Incident to Underground Mining
3. Open Pit Mining
4. Air and Water Quality - Concurrence of EPA
5. Federal Enforcement

Desirable

6. Citizen Suits
7. Impoundments
8. Exception to Interim Performance Standards
9. Time Limits for Actions on Permits
10. Steep Slope Definition
11. Judicial Review
12. Performance Standard Departures for Developing New Technology



Spoil on the Downslope

In sections 201(c)(1) and section 213(c):

- . Insert the phrase "initial block or short linear" prior to the phrase "cut necessary to obtain access to the coal seam."
- . Insert a new proviso in lieu of the first proviso in each of these sections reading:

"Provided, That spoil may be placed on areas away from the mined area if the operator demonstrates that such placement will provide equal or better protection of life, property and environmental quality and the spoil is shaped and graded in such a way as to prevent slides and minimize erosion and water pollution and, if such placement is permanent, the area is revegetated in accordance with paragraph (3) below."



Surface Disturbances Incident to Underground Mining

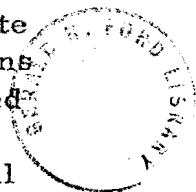
A. Delete section 214 and insert in lieu the following:

"Sec. 214(a) In order to regulate the adverse surface disturbances to the environment and public health and safety resulting from underground coal mining, the Secretary shall, in accordance with the procedures established under section 202 of this Act, promulgate rules and regulations embodying the requirements specified in subsection (c) of this section.

"(b) The provisions of Title II of this Act relating to State and Federal programs, permits, bonds, inspection and enforcement, public review, and administrative and judicial review shall be applicable to surface coal mining and reclamation operations incident to underground coal mining with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are deemed necessary by the Secretary due to the differences between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rule making procedure established in section 202 of this Act. The performance standards specified in subsection (c) of this section shall be applicable to all such operations until superseded in whole or in part by improved performance standards promulgated by the Secretary in accordance with subsection (e) of section 213 of this Act.

"(c) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the permittee to --

- (1) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the underground coal mining operation;
- (2) With respect to surface disposal of mine wastes, coal processing wastes, and other wastes in areas other than mine workings or excavations, stabilize all waste piles created by the permittee from current operations in designated areas through construction in compacted layers with incombustible and impervious materials, and assure that the final contour of the waste pile will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;



- "(3) With respect to the use of impoundments for disposal of mine wastes or other liquid and solid wastes incorporate sound engineering practices for the design and construction of water retention facilities to insure that the location will not endanger the health and safety of the public should failure occur, construct such facilities to achieve necessary stability with an adequate margin of safety to insure against failure, prevent leachate from polluting surface or ground water, and prohibit coal processing waste from being used as the principal material in the construction of water impoundments, water retention facilities, dams or settling ponds;
- "(4) Establish on regraded areas and all other lands affected a stable and self-regenerating vegetative cover where cover existed prior to mining which, where advisable, shall be comprised of native vegetation;
- "(5) Minimize off-site damages resulting from surface coal mining operations incident to underground coal mining; and
- "(6) Prevent to the extent practicable the discharge of water borne pollutants both during and after mining.

"(d) The regulatory authority may promulgate such regulations, including prohibition, as it deems necessary to protect the stability of the land with respect to underground coal mining under or adjacent to urbanized areas, cities, towns, and other communities, public, industrial or commercial buildings, major impoundments or permanent streams, or public utilities and transportation facilities.

"(e) All operators of underground coal mines, both during and after mining, shall have abatement and remedial programs to prevent the discharge of water-borne pollutants to the extent practicable and to eliminate fire hazards and other conditions which constitute a hazard to public health and safety."

B. In section 221(c), delete "operations" and insert "disturbances".

C. In section 302 insert following the word "conduct," the words "for the purpose of developing mining and reclamation performance standards".



- D. In section 310(4)(B) insert the words "ventilation shafts, entryways", following the word "dams".
- E. In section 310(15) delete the words "for a surface coal mining site" following the word "authority".



Open Pit Mining

- A. Section 310(4)(A)--Insert the word "anthracite" after the word "pit. "
- B. Delete section 310(22) and replace with "the term 'open pit anthracite mining' means that method of surface anthracite mining in which mining continues in the same area proceeding predominantly downward with lateral expansion necessary to maintain slope stability or as necessary to accommodate the orderly expansion of the total mining operation. "
- C. Add at the end of section 310(18) after the word "purposes" the following:

"Provided, That this term shall not be construed or applied to prohibit thick seam area mining where the surface is returned to an appropriate contour considering the surrounding topography and possible future uses of the area. "



Air and Water Quality - Concurrence of EPA

Delete in sections 203 (b)(2) and 202(b) the words "consulted with and considered the recommendations" and insert in lieu thereof the words "obtained the concurrence."



Federal Enforcement

- A. Delete section 217(a)(2) and insert in lieu the following:

"When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practice exists, or that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated. "

Add at end of subparagraph (a)(2) and (a)(3) of section 217 the words "or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section. "

- B. Add at end of section 310(23) the words "by enforcement action pursuant to section 217(a)(3) of this Act or by judicial action. " [This would make clear that cessation orders under section 217(a)(2) are to be issued only if the environmental hazard to the public health or safety would not be corrected quickly enough by other administrative or judicial mechanisms.]



