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## 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.

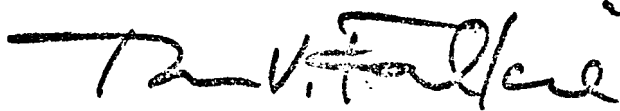
There will be additional but presently unquantifiable adverse effects resulting from delays in production and other inhibiting factors that will develop as the bill is implemented. These include, for instance, litigation delays, restrictive interpretations of other ambiguous language, the costs of obtaining 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%</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>	<u>17.9-73.4</u>



## 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.



Stallion

Interior Paper to Pres. on cost estimates  
- Enrolled bill process re Strip Mining bill

Metcalf has copy of another paper

Jim Frey OMB

Don <sup>Crabill</sup> ~~Krabille~~ OMB.

John Hill (FEA)

Raymond Peck (Interior)

Tom Falke





5:15 p.m.

Friday, April 18

(The call was from Glen Schleede) Schleede has talked with Lazarus. With regard to the Strip Mining Legislation, I just received a call from the Domestic Council suggesting a fourth option. This option would be to first have a meeting with the President, followed by a public statement (or letter to the conferees) by Frank Zarb which expresses serious concerns about the strip mining legislation. He would cite the kinds of problems and data reflected in Tab D of the memo. This would be intended to put additional public pressure on the conference. This action would be followed on Tuesday or Wednesday but a Zarb visit with the conferees and an attempt to negotiate a more acceptable bill. The attempt would be to keep the President's options open to either veto or sign the bill.

He's under the gun to get this in to the President by the time he returns tomorrow.

*Called Schleede  
9 concurred in  
4th option. 4/19*

*P.  
Return this to Ken  
with this note  
P.*



THE WHITE HOUSE

WASHINGTON

April 17, 1975

MEMORANDUM FOR:

✓ PHIL BUCHEN  
MAX FRIEDERSDORF  
ALAN GREENSPAN  
JACK MARSH  
BILL SEIDMAN

FROM:

JIM CANNON *Jim*

SUBJECT:

STRIP MINING LEGISLATION

We believe it is important to bring the President up to date on the status of this legislation and to obtain his decision on possible additional steps to influence the legislation.

May we have by noon on Friday, April 18, your comments on the attached draft memorandum and your choice among the alternatives.

We are also obtaining comments and votes from Rog Morton, Frank Zarb, Russ Train, Bill Simon and Russ Peterson.

Attachment

cc: Jim Lynn

*Buchen in favor  
of Alternative 2*



TAB A



SUBJECT: Strip Mining Legislation

House-Senate Conferees began meeting on the strip mining bills on Wednesday, April 16, with attention to major issues expected on April 23. Agreement on a bill now appears likely during the week of April 28.

This memorandum is to: (a) report on the House and Senate bills, (b) comment on the outlook for Conference actions, and (c) seek your decision as to whether additional steps should be taken to influence the Conference or to posture the Administration for acceptance or veto of the bill.

THE BILLS PASSED BY THE SENATE (84-13) AND HOUSE (333-86)

Changes from last year's bill. Your February 6, 1975, letter (copy at Tab A) which transmitted the Administration's bill indicated that eight changes were "critical to overcome objections" which led to your veto, and that additional changes were needed to reduce unnecessary production impact and make the bill more effective and workable.

The table at Tab B shows the results of House and Senate action. Briefly, it shows that:

- Three serious new problems were created in one house or the other. All three affect the potential for Western coal development by locking up reserves and reducing expected production. They involve:
- Making Federal coal lands subject to State law and regulation, including bans on mining.
  - Restrictions on mining of alluvial valley floors.
  - Establishing a precedent in Federal law with respect to water rights by requiring that a mining permit applicant demonstrate ability to replace interrupted water supplies.



Of the eight critical changes:

- None were fully adopted by both houses.
- Two were partially adopted by both houses:
  - . Partial lifting of prohibition on sediment increases.
  - . Modified restrictions on location of impoundments (dams)
- Two were fully adopted by one house:
  - . Narrowing of citizen suits.
  - . Eliminating special unemployment provisions.
- Three were partially adopted or partially covered in report language in one house:
  - . Restriction on impacting hydrologic balance.
  - . Authority to define ambiguous terms.
  - . Reducing the tax on coal for a reclamation fund -- (but the permissible uses of the fund were broadened).
- One change -- to permit mining on national forest lands under certain conditions -- was specifically rejected by both houses.

Of the nineteen other changes requested, (a) four were fully accepted and one partially accepted in both houses, (c) three were partially accepted in one house, (d) seven were rejected in both houses, and (e) two were made worse in one house.

