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Ken Cole

Can't we prepare our bill.
Get Admin. agreement & then
go to "Hill" before introduction.

Should I have an immediate
meeting with our group to
discuss?

gmc

THE WHITE HOUSE

WASHINGTON

January 25, 1975

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE *C*
SUBJECT: STRIP MINING LEGISLATION

Background

The strip mining bill (S. 425) that you pocket vetoed in December has been reintroduced in both the House (H.R. 25) and Senate (S. 7). Current indications are that supporters will try to pass it again within 4-6 weeks with no serious consideration of changes.

Briefly, the problem now is to develop an approach which will maximize the chances of getting an acceptable bill. This task is made difficult by strong disagreements among agency heads and senior advisers as to:

- . Which provisions of the bill are unacceptable (implies mandatory change to avoid veto) or merely undesirable (warranting forceful effort to change).
- . The strategy that should be followed once a position on substance is decided.

Agreement has not been reached on a number of substantive issues and on strategy. Thus, your decisions are necessary before we can proceed on strip mining legislation.

Current Disagreements on Substance

All advisers agree that:

- . The basic structure of S. 425 (the vetoed bill) should be followed in negotiations or in developing an Administration bill.
- . Four provisions of the current bill affecting production and one involving the reclamation funds are unacceptable. The production impact provisions involve citizen suits, prohibition of increased siltation, prohibition on hydrologic impact, and authority to define ambiguous terms.

Your advisers disagree as to whether nine additional provisions of S. 425 should be considered unacceptable. They all do agree, however, that the provisions are undesirable and warrant some continued efforts to get changes. On most but not all Ash, Simon and Dent believe the nine provisions are unacceptable while Morton, Zarb, Train and Russ Peterson believe the provisions should be acceptable if Congress will not accept changes. The nine issues are summarized for your decision at Tab I. Additional details are included in Roy Ash's memo at Tab II. The issues involve:

- . Unemployment provisions which set major precedents.
- . Federal role in the interim regulatory program (which could replace current State efforts).
- . Six issues that involve potential adverse production impact:
 - Schedule for implementing the Federal-State program.
 - Authority for the Secretary to grant some variances.
 - Restrictions on mining of alluvial valley floors in the West.
 - Relief from hydrologic data requirements.
 - Stringency of criteria for impoundments (dams).
 - Prohibition on surface mining in national forests.

By way of background, your advisers' divergent views stem from suspicion on the part of some that the bill will be interpreted rigorously -- backed up by extensive litigation -- as in the case of the Clean Air Act. Others tend to the view that the law can and will be administered in a more reasonable way.

There are eleven additional less critical changes to S. 425 that all your advisers agree should be included in an Administration bill if one is submitted and which should be pursued in staff discussions. (Listed at Tab II-C).

Current Disagreement on Strategy

Your advisers are split as to whether negotiations should be attempted before sending up a bill. The desire for negotiations was stimulated by indications that Senator Jackson and Congressman Udall would like to open negotiations. The Congressional Relations staff has explored this and concluded that (a) the best approach would be submission of an Administration bill before negotiations are attempted, and (b) there probably is little chance of successful negotiations. Tab III

provides more detail on the Congressional outlook. It indicates that the Administration may be forced to a strategy of delay or building a 1/3 plus one vote to sustain a veto -- if it is to get an acceptable bill.

Impact of the Bill on Administration Goals

Roy's memo (at Tab II-D) provides some details on impacts of the alternatives. Briefly, there will be a 48-140 million ton production loss in the first year of operation of the Congressional bill. Changes agreed to among your advisers are expected to reduce that loss to 38-80 million tons. Further reduction would result from other changes. There have been statements that uncertainty over Federal strip mining legislation is slowing industry plans and investments for expanded strip mining, but we can find no evidence to support that contention.

Under any bill, there will be some inflationary Federal budget, unemployment and small mine operator impacts. Changes from S. 425 mitigate the impact. Interior believes that passage or failure of a strip mining bill will have little significant impact on the environment because principal coal producing states have already tightened laws, regulations and enforcement.

Recommendation and Decision

- . Substantive Issues: See Tab I
- . Strategy:

Ash, Simon,
Dent, Cole,
Friedersdorf,
Marsh

Send up an Administration bill as soon as possible. It should be S. 425 modified to include all critical and desirable changes. It should be accompanied by a letter which explains clearly which are critical (bill is unacceptable unless change is made) and which are desirable.

Morton, Zarb,
Peterson, Train,
Seidman,
Areeda

Negotiate toward a compromise bill with sponsors. If agreement is reached, do not send up a bill. If negotiations fail, send up a bill with all critical and desirable changes.

DECISIONS ON SUBSTANTIVE ISSUES

Advisers disagree as to whether nine provisions of S. 425 should be considered:

- . unacceptable - implies that change is mandatory to avoid threat of veto.
- . acceptable - the provision is bad and attempts should be made to get it changed but, in the final analysis, it would be accepted by the Administration.

You are asked to decide the acceptability of each of the nine provisions of S. 425 and, in the case of two provisions, to decide certain sub-issues. Apart from the merits of the issues, Zarb, Morton and Train believe it is important in dealing with the Congress on this bill to keep the list of unacceptable provisions as short as possible. Generally, Ash, Simon and Dent do not agree this should be a controlling factor.

The provisions at issue, arguments and position of your advisers are listed below. (Roy Ash's memo, at Tab II-B, provides more detail.)

1. Orphan Land Reclamation Fund - A 25¢-35¢ per ton tax on coal for a trust fund to pay for reclaiming previously mined lands (through Federal purchase, State grants, and Agriculture Department cost-sharing with private owners); public facilities on reclaimed lands; and public facilities in areas expanding mining.

<u>Simon, Ash</u>	<u>Unacceptable</u> - because it would cost \$2 billion over the next 10 years; it's a new spending program; windfalls would result for private landowners; and costs would in some cases exceed value of reclaimed land.
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<u>MR7</u> Morton, Zarb, Cole Peterson, Butz, Areeda, Train, Seidman, Dent	<u>Acceptable</u> - because supporters of bill consider this a critical feature; opposition would suggest we don't want sound legislation; and a restoration program would lessen pressure for a ban on strip mining.
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Sub-issues: Assuming an orphan land program is inevitable, your advisers agree that the provision in S. 425 to fund facilities is unacceptable. They disagree on three other features -- which you are asked to decide:

- a. What should be the Federal role and the Federal share of costs?

