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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

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## THE WHITE HOUSE

WASHINGTON

May 3, 1975

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM CANNON *JC*  
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 pooling 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

\_\_\_\_\_ See me

\*Jack Marsh concurs.



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\_\_\_\_\_ Disagree

\_\_\_\_\_ See me

\*Jack Marsh concurs.



THE WHITE HOUSE

WASHINGTON

May 9, 1975

MEMORANDUM FOR THE VICE PRESIDENT

FROM : JIM CANNON

SUBJECT : Strip Mining

The President faces a very important decision related to energy, the economy, and the environment when the strip mining bill which Congress passed comes to him to be signed or vetoed.

His decision, which may have to be made next week, is interrelated with the Hathaway confirmation, the farm veto, and other issues before the Congress.

It seems to me important that you have this rough draft of the issues and a proposed veto message. Moreover, I feel that it is very important that you be present for the discussion which will take place before the President's decision.

Attachment

THE WHITE HOUSE

WASHINGTON

May 9, 1975

MEMORANDUM FOR :

PHIL BUCHEN  
MAX FRIEDERSDORF  
ALAN GREENSPAN  
BOB HARTMANN  
JIM LYNN  
JACK MARSH  
BILL SEIDMAN  
PAUL THEIS

FROM :

JIM CANNON

SUBJECT :

DECISION MEMORANDUM ON H.R. 25,  
SURFACE MINING BILL

The President has asked for a decision memorandum by close of business today on the strip mining bill. The first draft of such a memorandum is enclosed, along with a draft statement of disapproval in the event that he decides to veto the bill.

May we have your comments and corrections as soon as possible but not later than noon today so that we can revise the memorandum and get it to the President. May we also have your recommendation on the bill.

We will also be checking the memorandum with Frank Zarb, Russ Train, Russ Peterson, Kent Frizzell and Rog Morton.

Thanks for your help.

Enclosure.

## MEMORANDUM

FROM:

SUBJECT: STRIP MINING BILL

H.R. 25, the Surface Mining Control and Reclamation Act passed the Senate on Monday by Voice vote and the House on Wednesday by a vote of 293-115.

This memorandum briefly describes the bill, compares it to the one you proposed on February 6, identifies the impacts on coal production and other economic considerations, lists arguments for and against approval, and presents recommendations of your advisers as to signing or vetoing the bill.

Jim Lynn will soon be providing an enrolled bill memorandum which will provide more detail on the bill and agency positions.

The Bill

Briefly, the principal features of the bill:

- . Establish environmental protection and reclamation standards for surface mining activities.
- . Call for State regulatory and enforcement activities.
- . Require Federal (Interior Department) regulation and enforcement if States do not act.
- . Places an excise tax of 15-35¢ on each ton of coal to create a trust fund for use in reclaiming public and privately owned abandoned mined lands, and paying other facility and service costs in areas affected by energy development.
- . Provides funds for state mining and mineral institutes.

Background

The Executive Branch proposed bills in 1971 and 1973 to establish environmental and reclamation standards for surface and subsurface mining of coal and other minerals. The Senate passed a coal surface mining bill in 1972 and again in 1973. Despite extensive Administration efforts, the House passed a tough bill in July 1974 and a similar bill emerged from Conference in December 1974. The memorandum of disapproval announcing the pocket veto of that bill on January \_\_, 1975 is enclosed at Tab A.

On February 6, 1975, you transmitted a new bill which followed the wording of the vetoed bill except for 8 changes identified in your letter (Tab B) as critical to overcome the problems that led to your veto and 19 other changes which



were designed to reduce the coal production losses and make the bill more workable.

The Senate passed its bill on \_\_\_\_\_, 1975 by a vote of 84-13 and the House its bill by a vote of 333-86. 115?

In order to place in context many of the objections that are now being voiced against the bill now before you, it is important to note that the bill you transmitted in February represented a substantial compromise from proposals advanced over the past four years. For example, the Executive Branch gave up after numerous attempts to obtain less rigorous restrictions on steep slope mining and post-mining uses. The Appalachian state objections to the bill are due to these restrictions which would put small mine operators out of business and generally restrict mining activities.