Citizen Suits

The citizens' suit provisions of the bill are objectionable in that they have been modified to provide that a civil action against, among others, a person alleged to be in violation of a regulation, order, or permit may be brought only if the person whose interests may be adversely affected can show that actions of the Secretary or the regulatory authority are the cause of such adverse effects. To remedy this situation the phrase "by actions of the Secretary or the regulatory authority" should be deleted from section 220(a).



Impoundments

Performance criteria with respect to impoundments should provide for control over the location of impounding facilities and that no coal processing wastes are used as the principal material in the construction of impoundments and other facilities. After the first use of the word "facilities" in section 201(c)(8) the words "and construct such facilities to provide that the location" should be inserted and the words "fines, slimes and other unsuitable" should be deleted preceding the second use of the words "coal processing wastes." Conforming changes should also be made in sections 213(b)(16) and 214(c)(3).



Exception to Interim Performance Standards

Before an exception is granted to interim performance standards under section 201(d), an opportunity for hearing should be available to interested parties. The word "comment" in section 201(d) should therefore be changed to "hearing. "



Time Limits for Actions on Permits

As drafted, sections 209(a) and 212(b) would require the regulatory authority to set a maximum time period of 90 days within which it must act upon applications for permits or for permit revisions. Delays in such action can be important to an applicant, and the setting of a maximum time limitation is accordingly appropriate. Ninety days represents an unrealistically short time period, however, these sections should be amended to set a maximum of one hundred eighty days instead of ninety days.



Steep Slope Definition

Section 213(c)(2) provides that the definition of steep slope is "any slope above twenty degrees or such other slope as the regulatory authority may determine to be necessary" To the extent that this language would permit modification of the definition to specify a steeper slope it is objectionable. The word "other" should be replaced with the word "lesser" in section 213(c)(2). It should be noted, of course, that section 213 would apply only to the permanent program and would not affect steep slope definitions under the interim program.



Judicial Review

Section 215(a)(2) would provide for judicial review of the promulgation of regulations by the Secretary pursuant to sections 213, 214, and 221 of the Act only by the appropriate United States Court of Appeals. Since these regulations are national in scope, it would seem that the most appropriate forum for judicial review of these regulations is the United States Court of Appeals for the District of Columbia. Review of such regulations only in the District of Columbia Court of Appeals would also eliminate the possibility of disparate decisions on the same issue from different Courts of Appeals and would preclude the possibility of forum shopping by approved persons. Consequently it is recommended that the phrase "appropriate United States Court of Appeals" on lines 3 and 4 of Section 215(a)(2) be deleted and replaced by the phrase "United States Court of Appeals for the District of Columbia. "



Performance Standard Departures for Developing New Technology

Add new section 213(f). The legislation should permit the modification of mining and reclamation performance standards to facilitate the development of new technology. To accomplish this, a recommended addition of a new subsection 213(f) follows:

In order to encourage advances in mining and reclamation practices, the regulatory authority may authorize departures in individual cases on an experimental basis from the mining and reclamation performance standards promulgated under Sections 213 and 214 of this Act. Such departures may be authorized if: (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operation is no larger than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.



Abandoned Mine Reclamation

The Administration previously has not supported establishing a reclamation fund, not because reclamation of abandoned lands was not an important problem, but because the Administration believed the immediate problem is to reclaim areas that are currently being mined.

The Administration still believes this, but recognizing that Congress strongly believes the orphan lands problem should be addressed at this time, the Administration proposes a reclamation program that is without many of the problems inherent in H. R. 11500 and S. 425. The proposal would be a State-run program with cost sharing from appropriated funds.

The program would not have the problem of windfall profits to private landowners, it would not require a large Federal bureaucracy, it would not penalize current consumers of coal for damages caused in previous decades, States sharing of costs would help assure a well-run program, and it would ensure that the lands reclaimed would be selected by the States.

Proposed language follows:

TITLE IV -- ABANDONED MINE RECLAMATION ABANDONED COAL MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

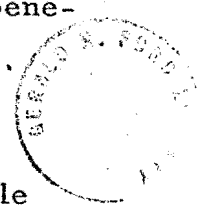
(b) The Secretary is authorized to use the money in the fund for making grants for the purposes of Sec. 404.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall be to achieve the greatest estimated benefits from the costs incurred.

ELIGIBLE LANDS

SEC. 403. Funds for reclamation may be expended under this title only for lands which (i) were mined for coal or the value of which were adversely affected by such mining, wastebanks, coal processing, or other mining processes; (ii) were abandoned prior to the enactment of this Act; (iii) are subject to no continuing responsibility for such reclamation under State or other Federal laws, and (iv) title to which is held by the State or States in which they are located at the time any grants of money are made under this title.



ACQUISITION AND RECLAMATION OF ABANDONED
AND UNRECLAIMED MINED LANDS

SEC. 404. (a) For the purpose of carrying out the provisions of this title the Secretary is authorized to make grants on a matching basis to States in such amounts as may be provided in subsection (b), but in no event shall any grant exceed 50 per centum of the total cost of the reclamation of the lands for which such grant is made. Any disposal by a State of such lands subsequent to the completion of such reclamation shall be for fair market value as determined by a competitive sale. All moneys from such sale shall be deposited in a State fund which, together with interest thereon shall be used for the purposes of the original grants and without further Federal matching.

(b) The Secretary shall establish entitlement for the various States on the basis of the incidence of abandoned coal mined lands and best estimates of costs of reclamation.