HR 7
Morton, Zarb,
Peterson, Butz,
Areeda, Seidman

Both Federal and State Governments should acquire and reclaim lands (as provided in S.425) and cost share should be 50/50. Congress and environmentalists are committed to strong Federal role which would help assure consistency nationwide and assure a good program.

Simon, Dent,
Ash, Cole

Only States should acquire and reclaim lands. Cost share should be 50/50. Responsibility and decisions should be at State level. Federal involvement could displace existing State programs; would lead to massive Federal land purchase program.

Train

Federal and States should acquire and reclaim lands with 80/20 cost sharing.

- b. Should private landowners be assisted?

Butz, Morton,
Zarb, Seidman,
Train, Peterson

Assistance to private landowners through Agriculture Dept. grant assistance, as provided in S.425, is warranted because program is focused on preventing off-site pollution damage; is important to Congress; and could be cheaper than an acquisition.

HR 7
Simon, Dent,
Ash, Cole,
Areeda

No private assistance -- because windfalls are likely; off-site problems are covered by water pollution laws; it would be inconsistent with FY'76 Budget decision to terminate cost sharing for Agriculture's conservation programs.

- c. How should the orphan lands program be funded?

HR 7
Simon, Zarb,
Peterson,
Morton, Butz,
Seidman

Excise tax on coal and trust fund as provided in S.425. Cost should be borne by users of coal and not general taxpayer (even though new western coal would be paying for reclamation in the east).

Dent, Train,
Ash

General fund appropriations -- would be more controllable and permit focusing funds on highest priority problems.

Areeda, Cole

Small excise tax and general fund appropriations. (No trust fund)

2. Special Unemployment Provisions - includes grants to States; extends unemployed payments indefinitely for those unemployed as a result of the bill. Liberalizes current labor force attachment requirements.

MR9
Simon, Areeda,
Brennan, Ash,
Seidman, Cole,
Train, Dent

Unacceptable - S. 425 provisions set bad precedents. Involves discrimination among classes of unemployed.

Peterson, Zarb,
Morton

Acceptable - Wrong economic climate to oppose unemployment assistance; provision has very strong Congressional support.

3. Federal role in the interim regulatory program. S. 425 provides that, until a permanent State program is approved by the Interior Secretary, there shall be direct Federal inspection of each mine once every three months, and direct Federal enforcement for violations of the Act.

Simon, Ash,
Dent, Cole

Unacceptable - because major coal mining states are already better equipped than Federal government to carry out interim program; and heavy Federal involvement in interim program will encourage states to leave permanent regulatory program to the Federal government. S. 425 should be changed to limit Federal interim role to oversight, random inspections and direct enforcement only if imminent danger or significant environmental harm is involved.

MR7
Morton, Zarb,
Peterson, Train,
Seidman,
Areeda

Acceptable - because Federal enforcement will not be needed in states with good programs; states will want to have control of permanent program; Congress and environmentalists will insist on strong Federal interim role; and Federal law necessitates Federal involvement.

4. Timing for Implementing Program - S.425 provides time limits for interim and permanent permits that could be very difficult to meet and might result in loss of coal production from mine closings and delays in opening new mines.

Simon, Dent,
Ash, Cole

Unacceptable - because of unnecessary potential production loss. Should be changed to reduce potential for closure and for moratorium on new mines.

MR7
Morton, Zarb,
Peterson, Train
Areeda, Seidman

Acceptable - because loss from new mines will not be significant, major coal states will be able to act quickly and Federal government can watch carefully to avoid potential shut-downs or moratoriums.

5. Variances from Performance Standards - S. 425 provisions sharply limit authority of Interior Secretary to grant variances from the bill's long and detailed performance standards.

Simon, Dent,
Ash, Cole

Unacceptable - because the numerous absolute prohibitions will be difficult to comply with, will involve litigation and mine closing, and lead to production loss. Changes would not add serious environmental risk and they should expand variance authority for steep slope mining and lack of equipment.

MR7
Morton, Zarb,
Peterson, Train
Areeda, Seidman

Acceptable - because changes would be totally unacceptable to Congress and environmentalists, raise questions as to Administration commitment; would lead to widespread abuses; and are rarely needed for equipment.

6. Mining of Alluvial Valley Floors in the West - S. 425 prohibits surface mining of alluvial valley floors where there is existing or potential farming or ranching and where operations would be "substantial adverse effect on valley floors."

Simon, Dent,
Ash

Unacceptable - because it locks up major deposits of low sulfur coal; would close down some existing operations; could be interpreted as terminating of Federal leases for which compensation should be paid; decisions should be left to states. Change provision to apply only to existing farming or ranching or where return to original use cannot be assured.

MR7.
Morton, Zarb,
Peterson, Train
Seidman, Cole

Acceptable - because it is important to Western Congressmen; is not as absolute as some believe; and most Western States will bar such mining anyway.

7. Hydrologic Data - S. 425 requires preparation and submission of extremely detailed hydrologic data with permit applications.

Simon, Dent

Unacceptable - because data requirements could be prohibitive to small miner; data may already be available to regulatory authority; adequacy of data would be another question for potential litigation. Change should be made to permit the Secretary to waive the requirement on grounds that adequate data is available.

NR4
Morton, Zarb,
Peterson, Train,
Areeda, Seidman,
Ash, Cole

Acceptable - because production impact would be insignificant; provision is important to Congress and would lead to questioning of Administration commitment to meaningful bill; strong requirement is necessary and desirable.

8. Possible Prohibition on Impoundments (dams to contain liquid mine wastes) - S. 425 provides design standards for dams and also requires that new or existing impoundments be located so "that the location will not endanger public health and safety should failure occur."

NR9
Simon, Dent,
Ash, Cole

Unacceptable - because design standards alone are adequate; literal interpretation of the location language would virtually prohibit new impoundments and require removal of most existing ones; alternatives to impoundments are very costly. Change location language to "minimize" rather than prevent danger.

Morton, Zarb,
Peterson, Train,
Areeda, Seidman

Acceptable - because courts are not likely to interpret provision literally; other technology can control wastes; and change would imply Administration is willing to risk public health and safety.

9. Mining in the National Forests - S. 425 prohibits all such mining.

NR7
Simon, Dent,
Ash, Cole

Unacceptable - because it (a) significantly reduces surface minable reserves available for leasing (specifically, 7 billion tons -- mostly in Montana -- equaling about 11 years of current national production, or 30% of the uncommitted Federal reserves in the lower 48 states); (b) would encourage similar restrictions on other minerals; (c) would force leasing in higher environmental cost areas;

(d) unnecessarily ties up lands which are intended for multiple uses; and (e) will be difficult to change later if accepted now.