Impact of the bills on coal production and reserves, unemployment, inflation. Your February 8, 1975, letter indicated that changes from last year's bill were necessary to avoid unnecessary loss of coal production (and the resulting need to rely on oil imports), reduce ambiguities in the bill, avoid inflationary impact, and correct other deficiencies. Accessibility of reserves also requires attention because of House changes with respect to alluvial valley floors. Interior and FEA have estimated the impact on these factors which are summarized below and provided in more detail at Tab C:

	<u>S. 7</u>	<u>H.R. 25</u>
<u>Loss of coal production in the 1st full year of application, not including potential impact of delays from litigation or restrictive interpretations of ambiguous provisions:</u>		
- in <u>millions</u> of tons - - - -	40-162	62-162
- as % of expected 1977 production	5% to 22%	8% to 22%
By way of contrast, the vetoed bill involved a potential production loss of 48-141 million tons and the Administration's bill could reduce expected production by 33-80 million tons.		
<u>Lock-up of Coal Reserves,</u>		
<u>principally because of restrictions on mining in alluvial valley floors:</u>		
- in billions of tons - - - -	12-72	
- as % of demonstrated surface-mineable reserve of 137 billion tons - - - - -	9% to 53%	24% to 53%



· <u>Increased Oil Imports</u> , assuming 80% of lost coal production is replaced by oil.		
- <u>millions of barrels per year</u>	138-559	215-559
- <u>dollar value - billions</u>	\$1.5 to \$6.1	\$2.4 to \$6.1
· <u>Job Losses</u> - direct and indirect	9,000 to 36,000	14,000 to 36,000
· <u>Inflationary Impact</u> - in addition to higher cost foreign oil would include (in millions)		
- Fee for reclamation fund	\$130	\$204
- Higher production and reclamation costs	\$171	\$171
- Federal & State Program Administration	<del>\$100</del> \$110 to \$160	<del>\$135</del> \$100 to \$160

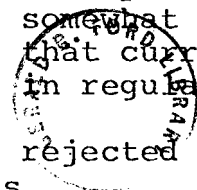
THE CONFERENCE

Schedule and Actions Taken by the Administration.

Work on controversial issues is expected to begin on April 23. Committee minority staff believe that Democratic conferees have already reached essential agreement and the Conference will be completed quickly. A number of the changes requested in your letter will not be subject to Conference. Detailed position papers outlining Administration position and rationale have been prepared for 29 specific issues which will be subject to Conference action. These papers have been provided to Senator Fannin, Congressman Steiger and other minority conferees. If the positions in these papers are adopted, the estimated adverse effects will be reduced.

Prediction. It is too early to predict the outcome with any certainty, but our current estimate with respect to "critical" changes and new problems are that:

- Problems involving alluvial valley floors, State control over Federal lands, and water rights will be mitigated somewhat but will remain serious.
- The Administration position probably will not be adopted with respect to citizen suits or special unemployment provisions.
- Changes or report language will be adopted to (a) reduce the effect of restrictions on siltation, hydrologic impact, and impoundments; (b) reduce somewhat the excise tax on coal; and (c) indicate that current law permits defining ambiguous terms in regulations.
- The Administration position has been rejected with respect to mining in national forests.



The net result probably will be a bill that is very similar in acceptability to last year's bill. However, the conferees could vote out a bill that would be either significantly better or worse.

#### IMPACT OF THE MINERS' DEMONSTRATION

The miners' demonstration last week apparently had several objectives, including (a) highlighting the impact\* on small mine operators in Appalachia of steep slope restrictions and permit applications, (b) emphasize expected unemployment, (c) point out that most States have adopted strip mining controls since the bill was first proposed in 1971, (d) urge you to veto the bill, and (e) urge those favoring the bill in the past to vote to sustain a veto. The Congressional relations staff believe it is too early to assess the impact of the demonstration but they note that it apparently has impressed some members from Appalachian states. The demonstration was sponsored by small mine operators and was neither supported nor opposed by large coal mining companies.

#### OVERALL OUTLOOK FOR THE BILL

There continues to be strong national sympathy for the bill particularly among environmentalists and among people who are not directly affected. Supporters of the bill are contending that its impacts on production, unemployment, etc., are grossly overstated. The inconsistency between the bill and the goal for increased coal production is not widely perceived.

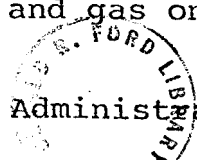
Congressman Burton is a strong proponent of the bill and it is likely that the Democratic caucus will continue to support passage of a rigorous, environmentally oriented bill.

At present, the Congressional Relations staff believes it will be very difficult to sustain a veto.

#### CUMULATIVE EFFECT OF NEGATIVE ENVIRONMENTAL DECISIONS

In reaching your position on surface mining legislation, you may want to consider a cumulative impact of a number of your decisions affecting environmental concerns that have been offensive to the large number of people in the country who want to improve the environment. These include last year's surface mining bill, clean air amendments, the Interior Secretary appointment, the land use legislation issue, and moves involving leasing and development of oil and gas on the OCS and coal in the West.

\*which would be essentially the same under the Administration's bill.



ISSUE FOR DECISION

Should additional actions be taken by the Administration to try to improve the bill in conference or to posture the Administration for acceptance or veto?

Alt. #1: A conciliatory attempt now to influence the Conference. Review the bills personally with Morton, Zarb and Train and obtain agreement on a very small number of desirable changes that would be sought in a "last ditch" attempt to influence the bill and cut losses. Approach conferees either through:  
A. Personal contact by the three principals; or  
B. A Presidential letter with a concilliatory tone. Either approach should be followed with detailed negotiations--preferably by a principal who is authorized to commit you to accept a bill if the conferees make concessions.