N 23
X 3

- KEY -		
Y	Voted for (yea).	
✓	Paired for.	
†	Announced for.	
N	Voted against (nay).	
X	Paired against.	
-	Announced against.	
P	Voted "present."	
●	Voted "present" to avoid possible conflict of interest.	
?	Did not vote or otherwise make a position known.	

	285	286	287
CONNECTICUT			
1 Celler	Y	N	Y
2 Steele (Dodd)	?	?	?
3 Giarme	Y	N	Y
4 McKinney	Y	N	Y
5 Sarasin	Y	N	Y
6 Grasso (Hoffert)	Y	N	Y
DELAWARE			
AL duPont	Y	N	Y
FLORIDA			
1 Sikes	Y	N	Y
2 Fuqua	Y	X	?
3 Bennett	Y	N	Y
4 Chappell	Y	?	Y
5 Gunter (KELLY)	?	?	?
6 Young	Y	N	Y
7 Gibbens	Y	?	?
8 Haley	Y	N	Y
9 Frey	Y	N	Y
10 Bafalis	Y	N	Y
11 Rogers	Y	N	Y
12 Burke	Y	N	Y
13 Lehman	Y	?	?
14 Pepper	Y	N	Y
15 Fascoll	Y	N	Y
GEORGIA			
1 Ginn	Y	N	Y
2 Mathis	Y	N	Y
3 Brinkley	Y	N	Y
4 Blackburn (LEVITAS)	N	Y	N
5 Young	Y	N	Y
6 Rynth	N	?	?
7 Davis (Mc DONALD)	?	?	?
8 Stuckey	Y	N	Y
9 Landrum	?	?	?
10 Stephens	N	Y	Y
HAWAII			
1 Matsunaga	Y	N	Y
2 Mink	Y	N	Y
IDAHO			
1 Symms	N	Y	N
2 Hansen (G. HANSEN)	?	?	?
ILLINOIS			
1 Metcalfe	Y	N	Y
2 Murphy, M.	Y	N	Y
3 Hanrahan (RUSSO)	Y	Y	Y
4 Derwinski	Y	Y	Y
5 Kluczynski	Y	X	?
6 Collier (HADE)	Y	N	Y
7 Collins	Y	N	Y
8 Rostenkowski	Y	?	?
9 Yates	Y	N	Y
10 Young (MIKVA)	Y	N	Y
11 Annunzio	Y	N	Y
12 Crane	Y	Y	N
13 McClory	Y	Y	Y
14 Erlenborn	N	Y	Y
15 Arends (HALL)	N	X	?
16 Anderson	Y	N	Y
17 O'Brien	Y	N	Y
18 Michel	Y	N	Y
19 Railsback	Y	N	Y
20 Findley	Y	N	Y
21 Madigan	Y	N	Y
22 Shipley	Y	N	Y
23 Price	Y	N	Y
24 Gray (SIMON)	?	Y	N
INDIANA			
1 Madden	Y	N	Y
2 Landgrebe (FITZIAN)	N	Y	N
3 Brademas	Y	N	Y
4 Roush	Y	N	Y
5 Hillis	Y	?	?
6 Bray (EVANS)	N	Y	N
7 Myers	Y	N	Y
8 Zion (HAYES)	Y	N	Y
9 Hamilton	Y	N	Y
10 Dennis (SHARP)	N	?	?
11 Hudnut (TACOBS)	Y	?	?
IOWA			
1 Mazvinsky	Y	N	Y
2 Culver (BLUIN)	?	?	?
3 Gross (GRASSLEY)	N	Y	N
4 Smith	Y	N	Y

ALABAMA			
1 Edwards	Y	Y	Y
2 Dickinson	?	Y	Y
3 Nichols	Y	N	Y
4 Bevill	N	Y	N
5 Jones	N	?	Y
6 Buchanan	Y	Y	Y
7 Flowers	Y	N	Y
ALASKA			
AL Young	Y	?	?
ARIZONA			
1 Rhodes	Y	Y	N
2 Udall	Y	N	Y
3 Steiger	Y	Y	N
4 Conlan	N	Y	N
ARKANSAS			
1 Alexander	Y	N	N
2 Mills	Y	Y	N
3 Hammer-schmidt	Y	Y	N
4 Thornton	?	N	N
CALIFORNIA			
1 Clausen	Y	N	Y
2 Johnson	Y	Y	N
3 Moss	Y	N	N
4 Leggett	Y	N	Y
5 Burton, P.	?	?	?
6 Burton, J.	Y	N	Y
7 Dellums	Y	N	Y
8 Stark	Y	X	?
9 Edwards	Y	N	Y
10 Gubser (MINETA)	?	Y	N
11 Ryan	Y	?	?
12 Talcott	Y	N	Y
13 Lagomarsino	Y	N	Y
14 Waldie (MILLER)	?	N	Y
15 McFall	Y	N	Y
16 Sisk	Y	?	?
17 McCloskey	Y	N	Y
18 Mathias (KREBS)	Y	N	Y
19 Hollifield	?	?	?
20 Moorhead (WARMAN)	N	Y	Y
21 Hawkins	?	?	?
22 Corman	Y	N	Y
23 Clawson	N	Y	N
24 Rousselot	N	Y	N
25 Wiggins	?	Y	Y
26 Rees	Y	?	?
27 Goldwater	Y	Y	Y
28 Bell	Y	N	Y
29 Danielson	Y	N	Y
30 Roybal	Y	N	Y
31 Wilson	?	N	Y
32 Hosmer (HANNAFORD)	N	Y	N
33 Pettis	Y	X	?
34 Hanna (ATTERSON)	?	?	?
35 Anderson	Y	N	Y
36 Ketchum	N	Y	N
37 Burke	Y	X	?
38 Brown	Y	N	Y
39 Hinshaw	Y	Y	N
40 Wilson	?	Y	Y
41 Van Deertlin	Y	N	Y
42 Burgener (LLOYD)	Y	Y	Y
43 Veysey	Y	Y	Y
COLORADO			
1 Schroeder	Y	N	Y
2 Brotzman (WIRTH)	Y	N	Y
3 Evans	Y	N	Y
4 Johnson	Y	N	Y
5 Armstrong	N	Y	Y