<u>Morton, Zarb, Peterson, Train, Butz, Seidman, Areeda</u>	<u>Acceptable</u> - provision is important to environmentalists, and loss of reserves is not critical because of massive private reserves and Federal reserves already under lease (26 years at current national production).
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Sub-issue: When seeking a change, which is preferable?

<u>Simon, Dent, Ash</u>	Delete entire restriction on mining in national forests.
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<u><i>NR7</i> Morton, Zarb, Peterson, Train, Areeda, Cole, Seidman</u>	Provide authority for the Agriculture Secretary to waive the prohibition after a showing of national need.
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THE WHITE HOUSE

WASHINGTON

JAN 22 1975

MEMORANDUM FOR THE PRESIDENT

FROM:

Roy L. Ash

SUBJECT:

Strip Mine Legislation

Following your veto of S. 425, the Surface Mining Control and Reclamation Act of 1974, an interagency task force began preparation of draft strip mine legislation to be sent to Congress as part of your 1975 legislative program. There is now general agreement that the draft legislation should (1) correct the critical problems that led to veto of S. 425, (2) make other changes to eliminate important but not critical problems, and (3) follow the structure of S. 425 retaining as much of its language as possible after the two classes of changes cited above.

There is also general agreement that the committees handling the reintroduced S. 425 should be informed of what the critical substantive changes are - thus indicating generally where the line is likely to be drawn on the veto decision. This information can be passed in several ways: (1) in the Speaker letter that transmits your draft legislation, (2) verbally by a spokesman authorized to negotiate, (3) separate letter from Secretary Morton, or (4) in Congressional testimony.

Issues: There are several points in disagreement:

1. Whether certain specific substantive changes advocated by some agency heads should be identified as critical (implies mandatory to avoid veto) or noncritical (implies they will not be raised in negotiation nor even corrected in an Administration bill).
2. Whether you should send up an Administration bill now or first attempt to negotiate for critical substantive changes and send up an Administration bill based on outcome of the negotiations.
3. If you decide to negotiate first, how many and what substantive changes that are not critical to veto should be raised in negotiation.

Issue 1 is the key to issues 2 and 3. Because of the strong differences of opinion that exist now, as at the time of veto, among concerned agency heads and advisers, we have been unable to arrive at consensus on strategy or on limits of negotiation.

Tab A contains decision papers on Issue #1, the substantive items in disagreement, with the recommendations of agency heads and advisers indicated thereon.

Tab B lists changes to S. 425 that are agreed to be critical - potentially the only veto related items under Issue #2.

Tab C lists changes to S. 425 that all agree are important though not critical, and that would be dealt with in an Administration bill.

Tab D provides summary comparison between the Administration alternative and S. 425 against decision factors, e.g. coal production.

The remainder of this memorandum addresses issues #2 and #3.

Issue #2 - Sending an Administration bill now vs negotiation first and an eventual bill based on the negotiated position

Proponents of negotiating first believe that the Congress will not pay any attention to an Administration bill, and will in fact move almost immediately to reenact S. 425. Such a course would limit us to attempts to make changes on the floor, thus reducing the possibility of getting any changes in the bill, including critical ones.

Such a course would allow the Administration to accept (by not bringing them into negotiation) a number of provisions we could not advocate (in an Administration bill) and thus narrows Executive-Congressional differences (to only the Tab B items). Proponents of this position believe sending an Administration bill which includes all desirable amendments and not just critical amendments to S. 425 would be a liability, and result in Congress ignoring the Administration's critical changes.

Proponents of sending an Administration bill now believe it is the best way to keep Presidential leadership on the issue, this is the best way of publicly declaring the Administration position on the substance of the bill, and that it provides the strongest position for any future negotiation with the Congress as the bill moves forward. Sending a bill does not prevent narrowing down the number of issues - and a "critical issue" list can be included in the Speaker letter or separately identified when necessary. Sending a bill now is most consistent with your procedure on other energy items cited in your State of the Union.

Issue #3 - Whether noncritical substantive changes will be included in the negotiation list or (depending on the outcome of Issue #2) included in the Administration bill

Spokesmen for the Committees on both sides have told Interior and FEA representatives that they will open the bill for discussion of very few issues if any at all. This leads to belief that either an Administration bill or a negotiating position should be limited to only those changes critical to avoid veto. The letter to you of January 16 from Messrs. Morton, Train, and Zarb, recommended that only five changes from the vetoed S. 425 be cited as those necessary to make the bill acceptable. Their argument is based on the premise that early enactment of a surface mining bill with these five changes would accomplish the twin goals of substantially lowering coal production losses otherwise anticipated and providing the coal industry with the degree of certainty necessary for long range planning and capital investment thereby increasing coal production.

Arguments for pressing for more changes are that (1) some negotiating flexibility must be preserved to avoid Congressional charges that we are sending ultimatums rather than offering compromise, (2) restricting the list to a small number passes up a chance to negotiate on important issues that lie on the borderline of criticality, including those that would protect against further production losses, (3) there is disagreement on what items are sufficiently critical to warrant veto, and (4) the sum of many noncritical items may in fact be more serious than one or two specific critical issues (a problem common to many complex bills).

Because of the complexity of the issues involved you may wish to meet with all concerned agency heads before making final decisions. However, their recommendations are set forth below.

Recommendations:

Issue #1: That you review the specific substantive decision items on Tab A, indicating your decisions. Recommendations cited on each item.

Issue #2:

Decision

Agency Heads
Recommend

☐ a. Administration bill now with all changes in Attachments A, B, and C but cite critical issues in Speaker letter.

Simon Marsh
Dent Friedersdorf
Ash

☐ b. Negotiate first only. Send bill later reflecting outcome of negotiations.

Morton Zarb
Train Peterson
Butz

Issue #3: (Regardless of whether approach is Administration bill
or negotiation)

Decision

Agency Heads
Recommend

☐ a. Continue to press for other desirable changes.

Simon Ash
Dent

☐ b. Restrict negotiations to "bottom line" items
(veto items) plus a few negotiable points.

Morton Zarb
Train Peterson
Butz

ATTACHMENTS

- A - Decision papers on changes that are in disagreement either on the substance of the desired change or on whether the change should be considered critical.
- B - Description of changes unanimously considered critical (veto items).
- C - Substantive changes from S. 425 (generally agreed as non-critical) and other fixes that would be made in an Administration bill.
- D - A comparison of the effects of S. 425 and S. 425 as it would be modified by both critical and non-critical changes with respect to specific criteria cited during and after your veto decision.

