

The original documents are located in Box 33, folder “Strip Mining (4)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE

WASHINGTON

ACTION

Last Day: May 20

May 19, 1975

MEMORANDUM FOR THE PRESIDENT

FROM : JIM CANNON *JMC*
SUBJECT : H.R. 25 - Surface Mining Control
and Reclamation Act

In response to your decision to veto H.R. 25, attached is a proposed veto message. Frank Zarb is scheduled to brief on the Message at 4:00 p.m. today.

Frank Zarb, Bill Seidman (Porter), Jim Lynn, Jack Marsh, Max Friedersdorf (Leppert), the Counsel's office (Lazarus) and I recommend approval of the message which has been cleared by Paul Theis and Robert Hartmann.

RECOMMENDATION

That you sign the veto message at Tab A.

Agree Disagree

Attachment

THE WHITE HOUSE
WASHINGTON

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THE WHITE HOUSE
WASHINGTON

May 17, 1975

Mr. D. V. H.

MEMORANDUM FOR

DICK DUNHAM
JIM CAVANAUGH

FROM: JIM CANNON *Jm*

SUBJECT: Strip Mining Decision Paper

These are the questions the President asked in the meeting yesterday which are not answered in the paper presented to him:

1. On page 4, we say that eleven of the twelve leading surface mining states, which account for 87% of 1973 coal mining, now have their own surface mining laws. He asked which state does not have its own surface mining laws. The answer, given by John Hill, was Kentucky. I think it would also have been helpful to name the twelve states which produce most of the strip mined coal. Naming the states would also have been helpful in determining the job impact.
2. The President asked what was the history of what had happened to production of coal in those states that do have their own strip mining laws.
3. In the proposed bill, how is the pot money to be distributed, state by state, owner by owner, or how?
4. Why did the conferees reject the fifty-fifty cost sharing on the land?



[5/20/75]

TO THE HOUSE OF REPRESENTATIVES:

I am today returning without my approval, H.R. 25, the proposed Surface Mining Control and Reclamation Act of 1975. I am unable to sign this bill because:

1. As many as 36,000 people would lose jobs when unemployment already is too high.
2. Consumers would pay higher costs -- particularly for electric bills -- when consumer costs are already too high.
3. The Nation would be more dependent on foreign oil -- when we are already overly dependent and dangerously vulnerable.
4. Coal production would be unnecessarily reduced -- when this vital domestic energy resource is needed more than ever.

America is approaching a more serious domestic energy shortage, and we are not facing up to it.

We can develop our energy sources while protecting our environment. But this bill does not do that. I have supported responsible action to control surface mining and to reclaim damaged land. I continue to support actions which strike a proper balance between our energy and economic goals and important environmental objectives.

Unfortunately, H.R. 25 does not strike such a balance.

Since I submitted my comprehensive national energy program earlier this year -- a program which included a tough but balanced surface mining bill -- our energy situation has continued to deteriorate. With domestic energy production continuing to drop, we are today more vulnerable to the disruption of oil supplies than we were



during the Mid-East oil embargo. We will be even more vulnerable as our economy recovers and energy consumption increases. This vulnerability places us in an untenable situation and could result in new and serious economic problems.

Coupled with this steadily deteriorating situation is the fact that the Congress has yet to act on a comprehensive energy program capable of achieving goals on which we all agree. Several Congressional committees have worked hard to develop solutions. Unfortunately, their proposals are inadequate to achieve the energy objectives I have set.

As the one abundant energy source over which the United States has total control, coal is critical to the achievement of American energy independence. In the face of our deteriorating energy situation, we must not arbitrarily place restrictions on the development of this energy resource.

It is with a deep sense of regret that I find it necessary to reject this legislation. My Administration has worked hard with the Congress to try to develop an acceptable surface mining bill and other energy programs which could, when taken together, enable us to reduce energy imports and meet environmental objectives. While the Congress accepted in H.R. 25 some of my proposals, it rejected others necessary to reduce the adverse impact on coal production and to clarify various provisions of the legislation to make it precise and more workable.

The Department of the Interior and the Federal Energy Administration now advise me that, if this bill were to become law, a production loss of 40 to 162 million tons would result in 1977. This would mean that six to twenty-four percent of expected 1977 coal production would be lost. Actually, production losses resulting from H.R. 25 could run considerably higher because of ambiguities in the bill and uncertainties over many of its provisions.

The bill I sent to the Congress in February would have also entailed production losses estimated between 33 and 80 million tons. Even though these losses would have been substantial, we could have accepted them if Congress had enacted the comprehensive energy program I proposed. But, now the potential losses of H.R. 25 are intolerable.

