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THE WHITE HOUSE
WASHINGTON

May 7, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON
FROM: JERRY H. JONES
SUBJECT: Strip Mining Legislation

Your memorandum to the President on the above subject has been reviewed and the following notation was made next to "see me":

-- Tilt, if any, toward veto.

Please note that to signal anything could be harmful to Hathaway's proceedings.

cc: Don Rumsfeld

DECISION

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON *jcc*
SUBJECT: STRIP MINING LEGISLATION

The Senate-House Conference Committee has reported out a compromise bill which will be taken up by the Senate on Monday and the House on Wednesday.

We anticipate that by Monday there will be (a) many questions as to your position on the bill, and (b) pressure from opponents of the bill for you to signal a veto so that a higher negative vote can be built up.

The Conference Results

Tab A summarizes the results on substantive changes from last year's bill. Tab B is a preliminary estimate of production and other impacts of the bill. However, Frank Zarb wants to look more carefully at the energy impacts before giving a recommendation on signing or veto.

Briefly:

- . Success or good progress was achieved on six of the eight critical changes requested from last year's bill.
- . Two new problems were created: State control over Federal lands and bans on mining in alluvial valleys. The seriousness of the alluvial valley provision will depend on court resolution of an inconsistency between restrictive bill language and a loose report interpretation.
- . The experts' preliminary estimates of production losses (51-162 million tons) are about the same as for last year's bill. However, the progress that has been made should help keep losses in the lower end of the range.

Arguments

The arguments for and against the bill will remain essentially the same:

For: It's good environmentally, will back up state regulatory activities, stop bad strip mining practices and reclaim land, including abandoned lands; politically difficult to oppose; and sustaining a veto may not be possible.

Against: The bill creates another Federal-state regulatory system and bureaucracy; it's a long, ambiguous bill which invites years of litigation; compared to no bill, there will be adverse impacts on coal production, oil imports, electric bills and employment; restrains western coal development; and will put small mines in Appalachia out of business.

Expected Agency Positions

We expect Rog Morton, EPA, CEQ, and Agriculture to recommend signing the bill. Treasury and Commerce probably will continue to favor a veto. As indicated, Frank Zarb hasn't decided.

Hill Situation

The Senate passed its bill by 84-13 and the House by 333-86. Since then, the miners' Washington demonstration and an intensified lobbying effort apparently have changed some votes. Opponents of the bill are claiming that at least 150 votes could be produced to sustain a veto in the House. At present, Congressional Relations staff believes this count is optimistic and that sustaining a veto probably will be extremely difficult.

Recommendation

Frank Zarb and I recommend that you do not take a position on the bill before the House and Senate votes.* Instead, the burden should be left on the opponents to demonstrate what they can do. Administration spokesmen would say that we are continuing to assess the Conference bill (which just became available late Friday, May 2) and that you have made no decision.

The Congressional Relations Staff is polling the Senate and House leadership and will have a report for you over the weekend or early Monday. They will also ask on Monday for a House whip check.

Decision: Do not signal position.

Agree Disagree

*Jack Marsh concurs.

Tilt, if any, toward veto.
See me

TAB A

SUMMARY RESULTS - CONFERENCE BILL

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

<u>Subject & Proposed Change</u>	<u>Conference Bill</u>
1. <u>Citizen Suits</u> Narrow the scope	Adopted
2. <u>Stream Siltation</u> Remove prohibition against increased siltation	Partially adopted
3. <u>Hydrologic Balance</u> Remove prohibition against disturbances	Partially adopted
4. <u>Ambiguous Terms</u> Specific authority for Secretary to define	Not adopted but other changes make this much less important
5. <u>Abandoned Mine Reclamation Fund</u> <ul style="list-style-type: none">. Reduce 35¢-25¢ to 10¢. Limit use of fund to reclamation	Fee reduced on some coal Uses broadened
6. <u>Impoundments (Dams)</u> Modify virtual prohibition on impoundments	Changed enough to be acceptable
7. <u>National Forests</u> Allow mining in certain circumstances	Rejected
8. <u>Special Unemployment Provisions</u> Delete as unnecessary and precedent setting	Adopted

B. Two new problems created in this year's bill

1. Senate floor debate indicates that the language of the bill can be constructed to permit states to ban surface coal mining on Federal lands. The House took the opposite view in floor debate. Not dealt with in the Conference report. Believed to be a major problem.
2. The Conference adopted a provision prohibiting location of a mining operation in an alluvial valley floor which may prevent expected production and lock up major coal reserves in the West.