TAB A

ISSUES IN TAB A

1. Orphan lands reclamation program
2. Unemployment
3. Federal role in interim program
4. Implementation timing
5. Variances
6. Alluvial valley floors
7. Hydrologic data
8. Impoundments
9. Prohibition of surface mining on national forests

ISSUE #1 - ORPHAN LAND RECLAMATION PROGRAM
(Cost of coal, Federal budget item)

Issue - Whether to have Reclamation Program for previously strip mined land?

S.425 Provides:

- . Trust fund to finance reclamation by taxing all coal mined (variable fee between surface (35¢/ton) and underground (25¢/ton)).
- . Grants to States for acquisition of lands to be donated to Federal Government for Federal reclamation.
- . Cost-sharing program administered by Agriculture (up to 80% Federal) for reclaiming privately owned lands.
- . Funds authorized to develop reclaimed land by building public facilities thereon at Federal expense--roads, hospitals, schools, utilities, etc. In expanding coal mining areas any public facilities can be federally funded.
- . Federal acquisition and reclamation of lands by the Secretary of the Interior.

Administration change:

Have no program (If it is decided to support some programs, the sub-issues that follow this page deal with the specifics.)

Reasons for having no program: Simon and Ash believe:

- . Over next 10 years S.425 would direct \$2.0 billion of national resources into orphan land reclamation (program continues indefinitely.)
- . The cost of reclaiming most lands will exceed the value of the reclaimed land -- in many cases cost will exceed benefits.
- . Inconsistent with moratorium on new spending programs.
- . Hard to avoid windfalls to owners of mined-over land.

Reasons for having program: Morton, Zarb, Butz, Train, Peterson, and Dent

- . Failure to support program will indicate to many we do not truly want sound legislation.
- . Restoration of orphaned mined lands will lessen the public pressures for an absolute prohibition of strip mining.
- . Conservationists believe that addition of unquantifiable ecological and aesthetic benefits make reclamation a justifiable national investment.

Decision

☐ Have a program

☐ Have no program

☐ Consider Administration Reclamation Program change a critical problem

☐ Do not consider the Administration Reclamation Program change a critical problem.

Sub-Issues

ORPHAN LANDS RECLAMATION PROGRAM

Background: If decision is to recommend a reclamation program, its major characteristics must be defined. If a decision is made to oppose any Federal involvement in a mined area reclamation program as a critical change, it may still be necessary to define for negotiation purposes the acceptable limits on any program Congress may include in legislation. Resolution of the sub-issues that follow are necessary to define such a program. Agency heads and advisers differ on three issues, and are unanimous in one recommendation, as follows:

- Delete S. 425 provision that would allow the Secretary of the Interior to fund directly, or by grants to States, construction of public facilities such as roads, utilities, schools, hospitals on reclaimed mined lands or in areas where coal mine activity is expanding and adequate facilities do not exist. - All affected agency heads agree.

Sub-issues where recommendations differ are:

A. Sub-issue -- Who should be responsible for acquiring and reclaiming orphan lands?

Alternatives

1. Federal Government and States both acquiring and reclaiming orphan lands with 50/50 cost sharing provided to States (Interior)

Reasons for: Morton, Zarb, Butz, Train, and Peterson believe:

- ° Congress and environmentalists appear committed to strong Federal role.
- ° Would provide Secretary flexibility in administering an effective program.
- ° Would provide consistent approach among States across the country.

2. State Government acquiring and reclaiming orphan lands with 50/50 cost sharing provided to States

Reasons for: Dent, Simon, and Ash believe:

- ° Decision on what lands need to be reclaimed can best be made at State or local level.
- ° Only minor increase in Federal employment.
- ° By law States are responsible for non point source pollution.
- ° Bureaucratic problems inherent in such a program would be passed on to States.
- ° Several States already have ongoing programs and Federal Government should not replace them.
- ° Would not end up as massive Federal land acquisition program.

Decision: ☐ Alternative 1

☐ Alternative 2

NOTE: With respect to sub-issues A and B, EPA believes the Federal cost share should be up to 80%. Roy Ash believes that non-Federal interests should put up at least 50% of the money to insure more responsible program decision making at the State level.

B. Sub-issue -- Rural lands program (50/50 cost sharing)

Whether to provide cost sharing for private landowners to reclaim orphan lands (emphasis of program is to correct problems which are causing offsite damage; no land acquisition would be provided).

Reasons for: Butz, Morton, Zarb, Train, and Peterson believe:

- ° These lands are causing offsite damages and to date landowners have not corrected problems.
- ° Congress may be convinced such a program is needed (was included in S. 425).
- ° May cost Federal Government less than acquisition program.

Reasons against: Simon, Dent, and Ash believe:

- ° There appears to be no way to prevent landowners from receiving windfall profits when their lands are reclaimed.
- ° By law States are responsible for dealing with non point source pollution. This would change existing Federal/State responsibilities.
- ° Requires substantial increase in Federal involvement and in Federal employment.
- ° Inconsistent with FY 1976 budget decision to terminate cost sharing for other Agriculture conservation programs.

Decision: ☐ Include a rural lands program. ☐ Have no rural lands program.

C. Sub-issue -- How should program be funded.

Alternatives

1. Through appropriations from General Fund

Pro: Dent, Train, and Ash

- ° Would be somewhat more controllable.
- ° Would be more flexible and provide capability to fund highest priority programs.

2. Through appropriation from a fund financed by a new Federal tax on mined coal

Pro: Simon, Zarb, Peterson, Morton, and Butz

- ° Approach set forth in S. 425.
- ° Cost borne by users of coal and not general taxpayer. (However western producers would be paying to reclaim eastern orphan lands.)

Decision: ☐ General Fund approach. ☐ New Federal tax approach.

FEE SCHEDULES

All agencies agree that a substantial reduction from the taxes specified in S. 425 is a critical issue. Staff can develop any tax schedule needed for an Administration reclamation program depending on the resolution of the sub-issues listed above. Information below illustrates revenues available under two different approaches.

1. \$.10/ton increasing by \$.02 a year to \$.20 after 5 years

- Assuming deep and surface mining charged equally and assuming production constant at 600 million tons/year, total revenues collected are \$1.0 billion.

<u>Years</u>	<u>Fees</u>	<u>Revenues</u>
1 -----	10	\$ 60 million
2 -----	12	72
3 -----	14	84
4 -----	16	96
5 -----	18	108
6 to 10 -----	20	600
TOTAL		<u>\$1,020 million</u>

2. Charge \$.05/ton -- assuming deep and surface mining charged equally and assuming production constant at 600 million tons/year, total revenues collected are \$300 million.

Decision: No decision required.