The reduction in coal production would mean that the United States will be forced to import more foreign oil. To demonstrate the seriousness of this problem, it is estimated that we would be forced to import an additional 215 million barrels of oil a year at a cost of \$2.3 billion for every 50 million tons of coal not mined. At a time when our dependence on Mid-East oil is expected to double in just 2-1/2 years, I believe it would be unwise to further increase this dependency by signing into law H.R. 25. This kind of setback in coal production would cause our dependence on Mid-East oil to triple by 1977.

Additional reasons for withholding approval of H.R. 25 are its legislative shortcomings. These include:

- Ambiguous, vague and complex provisions -- as the record of Congressional debate indicates. The bill

would lead to years of regulatory delays, litigation and uncertainty against the best interest of achieving either our environmental or energy objectives.

- Cumbersome and unwieldy Federal-State regulatory and enforcement provisions. H.R. 25 would inject the Federal Government immediately into a field which is already regulated by most states. Since 1971, 21 states which produce over 90 percent of the nation's surface mined coal have either enacted new environmental legislation governing surface mining or have strengthened laws already on the books.
- H.R. 25's tax provisions which would be excessive and unnecessarily increase the price of coal.
- Its provisions which enable State governments to ban surface mining of coal on Federal lands -- thus preventing a national resource from being used in the national interest.
- Its provisions permitting the Federal government to pay private landowners 80 percent or more of the cost of reclaiming previously-mined land, leaving title to the land in private hands, could provide windfall profits at the expense of coal consumers.

To enable us to move ahead with the development of coal production while protecting the environment, I have today directed the Department of the Interior to proceed with the steps necessary for the promulgation of revised regulations covering surface mining on Federal lands.

Although the Department has had these regulations under preparation for some time, their issuance was held up pending Congressional action to make sure they were compatible with



the new surface mining legislation. We will now proceed with these regulations to assure reasonable and effective environmental protection and reclamation requirements on Federal lands.

In short, I favor action to protect the environment, to prevent abuses that have accompanied surface mining of coal, and to reclaim land disturbed by surface mining. I believe that we can achieve those goals without imposing unreasonable restraints on our ability to achieve energy independence, without adding unnecessary costs, without creating more unemployment and without precluding the use of vital domestic energy resources.

THE WHITE HOUSE,

THE WHITE HOUSE
WASHINGTON
May 20, 1975

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Jim*

MEMORANDUM FOR: JIM CANNON
FROM: *John* GLENN SCHLEEDE
SUBJECT: ANSWERS TO QUESTIONS RELATING TO
STRIP MINING

1. Where would the unemployment most likely occur if H.R. 25 were enacted?

- . Hardest hit would be West Virginia, Kentucky and Southwestern Virginia -- largely because of steep slope and siltation restrictions and because small mine operators will find it difficult to comply with requirements (e.g., presenting hydrological data in order to get a mining permit).
- . There would be some impact in Tennessee and Western Maryland for the same reasons as above.
- . There would be some impact in Wyoming and Montana because of alluvial valley floor restrictions -- but the impact here will be less in unemployment terms because the mining is equipment rather than worker intensive. (100 tons per day per man compared to 32 in Appalachia.)

2. All of the twelve leading surface coal mining states -- which account for about 87% of 1973 surface coal mining in the Nation--now have their own surface mining laws:

- | | |
|-----------------|----------------|
| . Kentucky | . Montana |
| . Pennsylvania | . Wyoming |
| . Ohio | . Alabama |
| . Illinois | . North Dakota |
| . Indiana | . New Mexico |
| . West Virginia | . Missouri |

3. Since 1971, when Federal legislation began to be considered, 21 states -- including 11 of the 12 leading surface coal producers -- have enacted or strengthened their surface mining laws:

(Changes since 1971)

<u>State</u>	<u>New Law</u>	<u>Tighten Laws</u>
.Arkansas	1971	
.Colorado	1973	
.Idaho	1971	
.Illinois	1971	
.Indiana		1974
.Iowa		1973
.Kansas		1974
.Kentucky		1972 and 1974
.Maryland		1974
.Missouri	1971	
.Montana	1973	1974
.New Mexico	1972	
.North Dakota		1971 and 1973
.Ohio	1972	
.Oklahoma	1971	1972
.Pennsylvania	1971	
.South Dakota	1971	1973
.Tennessee	1972	1974
.Virginia	1972	1974
.West Virginia		1971
,Wyoming	1973	1974

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May 20, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

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*File
Strip Mining*

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MAY 20 1975



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more

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GERALD R. FORD

THE WHITE HOUSE,

May 20, 1975.

#

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR BOB WOLTHIUS
FROM MIKE DUVAL
SUBJECT: STRIP MINING VETO

The following is a summary of action items which were assigned at today's meeting chaired by Max.