285. HR 11500. Surface Mining. Udall (D Ariz.) motion that the House resolve itself into the committee of the whole (the procedure used to consider amendments to most bills) to resume debate on the bill. Motion agreed to 324-54: R 126-47; D 198-7 (ND 132-1; SD 66-6), July 24, 1974. The President did not take a position on the motion. (Story, p. 1993)

286. HR 11500. Surface Mining. Hosmer (R Calif.) motion to recommit the bill to the Interior and Insular Affairs Committee with instructions to substitute provisions of an alternative bill (HR 12898) imposing less stringent environmental safeguards on surface mining and reclamation programs. Rejected 106-267: R 77-93; D 29-174 (ND 5-134; SD 24-40), July 25, 1974. The President did not take a position on the motion. (Story, p. 1993)

X 287. HR 11500. Surface Mining. Passage of the bill to set federal guidelines for the regulation of surface mining for coal and for the reclamation of land that had been strip mined. Passed 291-81: R 120-50; D 171-31 (ND 132-5; SD 39-26), July 25, 1974. The President did not take a position on the bill. (Story, p. 1993)



Democrats Republicans

THE WHITE HOUSE

WASHINGTON

September 26, 1974

MEMORANDUM FOR: WILLIAM E. TIMMONS
THRU: MAX L. FRIEDERSDORF m.f.
FROM: VERN LOEN VL
SUBJECT: Strip Mining

House-Senate conferees made substantial progress yesterday in the face of recess deadline pressures. Udall is determined to have a bill on the President's desk by October 11. In addition, they are getting very tired of this bill and the environmentalists' pressures.

According to Glenn Schleede, the latest agreements were significant and acceptable to industry as well as Interior. The conference will pick up speed now and we can look for conference report action before the recess. We might even get an acceptable bill out of it.



THE WHITE HOUSE

WASHINGTON

December 3, 1974

MEMORANDUM FOR: WILLIAM E. TIMMONS
THRU: MAX L. FRIEDERSDORF m.6.
FROM: VERN LOEN ✓
SUBJECT: S. 425, Strip Mining Bill

Deadlock on surface owner rights was broken today when Senator Buckley caved in and Senator Bennett Johnston shot through compromise language. They then adopted the conference report with only Reps. Sam Steiger, Happy Camp and Bill Ketchum declining to sign.

Glenn Schleede says there are at least two provisions subject to point of order - the excise tax and unemployment provisions were contained in neither bill. Steiger is prepared to raise them.

It still is a bad bill and veto candidate, Schleede feels - counterproductive by favoring deep mining and discouraging surface mining. Industry is unhappy with it, environmentalists no doubt pleased.

Mo Udall may not be able to get a waiver of points of order from Rules. That committee has closed up for the year unless it receives a letter from the Speaker requesting a rule for "emergency" legislation. Everything else will be put on suspension and, of course, "conference reports may be brought up at any time."

House acts first on CR. It passed House on a 291-81 vote on July 25.

cc: Counsellor Marsh, M. Duval, G. Schleede
T. Korologos, P. O'Donnell, G. Ainsworth

THE WHITE HOUSE

WASHINGTON

December 5, 1974

MEMORANDUM FOR:

WILLIAM E. TIMMONS

THRU:

MAX L. FRIEDERSDORF *M.G.*

FROM:

VERN LOEN *VL*

SUBJECT:

S. 425, Strip Mining Bill

This conference report is now scheduled for House floor action Monday, December 9, under suspension. Apparently Mo Udall has counted noses and feels he can get the necessary two-thirds vote; however, this is a circumvention of House rules. Placing it under suspension is a device to prevent points of order being raised against Sections 401 and 708, as Sam Steiger had intended.

In the event he does not get a two-thirds vote, Udall already has it wired with the Speaker to request a rule waiving all points of order at a meeting of the Rules Committee Tuesday morning. The conference report would be passed that afternoon, possibly in both houses, and the papers hand-delivered to the White House by Wednesday morning with a request for a time-of-acceptance receipt.

Then Congress would be held in session for whatever length of time necessary to avoid a pocket veto. If the bill were vetoed on the final day, they might even wait until Monday, December 23, if necessary, to override a veto (we had only 81 votes against the bill on original passage).

Interior & EPA will support the CR, according to Schleede. OMB, FEA, Schleede and our Hill friends all say veto - let the states regulate. Many already are doing so.