ISSUE 2-- UNEMPLOYMENT

Issue - Special unemployment - should deletion be identified as a critical change from S.425?

S.425 Provides:

- . Grants to States for unemployment (UI) benefits to any individual who loses his job in the coal mining industry as a direct result of the closure of a mine because of this Act.
- . Those who are not otherwise eligible for UI assistance or who have exhausted their UI benefits can qualify.
- . Benefit level tied to State UI law.
- . Eligible individuals can receive benefits if previously employed for only 1 month of the previous year.
- . Provision is "open-ended" with no termination of benefits to any individual.

Administration change would:

- . Delete the provision from S. 425.

Reasons for change: Train, Simon, Dent, Brennan, and Ash strongly support deletion because:

- . unfair discrimination between classes of UI.
- . cause of UI difficult to determine.
- . labor force attachment extremely weak.
- . length of benefits open-ended.
- . very bad precedent--other regulated industries would seek similar coverage.
- . UI benefits have just been extended for those who are either not covered or who have exhausted their present UI benefits.

Reasons against: Zarb feels strongly that this issue should not even be raised, while Morton and Peterson believe that this is not a critical change because:

- . Congress retained the UI provision in S.425 over strong Administration objections.
- . New Congress, given the present economic climate, will surely retain it.
- . With unemployment rates increasing, President would look bad opposing a UI bill -- no reason to gain unfavorable exposure on this issue.

Decision

☐ Delete from bill and identify as a critical issue.

☐ Do not identify as critical issue.

ISSUE 3 - FEDERAL ROLE IN INTERIM PROGRAM

Issue - Federal role in interim program - should minimization of the Federal role be identified as a critical change from S. 425?

S. 425 provides:

- ° Direct Federal mine inspection and enforcement from 135 days after enactment until permanent State program approved.
- ° Federal inspections of all surface coal mine sites on a random basis, but at least once every 3 months.
- ° Direct mandatory Federal enforcement action to correct any violation of the Act.

Administration change:

- ° Direct Federal oversight from 120 days after enactment until permanent program approved.
- ° Random Federal inspections of surface coal mining operations, but with no minimum frequency.
- ° States requested to take enforcement action to correct violations.
- ° Federal enforcement mandated only where a violation creates (a) "imminent danger" to public health or safety, or (b) "significant, imminent environmental harm."

Reasons for change: Dent, Simon, and Ash believe these modifications are critical.

- ° Massive Federal takeover in interim program would very likely lead to States' abrogating their responsibilities and Federal takeover of many States' permanent programs.
- ° All of the major coal mining States have reclamation programs and could more readily carry out such an interim enforcement program.
- ° Inspection of all mines every 90 days eliminates the Secretary's flexibility.

Reasons against: Morton, Zarb, Peterson, and Train reason that this is not a critical change.

- ° In major coal mining States where reclamation programs are in effect, Federal enforcement actions will not be extensive.
- ° Because permit fees would make the reclamation program self supporting, the States would find it in their best interest to continue in their present efforts and eventually assume control of the permanent program.
- ° This is Federal law and Federal Government in any event will be called upon to interpret and enforce provisions if States fail to act properly.
- ° Congress and environmentalists want assurance of an effective interim program.

Decision:

- ☐ Identify as critical the minimization of the Federal role in the interim program.
- ☐ Do not identify this issue as critical.

ISSUE #4 - IMPLEMENTATION TIMING
(Potential production impact)

Issue - Implementation of regulatory program - should S.425 be changed to provide more adequate implementation time?

S.425 Provides:

- . Following enactment no new mines may be opened until an interim permit is issued.
- . After 135 days of enactment existing operators may not continue to mine without an approved permit.
- . New mines operating under an interim permit must close down if they do not have a permanent permit within 30 months of enactment.
- . Similarly, new mines could not open following 30 months of enactment without a permanent permit.

Administration change:

- . New mines may be opened within 90 days of enactment; thereafter an interim permit would be required.
- . Existing operations must be in compliance within 120 days of issuance of an amended permit.
- . New mines would not be subject to the possible shut-down/moratorium situation as described above for S.425.

Reasons for change: Simon, Dent and Ash believe these changes are critical:

- . 90 days of new mine production could be saved that might otherwise be delayed.
- . Avoids a possible shut-down or moratorium of new mines following the 30 month period after enactment.
- . Avoids a shut-down on existing mines in cases where the State regulatory fails to act on an interim permit within 135 days of enactment.
- . Production losses would likely result if change is not made.

Reasons against: Morton, Zarb, Train, and Peterson do not see this as a critical change.

- . New mine production over the initial period would not be significant.
- . Believe that major coal mining States' regulatory authorities will be able to act swiftly with respect to existing mines.
- . Federal Government will be able to keep the program on track and avoid significant new mine shut-down/moratoriums following the initial 30 month implementation period.

Decision

- ☐ Identify as critical the change to provide for more adequate implementation.
- ☐ Do not identify this issue as critical.

ISSUE #5 - VARIANCE
(Potential production impact)

Issue - Variances from performance standards - should authority to grant additional variances be considered critical change from S. 425.

S. 425 provides:

Secretary can issue only limited variances to lengthy and detailed performance standards and these are limited to aspects of steep slope and mountain top mining.

Administration change:

- ° Enlarge very limited variances available for steep slope mining.
- ° Provide variance for lack of equipment availability.

Reasons for change: Simon, Dent, and Ash believe this change is critical.

- ° Without variances, bill contains numerous absolute prohibitions difficult if not impossible to comply with.
- ° Serious production delays could result where equipment is not available.
- ° The absolute nature of these prohibitions would greatly increase likelihood of litigation to close down a mine. The existence of some variance authority would greatly reduce such exposure.
- ° Retention of strict environmental controls on issuance of variance would prevent serious adverse environmental effect.
- ° Administration position has been to provide some such variance.

Reasons against: Morton, Zarb, Train, and Peterson believe:

- ° Would be totally unacceptable to Hill and would raise question whether Administration really wants a sound bill.
- ° Once absolute nature of prohibitions is diluted, widespread abuse of performance standards could occur which would be difficult to police.
- ° Environmentalists argue such variances are unnecessary, would diminish force of bill's thrust to prevent environmental abuse-- "attacks heart of bill."
- ° Equipment variances rarely needed except for mountain top mining.

Decision:

☒ Change is critical.

☐ Change is not critical.

ISSUE #6 - ALLUVIAL VALLEY FLOORS
(Potential production and reserve loss)

Issue - Near prohibition of mining on alluvial valley floors - should amendment be identified as critical change from S.425?