<u>Deadline</u>	<u>Item</u>	<u>Responsible Person</u>
5/28	Distribute Counsel's Office anti-lobby memo.	Duval
5/29	Prepare list of additional governors, mayors, etc. who support veto. Submit to Vern Loen.	Falk
5/30	Set up briefing for outside groups - plan for June 3-10 time frame.	Baroody
5/30	Reply substantively to Udall/Mink letter. State that Zarb will represent Administration.	Lazarus/Hill
6/2 (noon)	Prepare briefing package on 1) Strip mining and overall energy policy 2) Production impact 3) Unemployment impact 4) Consumer prices	Hill/Carlson in coordination with CEA, Labor, Commerce

Each package should contain:
A) One-page summary
B) Two- to four-page Fact Sheet
C) Short narrative argument



6/2	(noon)	Distribute briefing package to:	Duval
		<ul style="list-style-type: none"> • Friedersdorf, et al. • Warren • Barody • FEA (Hill) • Interior (Carlson) • Falk • Senior W. H. Staff • Cabinet (via Connor) 	
6/2		Prepare brief paper describing Inflation Impact Statement for President's bill and H.R. 25.	Hill
6/2	(p.m.)	Friedersdorf and Zarb brief minority members of Senate and House Committee.	Friedersdorf/ Zarb
6/2		Press mailer and backgrounders	Warren
6/3		Hearings	Friedersdorf/ Zarb
6/5		President meets with GOP Leadership.	Friedersdorf
6/8		Present our position at National Governors Conference meeting.	Falk

NOTE: After the hearings on June 3, we should plan to meet again on strategy from then up to the vote. (Max may want a meeting on Monday, June 2.)

cc: Seidman
Barody
Cavanaugh
Warren
Lazarus
O'Neill
Hill and Frizzell (advised by telephone)



FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

file

May 31, 1975

DEPUTY ADMINISTRATOR

MEMORANDUM FOR: SEE BELOW

SUBJECT: STRIP MINING TESTIMONY

FROM: JOHN HILL

John G. Hill

Attached is a first draft of Frank's testimony for the Udall strip mining hearings. I need your comments by 1:00 today in order to complete a second cut on the testimony by tonight.

Attachment

Addressees:

~~Jim Lynn~~
Jim Cannon
Mike Duval
Max Friedersdorf
Charles Leppert
Glenn Schleede
Jack Marsh
Jack Carlson
Ray Peck
Tom Falkie

*J. Cav.
Handled
10/11/75*



Mr. Chairman:

It is a privilege to be with you today to discuss the reasons why the President believes that enactment of H.R. 25 would be against the National interest.

I would like to make several general points at the outset, because I feel it is important that people realize that Congress and the Administration share certain views on this legislation. My first point relates to statements made in a letter of May 23 from the Chairman and three other members of the Subcommittee and Representative Mink, Chairperson of the Subcommittee on Mines and Mining, to their colleagues.

I quote:

"A number of Members who had formerly supported the bill were concerned with the assertions that enactment of the legislation would result in the loss of thousands of jobs, drive up electric utility bills, and preclude the production of millions of tons of coal."

"Those of us who are close to the development of this legislation are certain that these charges cannot be substantiated--our support would be irresponsible if they could be--and during the next two weeks we will be attempting to set the record straight."

I could not agree more with the desire that we all act responsibly. In fact, we hope that these hearings will set the record straight, and you will see, Mr. Chairman, that the President vetoed this bill because he felt that to do otherwise would be irresponsible. The facts and figures that we and

others will present during these hearings should, we feel, convince you that the responsible course has been taken.

I wish to make one preliminary point. It has been suggested publicly that this Administration is prepared to tolerate continuation of environmental abuses that have resulted from surface mining in the past. That is simply not the case.

The Administration first submitted legislation to impose minimum Federal standards on surface mining in 1971. Since then, on numerous occasions in testimony, in correspondence and in countless conferences with members and staff of this Committee and its counterparts in the Senate we have stressed our commitment to the enactment of measures to balance the compelling environmental and energy considerations involved in the surface mining of coal.

As recently as February 6, 1975, the President transmitted to Congress proposed surface mining legislation. In submitting that legislation, the President specifically identified the areas of difference between S. 425 and our proposal and stressed the overwhelming importance of these areas in terms of lost coal production, unemployment and other adverse economic impacts.

Notwithstanding this detailed review of the deficiencies of S. 425, the Congress passed H.R. 25, which would, in many respects, have had even greater adverse impacts than S. 425.