Pro

- . Best approach for taking advtage of any flexibility that the conferees may be willing to exercise(e.g., small changes in report language).
- . Positions the Administration to accept a bill that it probably will get anyway.

Con

- . May be construed as caving in, thus weakening further chances of getting changes in undesirable features of the bill.
- . To the extent changes are accepted, narrows the basis for veto.

Alt. #2: A hard line attempt now to influence the Conference. Dispatch a Presidential letter to the Conferees which (a) continues position in February 6 letter; (b) reiterates changes needed to avoid a veto; and (c) lays out the best possible case for concerns about the bill. A draft letter is enclosed at Tab D. (This draft should give the basis for evaluating the strength of the opposition case--in terms of impact on the public and Congress--if a veto is decided.)





Pro

- . Makes clear your resolve to continue pushing for a better bill.
- . Attracts attention to issues and may influence some conferees to improve the bill.
- . Provides a rallying point for opponents of undesirable features of the bill.

Con

- . Unlikely to have much impact on the bill.
- . Reduces options for accepting the bill when it passes.
- . Using arguments against the bill now may weaken their impact later, if a veto is decided, and provide more time for counterarguments.

- Alt. #3: Make no significant moves now. Continue current work with Conferees, maintaining position in February 6 letter. Immediately assess results of conference and decide then whether to:
- A. begin posturing to accept or veto the bill through an announcement of your intentions before floor votes; or
  - B. wait for final Congressional action before deciding acceptance or veto.

Pro

- . Additional action now is unlikely to affect the Conference bill.
- . Keeps options open to accept or veto the bill.

Con

- . Passes up the last opportunity to influence contents of the bill -- short of a sustained veto.
- . Passes up an opportunity to begin positioning to accept the bill or to sway marginal votes against undesirable features of the bill.

RECOMMENDATIONS AND DECISION

\_\_\_\_\_ Alt. #1. A conciliatory attempt now to influence the Conference.

\_\_\_\_\_ Alt. #2. A hard line attempt now to influence the Conference.

\_\_\_\_\_ Alt. #3. Make no significant moves now.



THE WHITE HOUSE

WASHINGTON

February 6, 1975

Dear Mr. Speaker:

Our Nation is faced with the need to find the right balance among a number of very desirable national objectives. We must find the right balance because we simply cannot achieve all desirable objectives at once.

In the case of legislation governing surface coal mining activities, we must strike a balance between our desire for environmental protection and our need to increase domestic coal production. This consideration has taken on added significance over the past few months. It has become clear that our abundant domestic reserves of coal must become a growing part of our Nation's drive for energy independence.

Last December, I concluded that it would not be in the Nation's best interests for me to approve the surface coal mining bill which passed the 93rd Congress as S. 425. That bill would have:

- . Caused excessive coal production losses, including losses that are not necessary to achieve reasonable environmental protection and reclamation requirements. The Federal Energy Administration estimated that the bill, during its first full year of operation would reduce coal production between 48 and 141 million tons, or approximately 6 to 18 percent of the expected production. Additional losses could result which cannot be quantified because of ambiguities in the bill. Losses of coal production are particularly important because each lost ton of coal can mean importing four additional barrels of foreign oil.



- . Caused inflationary impacts because of increased coal costs and Federal expenditures for activities which, however desirable, are not necessary at this time.
- . Failed to correct other deficiencies that had been pointed out in executive branch communications concerning the bill.

The energy program that I outlined in my State of the Union Message contemplates the doubling of our Nation's coal production by 1985. Within the next ten years, my program envisions opening 250 major new coal mines, the majority of which must be surface mines, and the construction of approximately 150 new coal fired electric generating plants. I believe that we can achieve these goals and still meet reasonable environmental protection standards.

I have again reviewed S. 425 as it passed the 93rd Congress (which has been reintroduced in the 94th Congress as S. 7 and H.R. 25) to identify those provisions of the bill where changes are critical to overcome the objections which led to my disapproval last December. I have also identified a number of provisions of the bill where changes are needed to reduce further the potential for unnecessary production impact and to make the legislation more workable and effective. These few but important changes will go a long way toward achieving precise and balanced legislation. The changes are summarized in the first enclosure to this letter and are incorporated in the enclosed draft bill.

With the exception of the changes described in the first enclosure, the bill follows S. 425.



I believe that surface mining legislation must be reconsidered in the context of our current national needs. I urge the Congress to consider the enclosed bill carefully and pass it promptly.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald R. Ford". The signature is written in dark ink and is positioned above the typed name and address.

The Honorable  
The Speaker  
U.S. House of Representatives  
Washington, D.C. 20515



SUMMARY OF PRINCIPAL CHANGES FROM S. 425 (S. 7 and H.R. 25)  
INCORPORATED IN THE ADMINISTRATION'S  
SURFACE MINING BILL

The Administration bill follows the basic framework of S. 425 in establishing Federal standards for the environmental protection and reclamation of surface coal mining operations. Briefly, the Administration bill, like S. 425:

- covers all coal surface mining operations and surface effects of underground coal mining;
- establishes minimum nationwide reclamation standards;
- places primary regulatory responsibility with the States with Federal backup in cases where the States fail to act;
- creates a reclamation program for previously mined lands abandoned without reclamation;
- establishes reclamation standards on Federal lands.