#### Enrolled bill compared to Your February 6th bill

Tab C summarizes the results of the Congressional action with respect to the changes you requested. Briefly, it indicates that:

- Success or substantial progress was achieved on 6 of the 8 critical changes.
- Three important new problems were created--involving State control over Federal coal lands, restrictions on mining in alluvial valley floors, and water rights.
- Of the other 19 changes, 7 were adopted, 2 partially adopted, 8 rejected and 2 made less acceptable.

#### Adverse impacts of the bill

Tab D summarizes the estimated impact of bill on coal production, oil imports and dollar outflows, unemployment, higher costs, and lock up of reserves. Briefly:

- Coal Production. Interior and FEA experts have estimated that the adverse impact on coal production from those provisions that can be estimated will be from 40 to 162 million tons, or from 6 to 24% of the 685 million tons of total coal production expected in 1977. These estimates do not include the impact of provisions of the bill that cannot be estimated such as (1) provisions for designating lands unsuitable for mining, (2) requirements for surface owner consent, or (3) production delays expected from litigation.

The experts have been unable to narrow the range of their estimate--or provide a "most likely" figure because

they cannot predict how the courts will interpret many provisions of the bill. For example, Court resolution of an inconsistency between restrictive bill language and a loose report interpretation can determine whether losses are closer to the estimated 11 million ton minimum loss or the 66 million ton maximum loss estimated for this provision.

Changes in the bill achieved during the current session should help hold the losses toward the lower end of the range. On the other hand, the provisions for which estimates are not developed could drive the losses toward or above the high end of the range.

Contentions have been made that the absence of a bill is contributing to uncertainty and thus holding up plans for expanded coal production. We have no evidence to support this contention and suspect that production will increase more rapidly without a Federal bill. This point is discussed in more detail at Tab E.

- . Oil Imports. Most of the lost coal production will have to be replaced by imported oil. If 80% is replaced by oil and the other 20% by more deep-mined coal, the oil imports associated with the estimated losses would range between 139 and 559 million barrels of oil per year, involving dollar outflows from \$1.5 to \$6.1 billion.
- . Job Losses. In addition to the Job losses associated with the dollar outflows, Interior and FEA have estimated that direct and indirect job losses will range between \_\_,000 and 36,000. These will be partially offset by lower productivity due to tighter restrictions, jobs in reclaiming abandoned mine lands (requiring relocation of unemployed) and after some years, expanded underground mining.
- . Higher Costs. In addition to the higher costs of foreign oil to replace coal, the added costs that will be paid through higher prices or taxes include:
  - \$145 to \$155 million in excise taxes for the "reclamation" fund.
  - Higher strip mining production and reclamation costs-- estimated at \$162 to \$216 million annually
  - About \$90 million for Federal and State Government regulatory systems and research.
- . Electric Bills. Since most coal is used in electrical generation, electric bills will go up. The amount will vary widely from utility to utility depending upon the dependence on coal and the impact on the utility's coal supply. Imported oil costs more than 10 times as much as an equivalent amount of coal in BTU terms.

### Arguments for Approval of the bill

- . Strip mining is still devastating the environment in some areas.
- . State laws, regulations and enforcement is not strong enough and Federal backup enforcement is necessary.
- . Thousands of acres of abandoned mined lands are scars on the landscape and should be reclaimed.
- . Your Administration has a negative environmental record due to the previous strip mine bill veto, proposed clean air act amendments, decision not to propose a land use bill, and Hathaway's appointment.
- . A veto would jeopardize Hathaway's appointment.
- . The Administration is on record as favoring a strip mining bill and the Congress accepted a substantial number of the changes you proposed on February 6.
- . Job Losses will be partially offset by employment in reclamation and underground mining.
- .