I am here today to discuss that impact. In doing so, I must again point out that, in some areas, it is not quantifiable. For example, there is the issue of coal miners' health and safety -- an issue of American lives. Surface mining is intrinsically safer than deep mining. No one gets black-lung in a strip mine, and the fatalities in strip mines are at most half what they are underground. Moreover, differing interpretations of specific language in H.R. 25 by regulatory authorities and courts could result in varying degrees of adverse impacts in virtually every area. As a result, even our most precise estimates must be set forth as ranges of possible impact rather than as projections of concrete effects.

Before proceeding to specific provisions of H.R. 25, I wish to make the further observation in regard to the problem of interpreting certain of its provisions. Ambiguous language-- and there is a lot of it in H.R. 25 -- breeds litigation, because the courts are the ultimate arbiters of the conflicting claims of individual citizens.

Ambiguous language, thus, forces the courts to legislate, and, while a district court in California may rule one way, its counterpart in New York may rule another. Then each is subject to being overruled by its respective Court of Appeals, and ultimately, after years of uncertainty, by the Supreme Court.

Recent history -- the case of the Trans-Alaska Pipeline, for example -- demonstrates how long these periods of confusion can last. And we cannot afford seven years of deferred coal production while we wait for the courts to thrash out problems that should be resolved at the legislative, not the judicial, stage in the first place.

And recent history -- the case of the "non-significant deterioration" language of the Clean Air Act, for example -- demonstrates that the courts generally gravitate toward the more rigid possible interpretations of ambiguous language -- interpretations that may be far more inflexible than Congress intended.

Now, as to the specifics of H.R. 25 and our views on its impact.

On May 23, 1975, Dr. Thomas Falkie submitted to Chairman Metcalf of the Senate Subcommittee on Minerals, Materials and Fuels an analysis of the adverse impact that we predict if H.R. 25 were to become law. I understand that copies of this material have been distributed to the Committee, but I would like to submit it at this time for the record.

In general, the low range of our estimates represents the adverse impact we expect if the bill were to be interpreted loosely, that is, if its provisions were interpreted in ways

that would minimize production losses, economic costs and mine closures. The high range of estimates represents those losses that we would expect if a strict, literal interpretation and vigorous implementation were given to each provision.

In brief, we have estimated that from 40 to 162 million tons of annual coal production would be lost during the first full year of implementation. Losses would occur in three general categories: reduced production or closures of small mines, delays or prohibitions arising from the steep slope, siltation and aquifer protection provisions, and bans on mining operations in alluvial valley floors.

Each of these items is identified in Dr. Falkie's submission to Senator Metcalf, and he is here today prepared to discuss them in more detail. I will, however, discuss each of them briefly.

First, small mines. In preparing our estimates, we have classified as "small" mines with annual production of 50,000 tons or less. As noted by the Council on Environmental Quality in its report to Congress in 1973, at that level of production a mine's capital availability, cash flow and technical resources are limited. As a result, operators of this size would simply not be able to bear the front-end costs of applying for and obtaining permits to mine.

Faced with this inability to obtain a permit, many such mines would be required to close. Our estimate is that 40% of projected production from small mines would be precluded under H.R. 25, with the principal impact in the East. As the Council on Environmental Quality pointed out, such mines account for up to 56% of current production in some states of the Appalachia region. I might also note here that these losses attributed to small mines, which I have just mentioned, are not included in the loss estimates that I will be discussing during the remainder of my testimony.

With respect to provisions concerning steep slopes, siltation and aquifer protection, we have estimated losses ranging from seven to 44 million tons in the first full year of implementation. Strict interpretation and application of H.R. 25's steep slope provisions alone would result in loss of production from virtually every mine operation on slopes in excess of 20 degrees -- loss totalling from seven to 25 million tons. Much of this loss is, in our view, unnecessary.

With appropriate environmental restrictions, some variances from the absolute requirements of H.R. 25 could be provided that would greatly reduce production losses, without environmental danger.

The aquifer protection provided by H.R. 25 is also set forth in absolute terms. Consequently, a literal interpretation of

these provisions could result in termination of all production near aquifer-fed water sources. We estimate that nine million tons of actual and projected production is subject to such a possible ban. Allowing individual operations to accommodate individual circumstances at individual mine sites could greatly reduce the losses that this provision might entail.

Earlier versions of this legislation prohibited absolutely any increase in normal siltation levels during or after mining operations. Congress recognized the impossibility of achieving this result and modified the siltation provisions of H.R. 25 accordingly.

However, a serious problem still remains. As now drafted, the bill would require operators to use any technology that exists and that could prevent siltation. Such a requirement is unrealistic, for it could require operators to apply technology that, although theoretically available, could be prohibitively expensive, even to prevent relatively insignificant siltation. And, again, the bill's lack of flexibility could result in closures where environmental concerns could, in fact, be accommodated with continued production.