Changes from S. 425 which have been incorporated in the Administration bill are summarized below.

Critical changes.

1. Citizen suits. S. 425 would allow citizen suits against any person for a "violation of the provisions of this Act." This could undermine the integrity of the bill's permit mechanism and could lead to mine-by-mine litigation of virtually every ambiguous aspect of the bill even if an operation is in full compliance with existing regulations, standards and permits. This is unnecessary and could lead to production delays or curtailments. Citizen suits are retained in the Administration bill, but are modified (consistent with other environmental legislation) to provide for suits against (1) the regulatory agency to enforce the act, and (2) mine operators where violations of regulations or permits are alleged.



2. Stream siltation. S. 425 would prohibit increased stream siltation -- a requirement which would be extremely difficult or impossible to meet and thus could preclude mining activities. In the Administration's bill, this prohibition is modified to require the maximum practicable limitation on siltation.
3. Hydrologic disturbances. S. 425 would establish absolute requirements to preserve the hydrologic integrity of alluvial valley floors -- and prevent offsite hydrologic disturbances. Both requirements would be impossible to meet, are unnecessary for reasonable environmental protection and could preclude most mining activities. In the Administration's bill, this provision is modified to require that any such disturbances be prevented to the maximum extent practicable so that there will be a balance between environmental protection and the need for coal production.
4. Ambiguous terms. In the case of S. 425, there is great potential for court interpretations of ambiguous provisions which could lead to unnecessary or unanticipated adverse production impact. The Administration's bill provides explicit authority for the Secretary to define ambiguous terms so as to clarify the regulatory process and minimize delays due to litigation.
5. Abandoned land reclamation fund. S. 425 would establish a tax of 35¢ per ton for underground mined coal and 25¢ per ton for surface mined coal to create a fund for reclaiming previously mined lands that have been abandoned without being reclaimed, and for other purposes. This tax is unnecessarily high to finance needed reclamation. The Administration bill would set the tax at 10¢ per ton for all coal, providing over \$1 billion over ten years which should be ample to reclaim that abandoned coal mined land in need of reclamation.

Under S. 425 funds accrued from the tax on coal could be used by the Federal government (1) for financing construction of roads, utilities, and public buildings on reclaimed mined lands, and (2) for distribution to States to finance roads, utilities and public buildings in any area where coal mining activity is expanding. This provision needlessly duplicates other Federal, State and local programs, and establishes eligibility for Federal grant funding in a situation where facilities are normally financed by local or State borrowing. The need for such funding, including the new grant program, has not been established. The Administration bill does not provide authority for funding facilities.

LIBRARY

6. Impoundments. S. 425 could prohibit or unduly restrict the use of most new or existing impoundments, even though constructed to adequate safety standards. In the Administration's bill, the provisions on location of impoundments have been modified to permit their use where safety standards are met.
7. National forests. S. 425 would prohibit mining in the national forests -- a prohibition which is inconsistent with multiple use principles and which could unnecessarily lock up 7 billion tons of coal reserves (approximately 30% of the uncommitted Federal surface-minable coal in the contiguous States). In the Administration bill, this provision is modified to permit the Agriculture Secretary to waive the restriction in specific areas when multiple resource analysis indicates that such mining would be in the public interest.
8. Special unemployment provisions. The unemployment provision of S. 425 (1) would cause unfair discrimination among classes of unemployed persons, (2) would be difficult to administer, and (3) would set unacceptable precedents including unlimited benefit terms, and weak labor force attachment requirements. This provision of S. 425 is inconsistent with P.L. 93-567 and P.L. 93-572 which were signed into law on December 31, 1974, and which significantly broaden and lengthen general unemployment assistance. The Administration's bill does not include a special unemployment provision.

Other Important Changes. In addition to the critical changes from S. 425, listed above, there are a number of provisions which should be modified to reduce adverse production impact, establish a more workable reclamation and enforcement program, eliminate uncertainties, avoid unnecessary Federal expenditures and Federal displacement of State enforcement activity, and solve selected other problems.

1. Antidegradation. S. 425 contains a provision which, if literally interpreted by the courts, could lead to a non-degradation standard (similar to that experienced with the Clean Air Act) far beyond the environmental and reclamation requirements of the bill. This could lead to production delays and disruption. Changes are included in the Administration bill to overcome this problem.



2. Reclamation fund. S. 425 would authorize the use of funds to assist private landowners in reclaiming their lands mined in past years. Such a program would result in windfall gains to the private landowners who would maintain title to their lands while having them reclaimed at Federal expense. The Administration bill deletes this provision.
3. Interim program timing. Under S. 425, mining operations could be forced to close down simply because the regulatory authority had not completed action on a mining permit, through no fault of the operator. The Administration bill modifies the timing requirements of the interim program to minimize unnecessary delays and production losses.
4. Federal preemption. The Federal interim program role provided in S. 425 could (1) lead to unnecessary Federal preemption, displacement or duplication of State regulatory activities, and (2) discourage States from assuming an active permanent regulatory role, thus leaving such functions to the Federal government. During the past few years, nearly all major coal mining States have improved their surface mining laws, regulations and enforcement activities. In the Administration bill, this requirement is revised to limit the Federal enforcement role during the interim program to situations where a violation creates an imminent danger to public health and safety or significant environmental harm.
5. Surface owner consent. The requirement in S. 425 for surface owner's consent would substantially modify existing law by transferring to the surface owner coal rights that presently reside with the Federal government. S. 425 would give the surface owner the right to "veto" the mining of Federally owned coal or possibly enable him to realize a substantial windfall. In addition, S. 425 leaves unclear the rights of prospectors under existing law. The Administration is opposed to any provision which could (1) result in a lock up of coal reserves through surface owner veto or (2) lead to windfalls. In the Administration's bill surface owner and prospector rights would continue as provided in existing law.
6. Federal lands. S. 425 would set an undesirable precedent by providing for State control over mining of Federally owned coal on Federal lands. In the Administration's bill, Federal regulations governing such activities would not be preempted by State regulations.