### Arguments against approval

- . Creates another Federal-State regulatory system and bureaucracy.
- . Bill is long and ambiguous, inviting years of litigation.
- . Bill is not significantly different from the one you vetoed.
- . States have tightened laws, regulations and enforcement over past 4 years making Federal legislation less desirable and possibly unnecessary.
- . Production losses and impact on imports and dollar outflow.
- . Job losses.
- . Higher consumer costs, particularly for electricity.
- . Restrains Western coal development and locks up substantial reserves.
- . Puts small mines out of business, particularly in Appalachia.
- . If Senate floor debate prevails, establishes bad precedent of making Federal mineral rights subject to State bans on mining.
- . Approval will gain no environmental votes but probably will lose some on energy, employment and economic grounds,



TAB A

THE WHITE HOUSE

MEMORANDUM OF DISAPPROVAL

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

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

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

Unfortunately, S. 425, as enrolled, would have an adverse impact on our domestic coal production which is unacceptable. By 1977, the first year after the Act would take full effect, the Federal Energy Administration has estimated that coal production losses would range from a minimum of 48 million tons to a maximum of 141 million tons. In addition, further losses which cannot be quantified could result from ambiguities in the bill, forcing protracted regulatory disputes and litigation. In my judgment, the most significant reasons why such coal losses cannot be accepted are as follows:

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



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

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

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

GERALD R. FORD

THE WHITE HOUSE,  
December 30, 1974

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TAB B

THE WHITE HOUSE

WASHINGTON

February 6, 1975

Dear Mr. Speaker:

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

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

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

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

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

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

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

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Henry R. Ladd". The signature is fluid and cursive, with the first name "Henry" written in a stylized, somewhat abbreviated manner, followed by "R." and "Ladd".

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



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

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

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

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

Critical changes.

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





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

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

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

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

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



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



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

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

The attached listing shows the sections of S. 425 (or S. 7 and H.R. 25) which are affected by the above changes.

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

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



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

| Subject   | S.425,S.7,H.R.25 | New Bill    |
|---|------------------|-------------|
| 14. Delete requirement on sales of coal by Federal lessees  | 523(e)           | None        |
| 15. Provide authority for appropriations rather than contracting authority for administrative costs                           | 714              | 612         |
| 16. Clarify definition of Indian lands to assure that the Secretary of the Interior does not control non-Federal Indian lands | 701(9)           | 601(a) (9)  |
| 17. Establish an adequate interest charge on unpaid penalties to minimize incentive to delay payments                         | 518(d)           | 418(d)      |
| 18. Permit mining with 500' of an active mine where this can be done safely   | 515(b) (12)      | 415(b) (12) |
| 19. Clarify the restriction on haul roads from mines connecting with public roads   | 522(e) (4)       | 422(e) (4)  |

TAB C

SUMMARY RESULTS - ENROLLED BILL

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

Subject & Proposed Change

Conference Bill

- |  |   |
|--|---|
| 1. <u>Citizen Suits</u><br>Narrow the scope  | Adopted   |
| 2. <u>Stream Siltation</u><br>Remove prohibition against increased siltation   | Partially adopted   |
| 3. <u>Hydrologic Balance</u><br>Remove prohibition against disturbances  | Partially adopted   |
| 4. <u>Ambiguous Terms</u><br>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"><li>. Reduce 35¢-25¢ to 10¢</li><li>. Limit use of fund to reclamation</li></ul> | Fee reduced on some<br>Uses broadened                       |
| 6. <u>Impoundments (Dams)</u><br>Modify virtual prohibition on impoundments  | Changed enough to be acceptable                             |
| 7. <u>National Forests</u><br>Allow mining in certain circumstances  | Rejected  |
| 8. <u>Special Unemployment Provisions</u><br>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.
3. Requirements to compensate for interrupted water supplies off-site may make it difficult or impossible for mining operators to obtain bonds at reasonable costs.

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".

Subject & Proposed Change

Conference Bill

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

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

Subject & Proposed Change

Conference Bill

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



TAB D

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

Enrolled  
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>11-66</u> |
| <u>Total</u> - 1st full year of application         | 40-162       |
| (% of production-estimated at 685 million tons.)    | 6-24%        |

(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.