Finally, we estimate that the various provisions of H.R. 25 related to alluvial valley floors would cost us from 11 to

66 million tons of coal production during its first full year of implementation.

It should be noted that what we are dealing with here is a possible ban on the mining of certain coal. And our experts tell us that in virtually all of the geological areas involved, surface mining is the only possible method of extraction. We are not dealing with mere reductions in production levels, or closures of mines which might afterwards be reopened. We are talking about locking away from ___ to ___ billion tons of coal -- placing it permanently off-limits for any and all surface mining. Thus, the effect of these provisions will be permanent losses both of production and of reserves.

The fairly wide range of these estimates derives from the fact that our lawyers are unable to predict how regulatory authorities or courts would interpret H.R. 25 and its legislative history. We can not say whether a court would conclude that an area such as the Powder River Basin is "undeveloped range land," and thus not subject to the bill's prohibitions, or whether it would consider this area to be "potential" farming or ranching land and thus off-limits for surface mining. Under the first interpretation, a great proportion of the Powder River Basin would be covered by the exclusion, and open for mining. Under the latter interpretation, our experts tell us that a virtual ban on mining our great western coal deposits could arise.

This question -- although critically important -- cannot be resolved on the face of the bill ^{or} its legislative history.

But this is only one difficulty of many in interpreting the language of H.R. 25. In addition to prohibiting mining on alluvial valley floors, it would prohibit mining that would have an adverse effect on farming or ranching operations that are themselves located on such floors. The impact of this language is even more difficult to assess and proper interpretation would depend upon the individual geologic and hydrologic conditions of a given proposed operation. However, H.R. 25 places the burden of proving the absence of any such adverse impact upon the applicant for a permit.

Based upon all of these consideration, we estimate a production loss attributable to alluvial valley floor provisions ranging from 11 to 66 million tons and a reserve loss of from 17 to 26 billion tons permanently locked into the ground.

Our experts have reviewed these figures in detail. They have made on-site inspections and have analyzed closely the provisions of the bill. We consider these loss estimates to be extremely conservative.

In addition to these concerns, there is another, very broad concern that the President has expressed: Given our present

national energy situation, we must move with extreme caution as we seek to balance our national objectives. If we take away from our domestic energy supplies, we must know precisely how much we are subtracting. And we must find ways to make up for losses in one area with additional supplies from another. If we do not -- or if no domestic substitutes are available -- our imports will continue to rise and our national energy situation will deteriorate even further.

To date, no comprehensive energy program has been enacted that will significantly curb consumption. Nor has Congress turned its attention to measures that will assure the development of other domestic sources that could offset the coal production lost because of H.R. 25.

This Nation cannot afford to reduce the availability of our one abundant domestic energy resource until and unless we have another to replace it.

We cannot continue the past practice of making piecemeal decisions and calling them policy.

I would like now to point out some of the consequences that the Nation will have to suffer if such losses are, in fact, incurred.

You all know the magnitude and scope of this Nation's energy problem. Even under the most optimistic circumstances -- assuming Congressional enactment of the President's entire

legislative program and crude oil price decontrol -- we will still be importing about five million barrels of oil per day in 1985. With no action on our energy program, we will be importing more than half the oil we consume, or more than 12 million barrels per day.

No matter what projections are used, one thing is clear -- we will have to greatly expand coal production in the next ten years. This expansion must occur steadily during this period if our 1985 goals are to be reached. Coal will be needed in new and existing powerplants, for direct burning in some areas, and in a growing synthetic fuel industry. In the long-run coal will be the essential element to be converted to liquids and gases for industrial and utility use.

If the strong national energy program proposed by the President were enacted by the Congress, we could withstand the losses of coal production that would result from this bill. The President's conservation and domestic supply actions would substantially reduce our need for imported oil. But without such an energy program, the loss of even 40 million tons of coal per year -- at the low end of our estimate spectrum -- would increase imports by more than 400,000 barrels per day -- and, at the high end lost production could mean more than 1.5 million barrels a day in increased imports. An increase of imports of this magnitude would have to come

from the Middle East - where still higher prices are already being discussed and where the danger of another embargo remains very real. Even at current prices such an increase in imports of Middle East oil would require an additional \$1.9 to 7.8 billion a year.

Still another dimension of the problem lies in what it would do to other national priorities. One year ago Congress passed, and the President signed, the Energy Supply and Environmental Coordination Act. The Administration is firmly committed to carry out the ESECA mandate, which aims at increasing coal use in certain power plants and other major fuel-burning installations. We hope, and believe, that Congress shares our commitment to this goal. But I must add that ESECA would be rendered a worthless piece of paper were this bill to become law. Nor are these the only effects that we would suffer. For each 10 mine jobs lost, a minimum of an additional eight jobs would be lost in other sectors of the economy dependent upon the mining industry. Applying this factor to projected production losses and manpower efficiency rates applicable to such losses, we have concluded that from 9,000 to 36,000 jobs would, in fact, be lost as a result of implementation of H.R. 25.