Tom Korologos says Fannin, Brock et al can hold it up a couple days by a mini-filibuster, but they need a clear signal the President will pocket veto. Assumption is the Congress will be more interested in their Christmas recess than in strip mining.

cc: Counsellor Marsh, K. Cole, M. Duval, G. Schleede, F. Zarb,
T. Korologos, P. O'Donnell, G. Ainsworth

44 N

(2)

X 483. S 425. **Strip Mining.** Udall (D Ariz.) motion to suspend the rules and adopt the conference report on the bill to regulate strip mining of coal and the reclamation of mined lands. Motion rejected 212-150: R 55-105; D 157-45 (ND 117-14; SD 40-31), Dec. 9, 1974. A two-thirds majority vote (242 in this case) is required for adoption under suspension of the rules. The President did not take a position on the conference report. (Story, p. 3312)

484. S 2201. **Flood Damage.** Breaux (D La.) motion to suspend the rules and pass the bill to provide \$5-million in relief to Louisiana oyster fishermen. Motion rejected 172-185: R 21-137; D 151-48 (ND 101-30; SD 50-18), Dec. 9, 1974. A two-thirds majority vote (238 in this case) is required for passage under suspension of the rules. The President did not take a position on the bill.

485. S 4040. **Veterans' Pensions.** Dorn (D S.C.) motion to suspend the rules and pass the bill to provide a 12 per cent increase in pension rates for eligible veterans and their survivors. Motion agreed to 357-1: R 156-1; D 201-0 (ND 132-0; SD 69-0), Dec. 9, 1974. A two-thirds majority vote (239 in this case) is required for passage under suspension of the rules. The President did not take a position on the bill.

486. HR 5385. **Surface Transportation.** Matsunaga motion to order the previous question (end further debate and the possibility for amendment) on the rule (H Res 1485) providing for House floor consideration of the bill to grant \$2-billion in federally guaranteed loans for railroads and to make changes in the surface transportation regulatory system. Motion rejected 93-263: R 58-95; D 35-168 (ND 17-118; SD 18-50), Dec. 9, 1974. The President did not take a position on the motion. (The rule was subsequently amended to remove language waiving points of order against HR 7189, a bill allowing shipping between Hawaii and the West Coast to continue for 160 days during dock strikes or lockouts if it were offered as an amendment to HR 5385.)

487. HR 11666. **Asian Development Bank.** Passage of the bill to authorize an increase in the U.S. contribution to the Asian Development Bank. Passed 186-147: R 70-74; D 116-73 (ND 88-35; SD 28-38), Dec. 10, 1974. A "yea" was a vote supporting the President's position.

488. **Health Services Programs.** Adoption of the conference report on the bill to authorize \$1.9-billion in fiscal 1975-76 for health services formula grants to the states, family planning programs, community mental health centers, migrant health centers and community health centers for the medically underserved. Adopted (thus cleared for the President) 372-14: R 160-13; D 212-1 (ND 141-0; SD 71-1), Dec. 10, 1974. The President did not take a position on the conference report. (Story, p. 3314)

489. HR 5385. **Surface Transportation.** Fulton (D Tenn.) amendment to delete a provision of the bill to prevent transportation property from being taxed at a rate higher than other industrial and commercial property, and to substitute language allowing states to classify transportation property as public utility property. Rejected 79-314: R 32-143; D 47-171 (ND 8-136; SD 39-35), Dec. 10, 1974. The President did not take a position on the amendment.

490. HR 5385. **Surface Transportation.** Passage of the bill to provide for \$2-billion in federally guaranteed loans for the nation's railroads and make changes in the surface transportation regulatory system. Passed 377-15: R 163-11; D 214-4 (ND 142-2; SD 72-2), Dec. 10, 1974. A "yea" was a vote supporting the President's position.