Bill

3. Increased oil imports and dollar outflow -  
assuming 80% of lost coal production was  
replaced by oil. (20% by underground mining.)
- million barrels per year (4.3 barrels  
per ton of coal) 139-559
  - dollar value (\$11 per barrel) - billions 1.5-6.1
4. Job losses\* (assuming 36 tons per day per  
miner and 225 work days per year; and .8  
non-mining jobs per miner)
- direct job losses - to  
20,000
  - indirect job losses - to  
16,000
- Total to  
36,000
5. Inflationary Impact - In addition to higher  
cost foreign oil -- would include  
(in millions). 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 unem-  
ployment 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.



Will more coal be produced with the bill or with no bill?

The answer is necessarily speculative but the answer seems to be that more coal will be produced with no bill. Data and arguments supporting this contention include:

1. Coal producers really are not holding up on the expansion or production while awaiting a bill. Nearly all of the leading coal producing states already have strip mining controls in affect so the question for the big operators is merely whether (a) the restrictions are made even tighter, (b) the standards and requirements apply nationwide, (c) whether the regulatory procedures are changed, and (d) whether federal enforcement is put in place to back up state enforcement.
2. Manufacturers of equipment for large surface mining operations (e.g., drag lines) have all the business they can handle. Supposedly Bucyrus-Erie has five-years or more in backorders.
3. Small independent strip mining operators are expected to feel the pinch of any federal legislation. Our Interior and FEA people expect many of them to go out of business because they can't afford to do all the preparatory work for getting a permit and/or afford the extra equipment costs. These smaller operators have accounted for much of the surge capacity in coal products. In 1974, small operators produced about 58 million tons of coal out of the total of about 500 million tons. Small operators in Central Pennsylvania and Eastern Kentucky accounted for 60% of the increased coal production that occurred last fall when the demand for coal was high as users stockpiled for the coal strike.





I have today returned to the Congress, H.R. 25, the proposed Surface Mining Control and Reclamation Act of 1975, without my approval.

I have concluded that this bill is not acceptable in light of our National needs because it would:

- . reduce coal production.
- . increase considerably our dependence on foreign oil imports.
- . increase the outflow of dollars and jobs to other nations.
- . increase unemployment, particularly in Appalachia.
- . increase consumer costs, particularly for electricity.
- . have other harmful effects.

It is with a sense of deep regret that I find it necessary to reject this legislation. The Executive Branch and the Congress have worked long and hard to try to develop an acceptable bill. The Executive Branch proposed bills in 1971 and 1973. In February of this year, I submitted a bill which was designed to strike a balance between our desire to improve the environment and our need to increase domestic energy production and maintain a strong economy. Unfortunately, the bill does not strike an acceptable balance. Several examples will illustrate the problems.

First, with respect to coal production, Interior Department and the Federal Energy Administration have estimated that the lost coal production in the first full year of the bill's application will total between 40 and 162 million tons or \_\_\_ to \_\_\_% of the 685 million tons of coal production expected in 1977. This range of estimated loss includes only those

provisions for which an estimate can be developed. It does not include the potential impact of the many ambiguous provisions of the bill for which estimates can not be developed or the impact of delays that would be encountered while the provisions of the complex but vague \_\_\_\_\_page bill is tested in the courts.

Second, lost coal production means greater oil imports and outflow of U.S. dollars and jobs. Even if only 50 million tons of lost coal production had to be replaced by foreign oil, this would mean another 215 million barrels of oil imports per year and more than \$2.3 billion in dollar outflows (and more than 10,000 jobs lost). Greater imports mean greater vulnerability to another oil embargo.

Third, in addition to the national job losses associated with dollar outflows, there would be job losses from coal production cutbacks. These job losses would be particularly severe in the Appalachian region which has been struggling to improve its economic welfare without increased reliance on Federal welfare programs.

Fourth, the bill would increase consumer costs, particularly for electricity. In addition, to the higher costs of using foreign oil instead of domestic coal, there would be added costs of the bill that must be paid in consumer costs or taxes, including the taxes on coal which will be about

\$150 million annually, higher production and reclamation costs in the range of \$160 to 210 million annually, and Federal and State Government costs of administering the bill of \$90

million a year. The higher cost of electricity will vary from utility to utility depending upon the extent of reliance on coal. In some cases, imported oil will cost more than \_\_\_ times the current costs of coal to produce electricity.