Two other specific points should be mentioned in this regard.

First, we would expect resulting unemployment to be concentrated in certain areas and to be especially severe

in Appalachia. New jobs created nationwide in reclamation efforts could not offset these regional disparities.

Second, to the extent that reclamation activities funded by H.R. 25 would create jobs, they would do so only at the expense of other jobs. The reclamation fee would withdraw significant funds from the economy and reduce employment elsewhere accordingly. To the extent that these funds remained unspent in the Federal Treasury, there would be a direct recessionary impact. To the extent that they were expended for reclamation purposes, the jobs created would only replace those destroyed, and any actual offset would be minimal.

It has been suggested that the shift to underground mining would create more jobs and offset unemployment of surface miners. However, as the Council on Environmental Quality has pointed out, long lead-times and major capital outlays are required to open or expand underground mines. As a result, any offset from this source would be years away.

Moreover, as the CEQ has also noted, the skills required for surface mining are drastically different from those required for underground mining. Substantial retraining of surface mine personnel would be required before they could work in deep mines.

Underground mining is less efficient in terms of mineral

removal and manpower efficiency. Thus, the costs of such mining would be substantially greater than those of surface mining operations.

And, finally, while substantial progress in underground mine safety has been made, the fact remains -- as I mentioned earlier -- that underground mining is more dangerous than surface mining and involves more than twice the risk of accidents and injuries associated with surface mining.

For all these reasons, the Administration believes that this bill would preclude the possibility of achieving true balance among important national objectives for energy, our economy, our environment and our national security. It has been called an "anti-energy" bill, but its negative impact is much broader than that.

We cannot expect the American people to suffer the effects of such a bill at a time when we are asking them to bear the burdens of stringent energy conservation and endure the continuing effects of this Nation's worst recession in more than a quarter of a century. In the absence of a comprehensive energy program, this bill would only serve to put thousands of people out of work, add to consumer costs, cut our energy supplies, and sustain and increase our current unacceptable reliance upon insecure foreign sources of oil. It is a bill that runs directly contrary to our National interests.

Mr. Chairman, I consider this only a brief outline of the objections and problems which compelled the President to veto H.R. 25. Many additional issues could and should be discussed if our efforts here today are seriously concerned with responsible action. We must consider realistically:

- To what extent would the states, in fact, designate land areas unsuitable for mining?
- To what extent could H.R. 25 allow frivolous petitions to operate as an additional obstacle to the granting of a mining permit after it has been applied for?
- To what extent would the states be able to implement programs within the narrow time constraints of the bill, and how much time would an operator have to bring an existing operation into line with the terms and conditions of a new permit?
- How many operations presently planned would be classified as "new" instead of as existing operations and therefore be subject immediately to the more stringent, permanent standards set forth in the bill?
- To what extent would the owners of surface lands overlying Federal coal deposits simply refuse to allow the mining of coal belonging to the Nation?
- To what extent would the states be able to prevent development of coal reserves on Federal lands within their borders?

-To what extent would small mines be forced to close or sell out to large companies that are able to bear increased capital and operating costs? And is such an incentive to market concentration desirable?

-To what extent would the bill affect Clean Air Act objectives in terms of low-sulfur coal production and our ongoing efforts to convert oil and gas burning facilities to the use of coal without unacceptable environmental risks.

Mr. Chairman, these questions are not frivolous, and they cannot be ignored. Each derives from ambiguities or uncertainties in the language of the bill or in its legislative history, and any or all could present questions of public policy and national security at least as grave as those issues that I have covered in this statement. In our view, the Nation simply cannot afford to run the risks inherent in a regulatory program as important, and as uncertain, as that contained in H.R. 25.

Coal is the only major domestic resource upon which we can rely as a secure source of energy in the coming decades. This bill would have a direct, immediate and long term impact upon the availability of this resource.

We firmly believe that adequate legislation can be drafted that will balance environmental concerns with energy needs --

without the uncertainties so clearly present in H.R. 25
and without the burdens that it so clearly would place on
American workers and American consumers. We urge Congress
to proceed with that task.

THE WHITE HOUSE

WASHINGTON

June 2, 1975

P-
24

MEMORANDUM FOR JIM CANNON
THROUGH: DICK DUNHAM
FROM: MIKE DUVAL
SUBJECT: STRIP MINING DECISION PAPER

The following are the answers to the questions you raised in your memo of May 17 (see Tab A).