		- KEY -											
		Y Voted for (yea). ✓ Paired for. † Announced for. N Voted against (nay). X Paired against. - Announced against. P Voted "present." ● Voted "present" to avoid possible conflict of interest. ? Did not vote or otherwise make a position known.						483 484 485 486 487 488 489 490					
								CONNECTIONICUT					
								1 Catter ✓ ? ? ? ✓ Y N Y					
								2 Steele Dodd Y N Y N N Y N Y					
								3 Graine ✓ ? ? ? ✓ ? ? ?					
								4 McKinney Y N Y N ✓ Y N Y					
								5 Sarasin Y N Y N Y N Y Y					
								6 Grasso Melfew ? ? ? ? ? ? ? ?					
								DELAWARE					
								AL duPont Y N Y N Y Y Y Y					
								FLORIDA					
								1 Sikes Y N Y Y N Y Y Y					
								2 Fuqua Y Y Y N N Y N Y					
								3 Bennett Y Y Y N N Y N N					
								4 Chappell ? ? ? ? X Y Y Y					
								5 Gunter Kelly Y N Y N Y N Y Y					
								6 Young Y N Y N N Y N Y					
								7 Gibbons Y N Y Y Y N Y Y					
								8 Haley Y ? Y N N Y Y Y					
								9 Frey Y N Y N N Y N Y					
								10 Bafalis Y N Y N N Y N Y					
								11 Rogers ✓ ? ? ? X Y N Y					
								12 Burke Y Y Y Y N Y N Y					
								13 Lehman Y Y Y N Y N Y Y					
								14 Pepper Y Y Y N Y N Y Y					
								15 Fascell Y Y N Y N Y N Y					
								GEORGIA					
								1 Ginn Y Y N N Y Y Y Y					
								2 Mathis N Y Y N N Y Y Y					
								3 Brinkley Y Y Y N Y Y Y Y					
								4 Blackburn N N Y N Y Y Y Y					
								5 Young Y Y Y N Y Y Y Y					
								6 Hynt Y Y N N Y Y Y Y					
								7 Davis Y ? ? N Y ? Y ?					
								8 Stuckey Y Y N N Y Y Y Y					
								9 Landrum ? ? ? ? X ? Y Y					
								10 Stephens N Y Y N Y Y Y Y					
								HAWAII					
								1 Matsunaga Y Y Y Y Y N Y Y					
								2 Mink Y ? Y Y Y N Y Y					
								IDAHO					
								1 Symms N N Y Y N N N N					
								2 Hansen N N Y N Y Y N Y					
								ILLINOIS					
								1 Metcalfe Y Y Y N Y Y N Y					
								2 Murphy, M. Y Y Y N N Y N Y					
								3 Hanrahan N Y Y N N Y N Y					
								4 Derwinski N N Y N Y N Y Y					
								5 Kuczyński Y Y N N ? N Y Y					
								6 Collier N N ? Y Y N Y Y					
								7 Collins Y Y N Y Y N Y Y					
								8 Rostenkowski ✓ ? ? ? ✓ Y N Y					
								9 Yates Y Y N Y N Y N Y					
								10 Young Y N Y N Y Y N Y					
								11 Annunzio Y Y N N Y N N Y					
								12 Crane N N Y N N N N N					
								13 McClory Y N Y Y Y N Y Y					
								14 Erlenborn N N Y Y Y N Y Y					
								15 Arends N N Y ? ✓ Y N Y					
								16 Anderson Y N Y N Y ? N Y					
								17 O'Brien Y Y N N Y N Y Y					
								18 Michel N N Y ? Y N Y Y					
								19 Railsback ? ? ? ? ? Y N Y					
								20 Findley N Y Y Y Y N Y Y					
								21 Madigan N ? Y N Y N Y Y					
								22 Shipley ✓ ? ? ? X Y N Y					
								23 Price Y Y N Y N Y N Y					
								24 Gray X ? ? N Y ? ? ?					
								INDIANA					
								1 Madden Y Y Y N Y Y N Y					
								2 Landgrebe N N N Y N N Y N					
								3 Brademas Y ? ? N Y Y N Y					
								4 Roush Y N Y N N Y N Y					
								5 Hillis ? ? ? ? ✓ Y N Y					
								6 Bray N N Y Y N Y N Y					
								7 Myers N N Y Y Y N Y Y					
								8 Zion N N Y Y X ? N Y					
								9 Hamilton Y Y N Y Y N Y Y					
								10 Dennis Y N Y Y Y Y ? ?					
								11 Haganut N N Y N N Y N Y					
								IOWA					
								1 Mezvinsky Y Y Y N Y Y N Y					
								2 Culver Y Y Y N Y Y N Y					
								3 Grass N Y Y N N N N N					
								4 Smith Y Y Y N Y Y N Y					



Democrats Republicans

December 19, 1974

Dear Mr. Rencalle:

Bill Roberts of the White House Press Office has relayed to this office for transmission to the President your comments and the Rocky Mountain News editorial concerning the Strip Mining Control Act.

You may be sure that the President and his energy advisors are grateful for your work in behalf of this measure and your views will be taken into consideration in the final decision.

With best wishes, I am

Sincerely yours,

Vernon C. Loeb
Special Assistant to
the President

Honorable Tom Rencalle
House of Representatives
Washington, D. C. 20515

VCL:ncb
bcc: Bill Roberts FYI



FOR IMMEDIATE RELEASE

DECEMBER 30, 1974

Office of the White House Press Secretary
(Vail, Colorado)

THE WHITE HOUSE
MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 425, the Surface Mining Control and Reclamation Act of 1974.

S. 425 would establish Federal standards for the environmental protection and reclamation of surface coal mining operations, including the reclamation of orphaned lands. Under a complex procedural framework, the bill would encourage the States to implement and enforce a program for the regulation of surface coal mining with substitution of a federally administered program if the States do not act.

The Executive Branch submitted to both the 92nd and 93rd Congresses legislation that would have established reasonable and effective reclamation and environmental protection requirements for mining activities. Throughout this period, the Administration made every effort in working with the Congress to produce a bill that would strike the delicate balance between our desire for reclamation and environmental protection and our need to increase coal production in the United States.

Unfortunately, S. 425, as enrolled, would have an adverse impact on our domestic coal production which is unacceptable. By 1977, the first year after the Act would take full effect, the Federal Energy Administration has estimated that coal production losses would range from a minimum of 43 million tons to a maximum of 141 million tons. In addition, further losses which cannot be quantified could result from ambiguities in the bill, forcing protracted regulatory disputes and litigation. In my judgment, the most significant reasons why such coal losses cannot be accepted are as follows:

1. Coal is the one abundant energy source over which the United States has total control. We should not unduly impair our ability to use it properly.
2. We are engaged in a major review of national energy policies. Unnecessary restrictions on coal production would limit our Nation's freedom to adopt the best energy options.
3. The United States uses the equivalent of 4 barrels of expensive foreign oil for every ton of unproduced domestic coal -- a situation which cannot long be tolerated without continued, serious economic consequences. This bill would exacerbate this problem.
4. Unemployment would increase in both the coal fields and in those industries unable to obtain alternative fuel.

In addition, S. 425 provides for excessive Federal expenditures and would clearly have an inflationary impact on the economy. Moreover, it contains numerous other deficiencies which have recently been addressed in Executive Branch communications to the Congress concerning this legislation.