Fifth, the bill is sharply inconsistent with our goals of increasing domestic energy production. We are running out of domestic oil and gas supplies. New energy sources are not available soon enough to take up the slack and supply new demands. We must increase coal to fill this gap. I have called for doubling coal production -- to 1.2 billion tons annually by 1985. The Democratic Congressional leadership's energy program called for 1.37 billion tons annually by 1985, but this bill would reduce coal production. Coal is the one abundant energy source over which the United States has total control. We should not impose unnecessary restrictions on the production and use of that coal.

I favor action to protect the environment and reclaim land disturbed by surface mining of coal and to prevent abuses that have accompanied such surface mining in the past. We can achieve those goals without imposing further restraints on our ability to achieve energy independence, without imposing unnecessary costs, creating unnecessary unemployment and without locking up our domestic energy resources.

The need to veto this bill is especially disappointing because of the extensive effort that has been made to obtain a bill that would achieve a balance among our various objectives that is in the Nation's best interests. Bills were proposed by the

Executive branch in 1971 and 1973. I proposed a new compromise bill in February of this year. Hundreds of hours have been spent in working with the Congress in an attempt to obtain a balanced bill.

The action that I have had to take on this bill does not resolve the issue of surface mining controls to my satisfaction nor to the satisfaction of the Nation. We must return to this issue and find the right answers--the best possible balance among our various national objectives that are involved, including environmental protection, energy, employment, consumer prices and reduced dependence on foreign oil. Since the Executive Branch and the Congress began work on this issue in 1971, there have been fundamental changes in the circumstances that must be taken into account, including new mining and reclamation practices, improved state laws, regulations and enforcement activities, and new objectives that must be balanced. In order that we may all have a better basis for addressing this issue, I have today directed the Chairman of the Energy Resources Council to organize a thorough review of today's circumstances that bear upon the need for surface mining legislation and to report back to me with his findings and recommendations by September 30, 1975. That study will involve the participation of the Environmental Protection Agency, the Council on Environmental Quality, Departments of the Interior, Commerce and Agriculture, the Federal Energy Administration and other agencies concerned.

[5/9/75]

ROBERT HARTMANN's COMMENTS:

1. Recommend veto
2. The veto message needs considerable reworking. Should be tied to Congress. Failure to date to enact energy program to reduce oil and increase other resources.

[5/9/75]

BUCHEN

Option 2 - Veto of Surface Mining





[May 1975]

THE WHITE HOUSE  
WASHINGTON

TO: Jim Cannon

FROM: MIKE DUVAL

For your information \_\_\_\_\_

Comments:

Latest on strip  
Mining. I'll polish  
up the OMB draft  
Signing Message. Glenn  
& I did the  
veto message White

## THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: STRIP MINING BILL

H.R. 25, the Surface Mining Control and Reclamation Act passed the Senate on Monday by voice vote and the House on Wednesday by a vote of 293-115.

This memorandum briefly describes the bill, compares it to the one you proposed on February 6, identifies the impacts on coal production and other economic considerations, lists arguments for and against approval, and presents recommendations of your advisers as to signing or vetoing the bill.

Jim Lynn will soon be providing an enrolled bill memorandum which will provide more detail on the bill and agency positions.

### The Bill

Briefly, the principal features of the bill:

- . Establish environmental protection and reclamation standards for surface mining activities.
- . Establish immediate Federal regulatory programs in all states as an interim measure.
- . Call for State regulatory and enforcement activities, with permanent Federal regulation and enforcement if States do not act.
- . Places an excise tax of 15-35¢ on each ton of coal to create a trust fund for use in reclaiming public and privately owned abandoned mined lands, and paying other facility and service costs in areas affected by energy development.
- . Provides funds for state mining and mineral institutes.