7. Research centers. S. 425 would provide additional funding authorization for mining research centers through a formula grant program for existing schools of mining. This provision establishes an unnecessary new spending program, duplicates existing authorities for conduct of research, and could fragment existing research efforts already supported by the Federal government. The provision is deleted in the Administration bill.
8. Prohibition on mining in alluvial valley floors. S. 425 would extend the prohibition on surface mining involving alluvial valley floors to areas that have the potential for farming or ranching. This is an unnecessary prohibition which could close some existing mines and which would lock up significant coal reserves. In the Administration's bill reclamation of such areas would be required, making the prohibition unnecessary.
9. Potential moratorium on issuing mining permits. S. 425 provides for (1) a ban on the mining of lands under study for designation as unsuitable for coal mining, and (2) an automatic ban whenever such a study is requested by anyone. The Administration's bill modifies these provisions to insure expeditious consideration of proposals for designating lands unsuitable for surface coal mining and to insure that the requirement for review of Federal lands will not trigger such a ban.
10. Hydrologic data. Under S. 425, an applicant would have to provide hydrologic data even where the data are already available -- a potentially serious and unnecessary workload for small miners. The Administration's bill authorizes the regulatory authority to waive the requirement, in whole or in part, when the data are already available.
11. Variances. S. 425 would not give the regulatory authority adequate flexibility to grant variances from the lengthy and detailed performance specifications. The Administration's bill would allow limited variances -- with strict environmental safeguards -- to achieve specific post-mining land uses and to accommodate equipment shortages during the interim program.
12. Permit fee. The requirement in S. 425 for payment of the mining fee before operations begin could impose a large "front end" cost which could unnecessarily prevent some mine openings or force some operators out of business. In the Administration's bill, the regulatory authority would have the authority to extend the fee over several years.

13. Preferential contracting. S. 425 would require that special preference be given in reclamation contracts to operators who lose their jobs because of the bill. Such hiring should be based solely on an operators reclamation capability. The provision does not appear in the Administration's bill.
14. Any Class of buyer. S. 425 would require that lessees of Federal coal not refuse to sell coal to any class of buyer. This could interfere unnecessarily with both planned and existing coal mining operations, particularly in integrated facilities. This provision is not included in the Administration's bill.
15. Contract authority. S. 425 would provide contract authority rather than authorizing appropriations for Federal costs in administering the legislation. This is unnecessary and inconsistent with the thrust of the Congressional Budget Reform and Impoundment Control Act. In the Administration's bill, such costs would be financed through appropriations.
16. Indian lands. S. 425 could be construed to require the Secretary of the Interior to regulate coal mining on non-Federal Indian lands. In the Administration bill, the definition of Indian lands is modified to eliminate this possibility.
17. Interest charge. S. 425 would not provide a reasonable level of interest charged on unpaid penalties. The Administration's bill provides for an interest charge based on Treasury rates so as to assure a sufficient incentive for prompt payment of penalties.
18. Prohibition on mining within 500 feet of an active mine. This prohibition in S. 425 would unnecessarily restrict recovery of substantial coal resources even when mining of the areas would be the best possible use of the areas involved. Under the Administration's bill, mining would be allowed in such areas as long as it can be done safely.
19. Haul roads. Requirements of S. 425 could preclude some mine operators from moving their coal to market by preventing the connection of haul roads to public roads. The Administration's bill would modify this provision.

The attached listing shows the sections of S. 425 (or S. H.R. 25) which are affected by the above changes.



LISTING OF PRINCIPAL PROVISIONS IN S. 425 (S. 7 and H.R. 25)  
 THAT ARE CHANGED IN THE ADMINISTRATION'S BILL

Subject	Title or Section S.425,S.7,H.R.25	Administration Bill
<u>Critical Changes</u>		
1. Clarify and limit the scope of citizens suits	520	420
2. Modify prohibition against stream siltation	515 (b) (10) (B) 516 (b) (9) (B)	415 (b) (10) (B) 416 (b) (9) (B)
3. Modify prohibition against hydrological disturbances	510 (b) (3) 515 (b) (10) (E)	410 (b) (3) 415 (b) (10) (E)
4. Provide express authority to define ambiguous terms in the act	None	601 (b)
5. Reduce the tax on coal to conform more nearly with reclamation needs and eliminate funding for facilities	401 (d)	301 (d)
6. Modify the provisions on impoundments	515 (b) (13) 516 (b) (5)	415 (b) (13) 416 (b) (5)
7. Modify the prohibition against mining in national forests	522 (e) (2)	422 (e) (2)
8. Delete special unemployment provisions	708	None
<u>Other Important Changes</u>		
1. Delete or clarify language which could lead to unintended "antidegradation" interpretations	102 (a) and (d)	102 (a) and (c)
2. Modify the abandoned land reclamation program to (1) provide both Federal and State acquisition and reclamation with 50/50 cost sharing, and (2) eliminate cost sharing for private land owners	Title IV	Title III