S.425 Provides:

Prohibits surface mining of alluvial valley floors where there is existing or potential farming and ranching and where operation would have "substantial adverse effect on valley floors".

Administration change:

(Sub-issue: What should change be?) ("a" & "b" are not mutually exclusive)

- | | |
|---|--|
| a. Restrict provision to where only existing farming or ranching is occurring. (Simon and Dent favor) | b. Modify provision to permit mining based on full reclamation of the land such that farming or ranching can be practiced as post-mining uses in the area. (Dent favors) |
|---|--|

Reasons for change: Dent, Simon, and Ash believe this is a critical change:

- | | |
|---|--|
| . Avoids locking up major deposits of low sulphur coal in the West. | . S.425 provision could be interpreted as termination of Federal leases for which compensation should be required. |
| . Avoids close down existing operations (number is not known). | . Should be a State decision. |

Reasons against: Morton, Zarb, Train, and Peterson believe:

- | | |
|---|---|
| . Issue is particularly sensitive with Western Congressmen. | . Most Western States will bar surface mining in alluvial valleys anyway. |
| . Prohibition is not absolute since "substantial adverse effect" must be found. | |

Decision

Main Issue

☐ Change is critical

☐ Change is not critical

Sub-issue

a. ☐ to restrict provision of existing ranch and farmlands

b. ☐ modify so as to permit if returned to original use.

and/or

ISSUE #7 - HYDROLOGIC DATA

(Potential small miner production impact)

Issue - Hydrologic data - should the authority of the Secretary to waive certain hydrologic data required in permits be identified as a critical change from S. 425.

S. 425 provides:

Requirement for the preparation and submission of extremely detailed hydrologic data in connection with application for the permit.

Administration change:

Provide that such hydrologic data must be submitted unless the Secretary expressly waives such submission based upon adequate data already being available to the authority.

Reasons for change: Simon and Dent see this as a critical issue.

- . The regulatory authority should not place additional burdens upon permit applicants when the data is available elsewhere.
- . This could hurt the small miner especially hard.
- . Allowing waiver would reduce serious litigation potential arising from the specificity of the requirement and the placement of all burden of proof upon a permit applicant.
- . Exercise of discretion by regulatory authority to execute the waiver would be subject to review in any event.

Reasons against: Morton, Zarb, Peterson, Train and Ash all believe this issue should not be considered "critical" when compared to the others.

- . Net production impact will not be significant.
- . Any weakening of data requirements could be misused and would undermine requirement that hydrology of area be returned to approximate premining conditions.
- . Hydrologic data is extremely important and this change could be read in Congress as an Administration attempt to weaken the bill.
- . Requiring the permit applicant to analyze and utilize hydrologic data whether secured by him or made available to him from existing sources is key to the applicants understanding of what measures he must take throughout the mining operation to avoid violations of his permit.

Decision

☐ The waiver of these hydrologic data requirements should be identified as a critical issue.

☐ Do not identify as critical issue.

ISSUE #8 - IMPOUNDMENTS
(Production and inflation)

Issue - Possible prohibition on impoundments of mine works - should deletion be identified as critical change from S. 425?

S. 425 provides:

- ° Design standards to guard against failure of dams that impound liquid mine wastes.
- ° Requirement that any new or existing impoundment be located so "that the location will not endanger public health and safety should failure occur."

Administration change would:

- ° Retain design standards.
- ° Modify location language to minimize danger to public health and safety should failure occur.

Reasons for change: Simon, Dent, and Ash believe:

- ° Design standards should provide needed protection.
- ° Literal interpretation of location requirement would virtually prohibit construction of impoundments and require removal of most existing ones.
- ° Literal interpretation will almost certainly be sued for in the courts.
- ° Alternative means of dealing with mine wastes likely to be very costly.

Reasons against: Morton, Zarb, Train, and Peterson believe:

- ° That provision will not be interpreted literally by the courts.
- ° Impoundments aren't necessary as other technology is available for handling wastes.
- ° Difficult to urge change without implication that Administration is willing to risk public health and safety.

Decision:

☒ Change is critical.

☐ Change is not critical.

ISSUE # 9 - NATIONAL FOREST PROHIBITION
(Coal reserve loss)

Issue - Prohibition of surface mining on National Forests - should amendment be identified as critical change from S. 425?

S. 425 provides:

- ° Prohibition of surface coal mining on National Forests.

Administration change:

(Sub-issue: What should change be?)

- | | | |
|--|----|--|
| a. Delete entire restriction
(Simon, Dent, and Ash) | or | b. Provide authority for Secretary
of Agriculture to waive after
showing national need. (Morton,
Zarb, Butz, Train, and Peterson
favor.) |
|--|----|--|

Reason for change: Simon, Dent, and Ash believe S. 425:

- | | |
|---|---|
| <ul style="list-style-type: none">° Would significantly reduce surface minable reserves available for leasing.° Locks up 7 billion tons of strippable reserves mostly in Montana equaling: 11 years national production at current rates; 30% uncommitted Federal reserves in lower 48 States.° Would encourage development of restrictions for surface mining of all minerals from National Forests. | <ul style="list-style-type: none">° Would force leasing activities onto other lands where environmental and other costs might be higher.° Would be difficult to change later to permit surface mining.° Could look bad to be providing for surface mining elsewhere, but not on National Forests which are for multiple uses. |
|---|---|

Reasons against: Morton, Zarb, Butz, Train, and Peterson believe keeping existing provision:

- | | |
|---|--|
| <ul style="list-style-type: none">° Would encourage faster passage of bill.° Would help satisfy environmentalists. | <ul style="list-style-type: none">° Loss of reserves would not be critical because of massive private reserves and because of massive quantities of Federal coal already leased (26 years of total national production at current rates is available and already under Federal lease). |
|---|--|

Decision on main issue:

☐ Change is critical.

☐ Change is not critical.

Decision on Sub-issue:

☐ Delete S. 425 restriction.

☐ Provide authority to waive restriction.

TAB B

AGREED-UPON CRITICAL CHANGES1. Citizen suits

S. 425 would allow citizen suits against any person for a "violation of the provisions of this Act."

The Administration's change would authorize citizen suits directly against mining operations only where violations of regulations or permits are occurring.

The reason for the Administration's change is to avoid undermining the integrity of the bill's permit mechanism. If this change is not made, the result could be 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 -- on the grounds that such operations are otherwise in violation of "the provisions of this Act." This is unnecessary. The promulgation of regulations, the issuance of permits, and the monitoring and policing of all ongoing operations are all subject to public review.