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

<u>Subject & Proposed Change</u>	<u>Conference Bill</u>
1. <u>Antidegradation</u> Delete requirements	Adopted
2. <u>Abandoned Mine Reclamation Fund</u> <ul style="list-style-type: none">• Require 50/50 cost sharing• Eliminate grants for privately owned lands	Rejected Broadened
3. <u>Interim Program Timing</u> <ul style="list-style-type: none">• Reduce potential for mining delays• Allow operations under interim permit if regulatory agency acts slowly	Rejected Adopted
4. <u>Federal Preemption</u> Encourage states to take up regulatory role	Rejected
5. <u>Surface Owner Consent</u> Rely on existing law	Rejected

<u>Subject & Proposed Change</u>	<u>Conference Bill</u>
6. <u>State Control over Federal lands</u> (Now a serious problem - discussed in B.1, above)	
7. <u>Funding for Research Centers</u> Delete as unnecessary	Rejected
8. <u>Alluvial Valley Floors</u> (Now a serious problem - discussed in B.2, above)	
9. <u>Designation of areas as unsuitable for mining</u> Expedite review and avoid frivilous petitions	Partially adopted
10. <u>Hydrologic Data</u> Authorize waiver in some case where unnecessarily burdensome	Rejected
11. <u>Variances</u> Broaden variances for certain post-mining uses and equipment shortages	Rejected
12. <u>Permit Fee</u> Permit paying over time rather than pre-mining	Adopted
13. <u>Contracting for reclamation</u> Delete requirement that contracts go to those put out of work by bill	Adopted
14. <u>Coal Sales by Federal Lessee</u> Delete requirement that lessee must not deny sale of coal to any class of purchaser	Requirement softened
15. <u>Appropriations Authority</u> Use regular appropriations authority rather than contract authority	Rejected
16. <u>Indian Lands</u> Clarify to assure no Federal control over non-Federal Indian land	Adopted

<u>Subject & Proposed Change</u>	<u>Conference Bill</u>
17. <u>Interest charge on civil Penalties</u> Adopt sliding scale to minimize incentive for delaying payments	Adopted
18. <u>Mining within 500 feet of active mines</u> Permit where it can be done safely	Rejected
19. <u>Haul Roads</u> Clarify restriction on connections with public roads	Adopted

TAB B

IMPACT OF THE CONFERENCE BILL ON COAL PRODUCTION,
RESERVES, OIL IMPORTS, DOLLAR OUTFLOW,
JOBS AND HIGHER COSTS

Conference
Bill

1. Loss of coal production during first full year of application -- based on expectation of 330 million tons of strip production and 685 million tons of total production if there were no bill. (does not cover potential losses from delays due to litigation or restrictive interpretation of ambiguous provisions):

In millions of tons:

. Small Mines	22-52
. Restrictions on steep slopes, siltation, aquifers	7-44
. Alluvial valley floor restrictions	<u>22-66</u>
<u>Total</u> - 1st full year of application	51-162
(% of production-estimated at <u>685 million tons.</u>)	7-24%

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

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

. Alluvial valley floor provisions (includes losses from national forest provisions of 6.3 billion and surface owners provisions of 0-14.2 billion)	22.0-66.0
. National forest (outside alluvial valleys)	.9-.9
. Other provisions (e.g., steep slopes)	<u>0-6.5</u>
<u>Total</u> - <u>billion tons</u>	22.9-73.4

*Note: Remaining strippable reserves would be many times expected annual production.

Conference
Bill

3.	<u>Increased oil imports and dollar outflow</u> - assuming 80% of lost coal production was replaced by oil. (20% by underground mining.)	
	• <u>million barrels per year</u> (4.3 barrels per ton of coal)	176-559
	• <u>dollar value (\$11 per barrel) - billions</u>	1.9-6.1
4.	<u>Job losses*</u> (assuming 36 tons per day per miner and 225 work days per year; and .8 non-mining jobs per miner)	
	• direct job losses -	6,000 to 20,000
	• indirect job losses -	5,000 to 16,000
	Total	11,000 to 36,000
5.	<u>Inflationary Impact</u> - In addition to higher cost foreign oil -- would include (in <u>millions</u>). Assumes 60 million tons strip mining loss.	
	• Fee for reclamation fund	\$145 to \$155
	• Higher strip mining production and reclamation costs (estimated at 60-80¢ per ton)	\$162 to \$216
	• Costs of Federal and State program administration (not including unemployment compensation)	\$90

*Does not reflect possible offset for job increases due to (a) reclamation work or lower productivity per man in strip mining, or (b) possible increases in underground mining which probably will occur to offset part of the strip mining production loss. Employment gains for underground mining will be some years off due to time required to open mines.