Subject	S.425,S.7,H.R.25	New Bill
3. Revise timing requirements for interim program to minimize unanticipated delays	502(a) thru (c) 506(a)	402(a) and (b) 406(a)
4. Reduce Federal preemption of State role during interim program	502(f) 521(a)(4)	402(c) 421(a)(4)
5. Eliminate surface owner consent requirement; continue existing surface and mineral rights	716	613
6. Eliminate requirement that Federal lands adhere to requirements of State programs	523(a)	423(a)
7. Delete funding for research centers	Title III	None
8. Revise the prohibition on mining in alluvial valley floors	510(b)(5)	410(b)(5)
9. Eliminate possible delays relating to designations as unsuitable for mining	510(b)(4) 522(c)	410(b)(4) 422(c)
10. Provide authority to waive hydrologic data requirements when data already available	507(b)(11)	407(b)(11)
11. Modify variance provisions for certain post-mining uses and equipment shortages	515(c)	402(d) 415(c)
12. Clarify that payment of permit fee can be spread over time	507(a)	407(a)
13. Delete preferential contracting on orphaned land reclamation	707	None



14. Delete requirement on sales of coal by Federal lessees	523(e)	None
15. Provide authority for appropriations rather than contracting authority for administrative costs	714	612
16. Clarify definition of Indian lands to assure that the Secretary of the Interior does not control non-Federal Indian lands	701(9)	601(a)(9)
17. Establish an adequate interest charge on unpaid penalties to minimize incentive to delay payments	518(d)	418(d)
18. Permit mining with 500' of an active mine where this can be done safely	515(b)(12)	415(b)(12)
19. Clarify the restriction on haul roads from mines connecting with public roads	522(e)(4)	422(e)(4)



TAB B

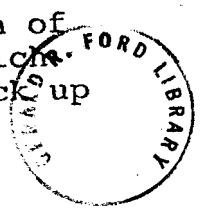
SUMMARY OF RESULTS OF HOUSE AND SENATE ACTION

A. Action on changes from the vetoed bill identified as "critical to overcome objections".

<u>Subject &amp; Proposed Change</u>	<u>Senate</u>	<u>House</u>
1. <u>Citizen suits</u> Narrow the scope	Adopted	Rejected
2. <u>Stream Siltation</u> Remove prohibition against increased siltation	Partially Adopted	Partially Adopted
3. <u>Hydrologic balance</u> Remove prohibition against disturbances	Partially Adopted	Rejected
4. <u>Ambiguous Terms</u> Specific authority for Secretary to define	Partially Covered in Senate report	Rejected
5. <u>Abandoned Mine Reclamation Fund</u> • Reduce 35¢-25¢ fee to 10¢ • Limit use of fund to reclamation	Rejected  Uses Broadened	Fee Reduced on some coal Uses Broadened
6. <u>Impoundments (dams)</u> Modify virtual prohibition on impoundments	Adopted	Rewritten to Provide Corps of Engrs. authority and standards
7. <u>National Forests</u> Allow mining in certain circumstances	Rejected	Rejected
8. <u>Special Unemployment Provisions</u> Delete as unnecessary and precedent setting	Rejected	Adopted

B. Three significant new problems -- not previously on the "critical" list.

1. Senate floor debate indicates that the language of the bill can be constructed to permit states to ban surface coal mining on Federal lands. The House takes the opposite view.
2. The House adopted a provision prohibiting location of a mining operation in an alluvial valley floor which is expected to prevent expected production and lock up major coal reserves in the West.



B. New Problems (Continued)

3. In addition to a tough provision requiring replacement of water affected by a mining operation, the House added a new provision requiring either (a) written consent to mining by offsite owners of water rights, or (b) ability and willingness to provide substitute water. Agency experts believe provision is inconsistent with state law, would be difficult to handle administratively, and would involve burden of proof problems.

C. Action on changes from vetoed bill identified as "needed to reduce further the potential for unnecessary production impact and to make the legislation more workable and effective".