2. Absolute prohibition on siltation

S. 425 would require mining operations to prevent increases in stream siltation outside of the permit area above "natural levels."

The Administration's change would require mining operations to prevent such siltation "to the maximum extent practicable."

The reason for the Administration's change is to eliminate an absolute performance standard (prevention) which would be extremely difficult, if not impossible, to achieve in most coal mining situations.

3. Absolutes regarding hydrology

S. 425 would require surface coal mining operators to (a) demonstrate before receiving a mining permit that the proposed operation "has been designed to prevent irreparable offsite impacts to hydrologic balance" and (b) preserve "throughout the mining and reclamation process the hydrologic integrity of the alluvial valley floors."

The Administration's change would require mining operations to prevent adverse impact upon such hydrologic balance and integrity "to the maximum extent practicable."

The reason for the Administration's change is to eliminate an absolute performance standard (prevention and preservation) which would be extremely difficult, if not impossible, to achieve in most coal mining situations.

4. Ambiguous terms

S. 425 did not explicitly authorize the Secretary of the Interior to define by regulation ambiguous terms in the legislation.

The Administration's change would provide the Secretary with express authorization to define ambiguous terms.

The reason for the Administration's change is to provide greater flexibility as problems of interpretation develop in implementation and administration of the Act. This authority could reduce potential danger of unexpectedly strict court interpretation of many provisions of the legislation which are unclear, and decrease the adverse impact if other proposed Administration changes are rejected (e.g. potential prohibitions re: sitation and hydrologic impact, alluvial valley floors, or possible anti-degradation interpretation).

5. Abandoned Mine Reclamation Fund

All agencies agree that another critical change is required with respect to the Abandoned Mine Reclamation Fund contained in S. 425. However, there is disagreement concerning the scope, fees, and jurisdiction of such a program. Accordingly, a separate issue paper is attached on this issue.

TAB C

NONCRITICAL SUBSTANTIVE ISSUES AND
TECHNICAL DRAFTING CHANGES THAT
WOULD BE MADE IN AN ADMINISTRATION BILL

Administration changes would provide:

1. Elimination of surface owner consent requirement for mining Federal coal (future production and cost impact, windfall profits, absolute veto right of surface owner).
2. Deletion of Federal funding for research centers (Federal cost, need, value).
3. Anti-degradation language - deletion or clarification of nonintent (production impact, uncertainty).
4. Deletion of provision that operators adversely affected by regulation and employees who lose jobs because of this Act given (by S. 425) special preference on contracts for orphan land reclamation (counter to both contracting and unemployment policies).
5. Elimination of automatic moratorium on mining triggered in S. 425 by request to study area for unsuitability for mining (production impact).
6. Elimination of contract authority in substantive legislation (violation of spirit of Congressional Budget Reform and Impoundment Control Act).
7. Deletion of requirement that lessees of Federal coal must not deny any class of buyer coal. (Could interfere with integrated onsite electrical generation facilities).
8. Specifying interest charge for penalty delay at Treasury borrowing rate (vice 6%).
9. That regulatory authority be clearly authorized to spread permit fee over several years rather than as large front-end cost (small miner impact).
10. Mining within 500' of active mine authorized if can be done safely (production, reserve).
11. That haul roads from mine are not restricted from connecting with public roads (correction of drafting error).

NOTE: This does not imply that the Administration does not recognize certain surface owner rights, but the specific provisions in this bill are not suitable for recommendation by the Administration. The issue is left open for debate and negotiation. There is general agreement that inclusion in the final bill of the surface owner provisions of S. 425 should not be considered a critical item leading to veto.

TAB D

COMPARISON OF VETOED S. 425 AND ADMINISTRATION BILL^{1/}

	<u>S. 425</u>	<u>Administration Alternative</u>
<u>Coal Production Loss</u>		
Interim program	18-50 M tons/yr.	15-50 M tons/yr. ^{2/}
Permanent program	48-140 M/tons/yr.	33-80 M tons/yr. ^{2/}
<u>Reserves locked up</u>	Undetermined	7-10 B tons <u>less</u> than S. 425, related primarily to National Forest provision, with alluvial valley provisions unlocking undetermined amounts.
<u>Inflationary Impact</u>	Effect disputed. Agreement that mining costs will increase and that foreign oil will have to be used to make up production losses. Total \$0.5 to \$2.0 B/yr.	Only major change is in elimination of reclamation fund -\$0.2 B/yr. Amount of production loss averted undetermined but <u>some</u> mitigation effect.
<u>Unemployment Assistance Approach</u>	Open-ended unemployment for any jobs lost through regulatory action - after other benefits exhausted.	No change from National unemployment provisions applicable to both regulated and unregulated industry.
<u>Excessive Direct Federal Involvement</u>	Direct Federal enforcement of National standards, even in States already regulating mines, pending Interior approval of new State system under the Act.	Discretionary Federal enforcement during interim period, except in cases of imminent hazard where enforcement mandatory.
<u>Administrative and Legal Uncertainties</u>	Many that potentially affect production, depending on future interpretation by courts.	Many uncertainties removed in specific drafting and in giving Secretary authority to define ambiguous terms.
<u>Impact on Small Mine Operators</u>	Potentially significant but uncertain.	Mitigated by all provisions that remove uncertainties but still not clearly predictable.

^{1/}Administration Bill assumed to be S. 425 as modified by all substantive changes listed on Tabs A, B, and C except for production losses (see footnote 2).

^{2/}Estimates assume solution of only the 5 points in Tab B. Interior advises production losses would be less if issues in Tab A are also solved.

S. 425Administration AlternativeImpact on Environment

Differences not quantifiable because they relate primarily to assumptions about future actions by State and Federal regulatory bodies, coal producers and courts. Administration provision on variances on alluvial valleys and National Forests will result in at least short term environmental damages that S. 425 would prevent. Extent uncertain.

OUTLOOK FOR CHANGES IN THE CONGRESS

It is too early to tell how changes in the new Congress will affect the strip mining bill. Attitudes of new members cannot yet be determined. Our best estimate at this point of the outlook is as follows:

Assessment of potential for meaningful negotiations

The Congressional Relations staff has explored the possibility that Congressional supporters of the bill -- principally Senator Jackson and Congressman Udall -- are interested in negotiations. In short, Messrs. Marsh and Friedersdorf have concluded that (a) the best approach would be submission of an Administration bill before negotiations are attempted, and (b) there probably is little chance of successful negotiations until a bill is sent up.