In sum, I find that the adverse impact of this bill on our domestic coal production is unacceptable at a time when the Nation can ill afford significant losses from this critical energy resource. It would also further complicate our battle against inflation. Accordingly, I am withholding my approval from S. 425.

In doing so, I am truly disappointed and sympathetic with those in Congress who have labored so hard to come up with a good bill. We must continue to strive diligently to ensure that laws and regulations are in effect which establish environmental protection and reclamation requirements appropriately balanced against the Nation's need for increased coal production. This will continue to be my Administration's goal in the new year.

GERALD R. FORD

THE WHITE HOUSE
December 30, 1974

THE WHITE HOUSE

WASHINGTON

January 14, 1975

MEMORANDUM FOR:

MAX FRIEDERSDORF

THRU:

VERN LOEN

FROM:

CHARLES LEPPERT, JR. *CLJ.*

SUBJECT:

Miscellaneous Matters

1. Ted Kazy of the House Post Office and Civil Service Committee anticipates that Bill Irvine, former staff member of the same committee will be proposed as a nominee for the Board of Governors of the Post Office Department with strong support from the Hill.
2. Conferred with Rep. Mo. Udall today and he stated that he had introduced the strip mining bill as passed by the House in the closing days of the 93rd Congress (S. 425 Conference Report). I asked Mo to let us work with him on that bill and correct some of the problems. Udall stated he would be happy to work with the Administration but also stated if he made a deal it had to be a deal and not one which the Administration could back out of or walk away from at any time.

THE WHITE HOUSE

WASHINGTON

January 16, 1975

MEMORANDUM FOR:

JIM CAVANAUGH
MIKE DUVAL
GLENN SCHLEEDE

THRU:

MAX FRIEDERSDORF *M.G.*
VERN LOEN *VL*

FROM:

CHARLIE LEPPERT *Ch.*

SUBJECT:

Strip Mining Legislation - 94th Congress

On January 14, 1975, I spoke with Rep. Mo Udall. He informed me that he had introduced the strip mining bill as reported by the Conference Committee and passed in the 93rd Congress. The House bill number is H. R. 25.

I asked Mo to let us work with him on the legislation. Mo stated that he would be happy to work with the Administration but that any deals would have to be ones which the Administration could not walk away from at any time.

cc: Bennett



To:
Charlie

THE WHITE HOUSE
WASHINGTON

January 14, 1975

MEMORANDUM FOR:

MAX FRIEDERSDORF

THRU:

VERN LOEN VL

FROM:

CHARLES LEPPERT, JR. CLJ.

SUBJECT:

Miscellaneous Matters

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Good. Would you pls. pass
this info on strip mining to
Jim Cavanaugh, Mike Dwell,
+ Glenn Dehede? Thanks

may



THE WHITE HOUSE
WASHINGTON

January 20, 1975

MEMORANDUM FOR: MIKE DUVAL
GLENN SCHLEEDE

THRU: MAX FRIEDERSDORF
VERN LOEN

FROM: CHARLIE LEPPERT *CL*

SUBJECT: Strip Mining bill (H. R. 25)

Attached for your use is H. R. 25 the strip mining bill as introduced by Udall et al.

Udall and Mink are prepared to ask Haley and the Full House Interior Committee to hold the Strip Mining bill in the Full Committee, and conduct three days of hearings with one day each for witnesses from the Administration, the environmentalists and industry, and then mark it up and report it to the House.

Udall and Mink feel that there is no need to take a great deal of time with the strip mining bill because the make up of the Interior Committee is much the same in Membership as in the 93rd and therefore the Committee Members will not want to drag the bill out through extensive hearings again in subcommittee.

I think the Udall-Mink strategy will be successful and I would expect the strip mining bill to be ready for action on the House floor in late February or early March, 1975.

I recommend that the Administration submit legislation to the Congress. If we do not we are going to be criticized for the veto in the 93rd on the basis that the Administration did not know what they wanted or understand the bill passed. Secondly, it is imperative in my judgement that the Administration take a position so we are not criticized for not having a position on such an important energy measure. I want to emphasize as strongly as I can the importance of the Administration sending a strip mining bill to the Congress as the Administration position on such a landmark energy measure.

cc: Bennett



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JAN 24 1975

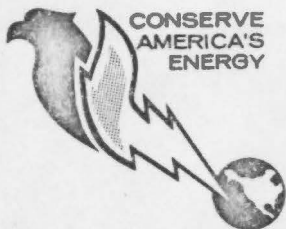
Dear Mr. Chairman:

The Administration and this Department have long sought legislation which would establish reasonable and effective reclamation and environmental protection requirements for surface mining activities. We submitted to the 93d Congress legislation which would have accomplished this, but which would not have contributed materially to inflation nor have impaired our ability to meet the Nation's energy needs. I deeply regret that the 93d Congress failed to pass a surface mining reclamation bill which the President could approve. Nevertheless, we will continue to support legislation which will adequately safeguard the environment but under which the annual loss of production would be tolerable.

While we must wait for the passage of such legislation to authorize the regulation of surface mining on private lands, the Department believes it imperative not to delay any longer the specification of standards for such operations on the public lands. It is urgent to act now to exercise that responsibility for preserving and developing our national lands in keeping with the trust we hold for future generations.