<u>Subject &amp; Proposed Change</u>	<u>Senate</u>	<u>House</u>
1. <u>Antidegradation</u> Delete requirement	Adopted	Adopted
2. <u>Abandoned Mine Reclamation Fund</u> . Require 50/50 cost sharing . Eliminate grants for privately owned lands	Rejected Broadened	Rejected Broadened
3. <u>Interim Program Timing</u> . Reduce potential for mining delays . Allow operations under interim permit if regulatory agency acts slowly	Rejected Adopted	Rejected Adopted
4. <u>Federal Preemption</u> Encourage states to take up regulatory role	Rejected	Not adopted but report supports concept
5. <u>Surface Owner Consent</u> Rely on existing law	Rejected	Rejected (water rights provision added; Sec.B.3, above)
6. <u>State Control over Federal lands</u> (Now a serious problem - discussed in B. 1, above)		
7. <u>Funding for Research Centers</u> Delete as unnecessary	Rejected	Rejected
8. <u>Alluvial Valley Floors</u> (Now a serious problem - discussed in B. 2, above)		





C. Other changes (continued)

<u>Subject and Proposed Change</u>	<u>Senate</u>	<u>House</u>
9. Designation of areas as Unsuitable for Mining Expedite review and avoid frivolous petitions	Partially Adopted	Rejected
10. <u>Hydrologic Data</u> Authorize waiver in some case where unnecessarily burdensome	Rejected	Rejected
11. <u>Variiances</u> Broaden variiances for certain post-mining uses and equipment shortages	Rejected	Rejected
12. <u>Permit Fee</u> Permit paying over time rather than pre-mining	Adopted	Adopted
13. <u>Contracting for reclamation</u> Delete requirement that contracts go to those put out of work by bill	Rejected	Adopted
14. <u>Coal Sales by Federal Lessee</u> Delete requirement that lessee must not deny sale of coal to any class of purchaser	Rejected	Requirement Softened
15. <u>Appropriations Authority</u> Use regular appropriations authority rather than contract authority	Rejected	Rejected
16. <u>Indian Lands</u> Clarify to assure no Federal control over non-Federal Indian land	Adopted	Rejected. Also, new Indian lands Program Adopted
17. <u>Interest charge on civil Penalties</u> Adopt sliding scale to minimize incentive for delaying payments	Adopted	Adopted



C. Other changes (continued)

<u>Subject and Proposed Change</u>	<u>Senate</u>	<u>House</u>
18. <u>Mining within 500 feet of active mines</u> Permit where it can be done safely	Rejected	Rejected
19. <u>Haul Roads</u> Clarify restriction on connections with public roads	Adopted	Adopted



TAB C

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

S. 7

H.R. 25

1. Loss of coal production in the first full year of the bills' application (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):

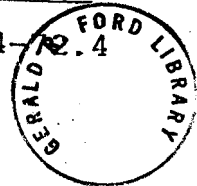
In millions of tons:

. Small Mines	22-52	22-52
. Restrictions on steep slopes, siltation, aquifers	7-44	7-44
. Alluvial valley floor restrictions	<u>11-66</u>	<u>33-66</u>
Total	40-162	62-162
(% of 1977 production-estimated at 750 million tons.)	5-22%	8-22%

(Note: Administration bill would also have impacted coal production -- in the range of 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	32.5-65.0
. National forest (outside alluvial valleys)	.9	.9
. Other provisions (e.g., steep slopes)	<u>0-6.5</u>	<u>0-6.5</u>
Total	11.7-72.4	33.4-72.4



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)

138-559

215-559

. dollar value (\$11 per barrel) - billions

1.5-6.1

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) - in thousands

. direct job losses -

5,000 to  
20,0008,000 to  
20,000

. indirect job losses -

4,000 to  
16,0006,000 to  
16,000

Total

9,000 to  
36,00014,000 to  
36,000

5. Inflationary Impact - In addition to higher cost foreign oil -- would include:

. Fee for Reclamation fund

\$130

\$204

. Higher production and reclamation costs

\$171

\$171

. Costs of Federal and State program administration

~~\$100~~

\$135

\$110 to

\$100 to

\$160

\$160



TAB D

Dear Mr. Chairman:

On February 5, 1975, I transmitted to the Congress a proposed surface mining bill which was designed to strike a balance between our objective of improving environmental quality and other national objectives including increased energy independence and a strong economy. I am pleased that some of the changes from last year's bill that I have recommended have been adopted by one or both Houses and are now being considered by the Conference Committee.

However, I want to take this opportunity to reiterate my concern about the bills before the Committee, stress the importance of the Committee's action for all the people of the Nation, and identify changes that are needed to produce an acceptable bill.

The problem facing us would be small if the only objective was environmental protection and reclamation because I, too, support strongly those objectives. The bills also involve other fundamental national issues including (a) our chances of achieving energy independence, (b) outflow of dollars to other nations, (c) unemployment, (c) higher consumer costs, particularly for electricity, and (e) expanding the role of the Federal Government in some areas where it is not necessary to achieve national objectives.

I recommend strongly that the Conference weigh carefully the developments affecting these important issues that have occurred since the Congress began considering this legislation.

1. Energy Requirements. The Nation must take steps through energy conservation and increased domestic energy production to stem our growing dependence on foreign oil which is (a) increasing our vulnerability to serious disruption from another oil embargo, and (b) increasing the outflow of dollars (and jobs) for oil imports.

Increased domestic coal production is essential. I have called for doubling coal production by 1985 which is roughly 1.2 billion tons. The energy plan advanced by the Congressional democratic leadership calls for 1985 production of 1.37 billion tons. The serious risk is that the Conference could adopt a bill that is totally inconsistent with those goals.