House

- . On the majority side, Congressman Udall has indicated that he would like to negotiate with the Administration. Further exploration indicates that he is under strong pressure from other majority supporters of the bill to push last year's bill through and make no concessions. Thus, he could not make any commitments.
- . On the minority side, Congressmen Steiger and Ketchum are continuing to oppose the bill in Committee but they have little chance of success. Congressman Rhodes appears to support their position, but strongly suggests that the Administration express its position in the form of its own bill.
- . With respect to hearings, it now appears that none will be held until after the Lincoln Day recess. There might be from one to three days of perfunctory hearings in the full House Committee before last year's bill is reported to the floor.
- . Floor amendments now seem to have little chance of success.

Senate

- . On the majority side, Senator Jackson has sent word via staff that they are prepared to listen to Administration proposals for changes and that something might be worked out on two or three items. The "price" for this would be a public release giving Senator Jackson credit for a compromise. Metcalf has instructed staff not to prepare for hearings until after Lincoln Day recess.
- . On the minority side, Senator Fannin is most strongly opposed to the bill. Senator Hansen is basically opposed but is somewhat

committed to using a strip mining bill to protect the interests of surface rights and owners in his State.

- . Hearings by the Interior Committee have been unofficially cancelled pending House action on the bill.
- . Chances of floor amendments to satisfy Administration problems are bleak.

Potential strategy for achieving meaningful changes

Based upon the above, it appears unlikely that even those 4-5 changes that everyone agrees are critical (warrant veto) could be achieved through either negotiations or floor action if the bill is acted upon in the next 4-6 weeks. Those having no strip mining in their states or do not have utilities dependent on coal have no incentive to go against the environmentalist cause. These members plus those who are committed to environmental or no-development causes now constitute a clear majority in both houses.

The only credible threats that exist are either: (a) the ability to delay action on the bill until there is greater appreciation of both the importance of coal production and the bill's negative impact or (b) the ability to pull together a clear 1/3rd plus one in the House to sustain a veto. From an analysis of the positions of the members from last year that have returned to the 94th Congress, there are between 100-110 that could be counted upon to support a veto with the remaining 220-240 either voting for a tough bill or not seriously involved.

The ability to create a viable veto threat depends upon (a) positions of the new members who should be encouraged to press for hearings and not vote blindly on the Democratic caucus position, (b) whether a strong case is made to members on coal production, and (c) the effectiveness of industry interest groups in gaining votes to build the veto threat.

Positions of interest groups

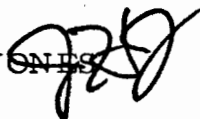
- . Coal industry interests (represented locally by National Coal Association and American Mining Congress) oppose the bill as passed and would prefer delay as the best route to either a better bill or no bill at all.
- . Utility interests generally are in the same position as the coal industry interests. (The National Association of Electrical Companies has been the most effective force in delivering negative votes. The Rural Electrical Cooperatives has been relatively silent but tend in the same direction.)

- . Environmentalists position nationally is well known. There is particular opposition from western environmentalists who are opposed to strip mining activities or any other significant developmental activities in their areas. They argue that eastern energy requirements should not be fulfilled by tearing up the west.
- . Ranchers and other surface rights owners continue to press for leverage that will increase their control and remuneration from strip mining of Federally owned coal under their land.
- . Labor position this year is unpredictable. Last year:
 - The United Mine Workers union was split internally over the bill. The most recent vote on it occurred last spring when the executive committee voted by a narrow margin to support the bill. The margin in favor was supplied by the non-operating units of the UMW, which has led to threats of defection from the UMW to the Operating Engineers of some operating units dominated by strip miners.
 - The AFL-CIO supported enactment of the bill. (The AFL-CIO economic-energy program announced on January 23, 1975, is silent on strip mining. It does refer to relaxing environmental requirements but it is not clear that this would apply to the strip mining issue.)

THE WHITE HOUSE
WASHINGTON

January 27, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: KEN COLE
FROM: JERRY H. JONES 
SUBJECT: Strip Mining Legislation

Your memorandum to the President of January 25 on the above subject has been reviewed and the following notation was made:

-- Can't we prepare our bill. Get Admin. agreement and then go to "Hill" before introduction. Should I have an immediate meeting with our group to discuss?

The following decisions were made in Tab I:

1. Orphan Land Reclamation Fund -- Acceptable.
 - a. What should be the Federal role and the Federal share of costs? Both Federal and State Governments should acquire and reclaim lands (as provided in S. 425) and cost share should be 50/50 was approved.
 - b. Should private landowners be assisted? No private assistance was approved.
 - c. How should the orphan lands program be funded? Excise tax on coal and trust fund as provided in S. 425 was approved.
2. Special Unemployment Provisions -- Unacceptable.
3. Federal role in the interim regulatory program.--Acceptable.
4. Timing for Implementing Program.-- Acceptable.
5. Variances from Performance Standards -- Acceptable.
6. Mining of Alluvial Valley Floors in the West -- Acceptable.
7. Hydrologic Data -- Acceptable.

8. Possible Prohibition on Impoundments -- Unacceptable.

9. Mining in the National Forests -- Unacceptable.

Sub-issue: When seeking a change, which is preferable?
Provide authority for the Agriculture Secretary to waive
the prohibition after a showing of national need.

Please follow-up with the appropriate action.

Thank you.

cc: Don Rumsfeld

THE WHITE HOUSE
WASHINGTON

January 28, 1975

TO: JERRY JONES
FROM: 
Glenn Schleede

In accordance with our
conversation.

Attachment

ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE

WASHINGTON

January 27, 1975

MEMORANDUM FOR

ROG MORTON
ROY ASH
JACK MARSH
MAX FRIEDERSDORF

FROM:

KEN  COLE

SUBJECT:

STRIP MINING LEGISLATION

The President has considered the matters at issue in the strip mining legislation and decided that:

1. Critical changes from S. 425, in addition to the five already agreed upon, are:
 - a. Unemployment provisions
 - b. Impoundments
 - c. Mining in the National Forests (change to allow a waiver by the Secretary of Agriculture).
2. Issues raised that are "non-critical" (change to be sought but, in the final analysis, could be accepted) include:
 - a. Orphan land reclamation fund as provided in S. 425, with 50/50 cost sharing but excluding assistance to private landowners.
 - b. Federal role in interim program
 - c. Implementation timing
 - d. Variances from performance standards
 - e. Alluvial valley floors, restricted to existing ranch and farmlands.
 - f. Hydrologic data
3. An Administration bill should be prepared and discussed on the Hill before introduction.

In order to carry out the President's decisions, it will be necessary to prepare, as soon as possible, a bill incorporating changes and a draft cover letter explaining changes and their relative importance.