### Background

The Executive Branch proposed bills in 1971 and 1973 to establish environmental and reclamation standards for

surface and subsurface mining of coal and other minerals. The Congress passed a tough bill covering surface coal mining in December 1974. Your Memorandum of Disapproval announcing the pocket veto of that bill in January 1975 is enclosed at Tab A.

On February 6, 1975, you transmitted a new bill which followed the wording of the vetoed bill except for eight changes identified in your letter (Tab B) as critical to overcome the problems that led to your veto and 19 other changes which were designed to reduce the coal production losses and make the bill more workable.

In order to place in context many of the objections that are now being voiced against the Enrolled Bill, it is important to note that your February proposal represented a substantial compromise. For example, the Executive Branch gave up after numerous attempts to obtain less rigorous restrictions on steep slope mining and post-mining uses. The Appalachian states' objections to the bill are due to these restrictions which they claim would put small mine operators out of business and generally restrict mining activities.

#### Actions Already Taken by States

Eleven of the twelve leading surface mining states -- which account for about 87% of 1973 surface coal mining in the Nation -- now have their own surface mining laws. Since 1971, when Federal legislation began to be considered, 21 states -- including eleven of the twelve leading surface coal producers -- have enacted or strengthened their surface mining laws. In addition, a survey conducted by CEQ indicates that most leading coal producing states have tightened up their regulations and increased their regulatory staffs. However, except for Montana, the programs are not as rigorous as H.R. 25 would require.

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

#### Enrolled Bill Compared to Your February Compromise Bill and The Vetoed Bill

In assessing the adverse impact of the Enrolled Bill, you may find it useful to compare it to your February compromise bill and to the one you pocket-vetoed. Rough estimates of production and job losses are:

|                   | <u>Coal Production Losses</u><br>(million tons) | <u>Job Losses</u> |
|-------------------|---|-------------------|
| . Vetoed bill -   | 48-141  | 11-31,000         |
| . Your bill -     | 33-80   | 7-18,000          |
| . Enrolled bill - | 40-162  | 9-36,000          |

Tab C summarizes the progress made in the Enrolled Bill on specific changes requested in your compromise position.

Briefly, the Enrolled Bill makes changes in six of the eight areas you identified as critical in your February letter to Congress letter, including the narrowing of citizen suits and eliminating special unemployment provisions.

However, the Enrolled Bill also creates three important new problems, involving State control over Federal coal lands, restrictions on mining in alluvial valleys and a change in water rights.

#### Arguments in Favor of the Enrolled Bill

- . An environmentally sound solution to the problem of strip mining. Furthermore, it will reclaim the acres of abandoned lands that now exist.
- . A reasonable compromise between the position you took when you vetoed last year's bill and the position of the bill's sponsors. This argument is especially persuasive because you are clearly on record as supporting an environmentally sound strip mining bill as long as it does not unnecessarily impact your energy independence goals.
- . Your Administration is beginning to develop a negative environmental record due to your previous pocket-veto of the strip mine bill, your proposed Clean Air Act Amendments in connection with your Energy Independence Act, your decision not to propose a land use bill this year and your nomination of Governor Hathaway.

For additional arguments in favor, see memorandum from Russ Train at Tab D.

### Arguments Against the Enrolled Bill

- . This is a badly drafted bill which goes way beyond its laudable environmental goals and creates an unnecessary Federal and state regulatory system and bureaucracy, and because of ambiguities, it will invite years of litigation thus unnecessarily constraining coal production.
- . It results in unnecessary loss of coal production, will increase oil imports and dollar and job outflow, and will increase electricity prices. (Details at Tab E).
  - Coal Production Losses. Between 40 to 162 million tons (6 to 24% of expected 1977 production). This does not include losses for other reasons which cannot be quantified, such as court challenges and surface owner rights. The range cannot be narrowed because of ambiguities in the bill.

These levels of production losses will likely result in an increase in oil imports of between 139 and 559 million barrels in 1977 involving dollar outflows from \$1.5 to 6.1 billion.
  - Job Losses. In addition to the job losses associated with the dollar outflows, Interior and FEA have estimated that direct and indirect job losses will range between 11,000 and 36,000. These will be partially offset by lower productivity due to tighter restrictions and after some years, expanded underground mining.
  - Inflation. The bill is very inflationary. The excise taxes amount to about \$150 million a year; strip mining production costs will increase by %; and the bill will cost \$90 million for Federal and state government implementation.