Interior and FEA estimate that the Senate-passed bill (S.7) would reduce expected coal production by 40 to 162 million tons (5 to 22%) in the first full year of its application; and that the House-passed bill would reduce production by 62-162 million tons (8 to 22%). These estimates do not include potential delays from litigation or stringent interpretation of ambiguous provisions of the bill.

Each ton of coal is equivalent in energy value to roughly 4.3 barrels of oil. If the legislation were to result in loss of only 50 million tons of coal per year, alternative energy equivalent to 215 million barrels of oil would have to be obtained from other sources. Importing that amount of oil will increase dollar outflow by more than \$2.3 billion dollars and cost more than 10,000 jobs. This domestic energy loss could more than offset the results of our energy conservation actions.

2. Inflationary Impact. Consumers have already been subjected to higher costs because of our heavy reliance on expensive foreign oil. If domestic coal, which is used primarily in producing electricity, must be replaced by foreign oil consumer costs will be forced still higher. In addition, consumer prices or taxes would reflect the added cost of \$130 to \$204 million in taxes on coal, \$171 million in increased coal production and reclamation costs, and \$100 to \$135 million for Federal and State government activities to carry out requirements of the bills.

Unnecessary burdens of the legislation will fall most heavily on small mining operations and probably put many out of business. This runs the risk of lessening competition in the coal industry and could contribute to higher prices.

3. Unemployment. As indicated above, greater outflow of dollars means loss of jobs in the United States. In addition, Interior and EPA estimate that jobs lost as a result of legislation would range from 9,000 to 36,000 in the case of the Senate bill and 14,000 to 36,000 in the case of the House bill. These employment losses would hit hard in those areas such as Appalachia that have been struggling to improve their economic conditions. It is true that some jobs would be created by the requirements to reclaim areas abandoned in the past but this would involve dislocation of employees and fewer job gains than losses.





4. Actions already taken by States. All of the twelve leading surface mining states -- which account for about 98% of 1973 surface coal mining in the nation -- now have their own surface mining laws. Since 1971, when Federal legislation began to be considered, 21 states -- including the 12 leading surface coal producers -- have enacted or strengthened their surface mining laws. In addition, a survey conducted by the staff of the Council on Environmental Quality indicates that the leading coal producing states have tightened up their regulations and increased their regulatory staff.

These developments are significant because they indicate that our concerns for the environment do not depend solely on Federal legislation.

The states should have the freedom to adopt standards which reflect the desires of their citizens. We should avoid to the maximum extent possible setting national requirements that do not take state differences into account or which unnecessarily superimpose Federal requirements and Federal enforcement activities.

5. Locking up domestic coal. In addition to new term reduction in expected coal production, Interior and FEA have estimated that the Senate passed bill has the potential of preventing mining of 12 to 72 billion tons of coal and the House passed bill from 33 to 72 billion tons. These amounts constitute 9 to 53% of the total 137 billion tons of coal in the Nation's demonstrated reserve base which are potentially mineable by surface methods.

I urge the Conferees to take these developments into account and to report a bill which achieves a balance among our national objectives.

My February 6, 1975, letter identifies changes in the legislation which are needed to reduce unnecessary impact and to achieve a workable and effective bill. I would call your attention particularly to the need to:

- Modify citizen suit provisions to avoid unnecessary and unacceptable production delays or curtailments.
- Reduce hydrologic disturbance provisions concerned with alluvial valley floors so as to avoid requirements, which would be impossible to meet are unnecessary to provide reasonable environmental protection and which would preclude most mining activities.



- . Reduce the excise tax on coal to 10¢ per ton which would be adequate to provide a fund for reclamation of abandoned surface mined lands.
- . Remove the special unemployment provisions which unfairly discriminate among classes of unemployed persons, set undesirable precedent, and are inconsistent with modifications to unemployment which were signed into law on December 31, 1974.
- . Make clear that State laws and regulations do not cover Federal coal lands.
- . Avoid a requirement that precludes mining in alluvial valley floors which could lock up more than 50% of the nation's 173 billion tons of surface mineable coal reserves.
- . Avoid setting a new precedent with respect to water rights.
- . Permit surface mining on national forest lands when this is found to be in the national interest.

Administration officials stand ready to work with you to discuss these and other changes, with the objective of developing legislation that is in the overall best interest of the nation.

Sincerely,



4/30 TO QAIL



FEDERAL ENERGY ADMINISTRATION  
WASHINGTON, D. C. 20461

MAY 1 1975

OFFICE OF THE ADMINISTRATOR

Honorable Henry M. Jackson  
Chairman, Committee on Interior  
and Insular Affairs  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

The President has asked me to respond to your letter of April 24. At the outset I wish to make it clear that my letter to Congressman Udall was prepared in FEA under the direction of Deputy Administrator John Hill, who had the assistance of personnel from other concerned Executive Branch agencies.

I am enclosing a set of memoranda on Interior Department stationery. The estimates presented in those memoranda and reflected in my April 22 letter were prepared by FEA and Interior Department personnel. The figures and projections represent the agreed estimates of both agencies.

I regret that your staff either misinterpreted, or was given incorrect and incomplete information by FEA personnel, and I hope that the enclosed information will meet your needs. If I can be of further assistance, please do not hesitate to let me know.

Sincerely,

*Frank*

Frank

Frank G. Zarb  
Administrator

Enclosure