1. The following States, listed in order of production, mine 87% of the coal in this country: Kentucky, West Virginia, Pennsylvania, Illinois, Ohio, Virginia, Indiana, Wyoming, Alabama, Montana, New Mexico, Texas.

Of these twelve, only Texas presently has no State regulation of surface coal mining. Only Montana's law is comparable to the environmental and administrative provisions of H.R. 25. West Virginia, Pennsylvania, Ohio, Indiana and Wyoming have laws which approach the environmental provisions of H.R. 25.

See Tab B for a State-by-State analysis.

2. In general, when a tough State strip mining law was enacted, there occurred a sharp dip in production. The Interior Department advises me that we really do not have sufficient information, on a long-term basis, to make a prediction on the production impact of H.R. 25 based on experience with State laws. Often the impact of the State law is obscured by other events such as pressure to increase strip mining because of the quadrupling of oil prices. Also, State enforcement is a critical factor.
3. Briefly, the funds in H.R. 25 are distributed as follows:
 - Twenty percent of the money deposited in the abandoned mine reclamation fund is available to the Secretary of Agriculture for use in entering into agreements with



landowners for reclamation of rural lands. The landowner retains title to the reclaimed property. The grants are up to 80% Federal funds, and the Secretary is authorized to further reduce the matching cost share if the landowner-grantee is unable to bear such costs, or if the main benefits of the project would occur off-site.

- Eighty percent of the reclamation fund is available to the Secretary of the Interior for Federal acquisition and Federal grants to States for State acquisition of eligible land. Reclamation work on such acquired lands could be performed by either the Federal government or by contract with State and local governments, or with private persons. Once reclaimed, the land could be sold by the Secretary under certain specific criteria and no less than fair market value. However, the land could be transferred to a person, with or without monetary consideration, in areas of rapid development of coal resources.
 - The bill also authorizes the Secretary of Interior to make annual grants to any State to reimburse them for their total cost of implementing this bill during the initial regulatory period. These grants would be up to 80% during the first year, 60% the second year, 40% the third and fourth years, at which time they are phased out.
4. Although the Administration recommended a 50-50 cost sharing between the Federal and State governments, this was not pushed in the latest letter from the President to Congress. It was not listed in the summary of critical changes or other important changes which were attached to his letter. The issue was never considered by either the Senate or House Interior Committees, during the floor debate, nor during the deliberations of the conferees.

To: Mike Duval

THE WHITE HOUSE
WASHINGTON

May 17, 1975

Proposed reply
pls.

D.

Received
5/29/75

MEMORANDUM FOR

DICK DUNHAM
JIM CAVANAUGH

FROM:

JIM CANNON *Jm*

SUBJECT:

Strip Mining Decision Paper

These are the questions the President asked in the meeting yesterday which are not answered in the paper presented to him:

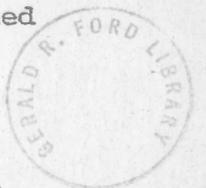
1. On page 4, we say that eleven of the twelve leading surface mining states, which account for 87% of 1973 coal mining, now have their own surface mining laws. He asked which state does not have its own surface mining laws. The answer, given by John Hill, was Kentucky. I think it would also have been helpful to name the twelve states which produce most of the strip mined coal. Naming the states would also have been helpful in determining the job impact.
2. The President asked what was the history of what had happened to production of coal in those states that do have their own strip mining laws.
3. In the proposed bill, how is the pot money to be distributed, state by state, owner by owner, or how?
4. Why did the conferees reject the fifty-fifty cost sharing on the land?

TAB B

A concise state- by- state analysis is set forth below:

(1) Kentucky - The State law does not approach the environmental and administrative provisions of H.R. 25. Permits, reclamation plans, and bonds are required, however, and water quality and revegetation requirements exist. Steep slope restrictions are limited and there is a small scale abandoned mine reclamation program.

2. West Virginia - The state law approaches the environmental provisions of H.R. 25. Permits, reclamation plans and bonds are required. A limited abandoned mine reclamation program has been operative for a decade.
3. Pennsylvania - The State law approaches the environmental provisions of H.R. 25. The bonding provisions of the state law are also quite similar and permits and reclamation plans are required. Terracing is permitted. Old mining sites are reclaimed on a limited scale.
4. Illinois - The State law does not approach the environmental and administrative provisions of H.R. 25. Permits, reclamation plans, and bonds are required, however, and water quality requirements exist. There is no abandoned mine reclamation program.
5. Ohio - The State law approaches the environmental provisions of H.R. 25. Permits, reclamation plans, and bonds are required. A state severance tax of 4¢/ton of coal exists, but an abandoned mine reclamation program has not yet started.
6. Virginia - The State law does not approach the environmental and administrative provisions of H.R. 25. Permits, reclamation plans, and bonds are required, however, and general regrading and revegetation requirements exist. There are no specific steep slope requirements. An abandoned mine reclamation program has been authorized, but is unfunded.