Therefore, I have directed an interim revision of operating regulations for the surface mining of coal on public lands to be published in the Federal Register with a 30 day period for public comment. So far as it is possible under existing leasing laws, these revisions will require operators on Federal lands to reclaim the mined land in substantially the same manner as would standards which we will support in the 94th Congress.

It is our hope that by expressly establishing performance standards for mining and reclamation to be enforced for coal surface mining on the public lands, we will encourage the use of those rich deposits by lease owners who have previously been reluctant to develop them without a more specific understanding of their obligations and attendant costs.



Save Energy and You Serve America!



We share with the Congress an awareness that our land is a finite resource which we cannot afford to waste. We are hopeful that this action will conserve and protect this precious resource, and balance in a positive and reasonable way this Nation's environmental, economic and energy requirements.

Sincerely yours,

Rogers Morton
Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C.



THE WHITE HOUSE

WASHINGTON

January 28, 1975

MEMORANDUM FOR:

MAX FRIEDERSDORF

THRU:

VERN LOEN VL

FROM:

CHARLIE LEPPERT *CL*

SUBJECT:

Strip Mining, Land Use, and Energy

Conferred with Sam Steiger on January 27, 1975. Steiger states that he knows they are "going to eat" a strip mining bill this year. Nonetheless he wants to make a decent fight over it and suggests strongly that the Administration have its bill to the Congress not later than February 3.

On land use legislation Steiger recognizes that this is an Administration priority. However, Steiger states that he is certain that he has a 60-40 chance to defeat any land use bill in this session.

Steiger says that Dan Kuykendall and Dave Towell are organizing a group and raising money to put on an intensive campaign to defeat any land use bill.

Steiger wants an energy briefing from Zarb to get the overall rationale for the energy program. Steiger is well regarded by the energy community, particularly AMC etc. I have asked FEA to give me some time when Zarb can meet with Steiger and Jim Broyhill of North Carolina.

cc: Bennett

THE WHITE HOUSE

WASHINGTON

February 3, 1975

MEMORANDUM FOR:

JACK MARSH
MAX FRIEDERSDORF *M. f.*

THRU:

VERN LOEN

FROM:

CHARLIE LEPPERT *CL.*

SUBJECT:

Strip Mining Bill

The House Interior Committee passed by a vote of 18 yeas, 10 nays and 1 present, the Meeds motion to provide that the Full House Interior Committee schedule two (2) days of public statements by the Administration in support of its position and recommendations on a strip mining bill.

The Committee will have before it H. R. 25 (S. 425 as passed the 93rd Congress and vetoed) for consideration and mark up. The Meeds motion also provided that the House Interior Committee report out the Strip Mining bill by February 27th.

The above information has been passed on to Glenn Schleede. Schleede advises that a strip mining bill will be transmitted to the Congress by Presidential letter with negotiations on the bill to be conducted by Secretary Morton and Leppert.

Do you agree with direct White House involvement in the negotiations?

APPROVE _____ DISAPPROVE _____

Schleede requests to be advised of your decision on the direct involvement of the White House in negotiations with the Hill on this bill.

cc: Bennett

Dates for hearings now scheduled for Feb. 18 + 20, 1975.

I think Roy Morton should have lead on this. - Max f.

THE WHITE HOUSE
WASHINGTON

February 3, 1975

MEMORANDUM FOR:

JACK MARSH
MAX FRIEDERSDORF *M. f.*

THRU:

VERN LOEN

FROM:

CHARLIE LEPPERT *CL.*

SUBJECT:

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cc: Bennett

Dates for hearings now scheduled for Feb. 18 + 20, 1975.

I think Roy Morton should have lead on this. - Max f.

February 3, 1975

Strip Mining

Dear Dennis:

Thank you for the copy of Mr. Rhodes letter to Secretary Morton and Administrators Train and Zarb.

You have clearly stated the need for unified and expeditious action by the Administration. We shall do our best to cooperate.

Sincerely,

Charles Leppert, Jr.
Special Assistant for
Legislative Affairs

Mr. Dennis Taylor
Legislative Counsel
Office of the Minority Leader
The Capitol
Washington, D. C. 20515



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ALMA A. ALKIRE
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ROBERT J. SCANLAN

Office of the Minority Leader
United States House of Representatives
Washington, D.C. 20515

H-232, THE CAPITOL
WASHINGTON, D.C. 20515

JOHN J. WILLIAMS
DENNIS J. TAYLOR
J. BRIAN SMITH
CLARA POSEY

January 24, 1975 JAN 31 1975

The Honorable Rogers C. B. Morton
Secretary
Department of the Interior
Washington, D. C. 20240


Dear Mr. Secretary:

The Democratic Leadership has indicated that strip mining legislation will be given priority consideration in the House Interior Committee and for scheduling for Floor action. Congressman Udall and over 100 cosponsors have introduced H.R. 25, identical to the bill vetoed by President Ford last Congress.

President Ford's statement on strip mining in the State of the Union Message clearly indicates he would sign a revised bill. In light of the announced Democratic intention to go ahead with H.R. 25, it is imperative that the Administration develop a unified position and draft acceptable legislation on strip mining.

I urge you and your colleagues to maximize the Administration's input on this legislation at the earliest stages of hearings and markup. The Republican Members of the House Interior Committee are eager to work with you in introducing and securing passage of strip mining legislation acceptable to the President.

Sincerely,


John J. Rhodes, M. C.
Minority Leader

JJR/tp

cc: The Honorable Frank G. Zarb
The Honorable Russell E. Train