7. Indiana - The state law approaches the environmental provisions of H.R. 25. Permits, reclamation plans, and bonds are required, however, and lands have been inventoried in preparation for an abandoned mine reclamation program.
8. Wyoming - The state law approaches the environmental provisions of H.R. 25. Permits, reclamation plans, and bonds are required. There is no abandoned mine reclamation program.
9. Alabama - The state law does not approach the environmental and administrative provisions of H.R. 25. Permits and reclamation plans are required, but bonds are very limited. Water quality and revegetation requirements exist, but there are no specific steep slope requirements. An abandoned mine reclamation fund is just getting underway.
10. Montana - The state law approaches the environmental and administrative provisions of H.R. 25. There is no abandoned mine reclamation program.
11. New Mexico - The state law does not approach the environmental and administrative provisions of H.R. 25. Permits and reclamation plans are required, but bonds are discretionary. Grading, water quality, and revegetation requirements exist. There is no abandoned mine reclamation program.

12. Texas - There is no state law regulating surface and mining and such legislation has been defeated during the last two sessions of the legislature.

FOR IMMEDIATE RELEASE

File
Strip Mining
JUNE 10, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESS SECRETARY

The President today expressed satisfaction with the House vote sustaining his veto of H. R. 25. He further indicated his strong commitment to the principles of reclamation and of preventing the abuses that have accompanied surface mining in the past. He is hopeful that Congress and the Administration can sit down on this issue and develop a program that will assure a proper balance between our environmental, energy and economic goals and adequately reflect not only the rights of the States in this area but also the tremendous progress the States have made with their own laws over the past several years.

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THE WHITE HOUSE
WASHINGTON

March 22, 1976

TO: MAX FRIEDERSDORF

FROM: GLENN SCHLEEDE

As requested.

cc: Jim Cannon
Jim Cavanaugh
Art Quern

*has
seen*

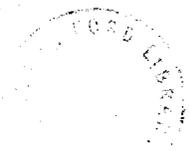


STRIP MINING - TALKING POINTS

- . I understand that John Melcher will seek a rule today for his strip mining bill (H.R. 9725). My people tell me that:
 - His bill represents no significant improvement over the bill I have vetoed twice.
 - John (Melcher) may propose some floor amendments but, thus far, the amendments are largely cosmetic.
 - EPA, Interior and FEA are reviewing the production loss estimates and there is, thus far, no major change from the 40-162 million tons estimated for the vetoed bill. (Melcher is considering amendments to grandfather certain existing mines which, if passed, could reduce the high end of the range by about 30 million tons, but with no impact on the low end.)
 - There has been no improvement in the administrative workability of the bill. The bill still has ambiguous, vague, and complex provisions that would lead to litigation, regulatory delays and major uncertainties about the bill's impact -- including production losses in addition to the 40-162 million ton estimate above.

- . If the bill were enacted, we would be faced with the same problems as before:
 - Near-term coal production losses.
 - Related job losses, particularly in Appalachia.
 - More pressure to increase oil imports.
 - Higher consumer prices -- not just for higher production and reclamation costs, but also where it is necessary to switch to imported oil.
 - A new Federal regulatory bureaucracy.

- . Also, when considering this bill, we should keep in mind that several changes have occurred since strip mining legislation was first proposed in 1971:
 - All 26 of the states with surface mining now have their own laws and regulations. (24 are either new or tighter since 1971).
 - Interior Department will soon issue its regulations covering strip mining and reclamation on Federal lands.
 - We now know the risk of dependence on foreign oil.
 - We recognize that further expansion of the Federal regulatory bureaucracy is undesirable -- particularly where it displaces state efforts.



THE WHITE HOUSE

WASHINGTON

May 10, 1976

*George
Trumbull
must But work
notice
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Jim*

MEMORANDUM FOR: JIM CAVANAUGH
FROM: GEORGE W. HUMPHREYS
SUBJECT: Strip Mining Regulations --
Department of the Interior

On Tuesday, May 11, 1976, at 10 a.m., Secretary Kleppe will announce a new set of Departmental regulations on strip mining of coal.

This is a major step by the Administration to ensure our ability to get at this energy resource on public lands while trying to preserve the environmental values.

The States and industry people do not basically object, and CEQ and EPA have written comments of approval on the new regulations. I expect the organized environmental groups to attack the regs as not being stringent enough.

cc:

✓ Jim Cannon
Art Quern



September 16, 1976

JMC

Charley Leppert's office called -- Congressman
Delaney voted WITH US on strip mining yesterday.

Jeanne