In addition, electric bills will increase because coal costs increase and because some utilities will use more oil which costs ~~more~~ more than coal on a BTU equivalency basis.
- . States have already taken effective action, therefore all that is required at the Federal level is assistance with reclamation funding.



### Legislative Outlook

Last day for your action on the Enrolled Bill is May 20.

Max Fridersdorf and Jack Marsh believe that you could possibly sustain a veto in the House but it would be an uphill fight with less a 50-50 chance of success.

Recommendations (Note: Official agency positions will be in OMB's Enrolled Bill memorandum.)

1. Sign
2. Allow to become law without signature.
3. Veto

### Decision

I recommend that you defer final decision until you receive the Enrolled Bill memorandum from Jim Lynn, and the

House votes on your Farm Bill veto.



Today I have returned to Congress, without my approval, the proposed Surface Mining Control and Reclamation Act of 1975, H.R. 25.

I cannot sign this bill into law because it would unnecessarily make it more difficult for this Nation to achieve its goal of energy independence by 1985. Also, while meeting valid environmental objectives which I continue to fully endorse, the bill would impose an unexceptable burden on our Nation's economy by needlessly increasing consumers' electricity bills and adding to unemployment.

I have supported responsible legislation to control surface mining and reclaim damaged land. I understood that this would result in making coal production more difficult and would add to the cost of the coal we did produce. The bill I submitted to Congress on February 6, 1975, struck a proper balance between our energy and economic goals on the one hand with the important environmental objectives on the other. Unfortunately, H.R. 25 does not strike such a balance.

Congress has not acted on my proposed comprehensive energy plan and thus I have nothing against which to judge the negative energy impact of this bill. Without Congressional action on my energy proposals I do not know how much additional leeway the Nation might have in balancing our energy and environmental objectives. We need immediate Congressional action on my energy conservation and accelerated production proposals. H.R. 25 only makes the goal of energy independence more elusive and this will ultimately increase the sacrifices required of all Americans.

Certainly, I cannot now accept more burdensome obstacles in the path of our energy objectives than I was willing to accept at the beginning of the year. The absence of Congressional action on a comprehensive energy program requires that I be more prudent and careful than ever. Although I still believe that the Nation can have environmental safeguards for strip mining comparable to the proposal I submitted in February, it is clear that we cannot accept stricter penalties on production of this critical 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 bill. Unfortunately, the Congress did not accept the compromise measure I proposed even though it satisfied all

the key environmental objectives of the bill passed by the Congress last session. A fair and objective evaluation of the record will show that my Administration went more than half way towards the objectives of those who sponsored H.R. 25.

The following are my key objections to this bill.

First, with respect to coal production, H.R. 25 will result in a substantial loss in coal production above and beyond the loss that I felt was acceptable under the legislation I proposed. The Department of Interior and the Federal Energy Administration advise me that H.R. 25 would result in lost production of 40 to 162 million tons a year.

The bill that I urged the Congress to pass in February would have also had production losses. I am told by the experts that my proposal would have ranged in production losses between 33 up to 80 million tons a year. That's as far as I could go at a time when I could assume that Congress would speedily enact my energy program. But because of the delay on my energy program, I know now that it will be more difficult to achieve our energy objectives and therefore I cannot accept additional coal production losses.

These production loss numbers are only based upon those provisions for which an estimate can be developed. I understand that H.R. 25, in fact, will probably result in losses on the high end of this range. Furthermore, this analysis does not include the potential impact of many ambiguous provisions of the bill for which estimates cannot be developed. This estimate is, therefore, conservative.

Second, the reduction in coal production will mean that the Nation will have to import more foreign oil. This will mean our dependency will be increased and we will lose more U.S. dollars and thus jobs. To demonstrate how serious this problem can be, if every 50 million tons of lost coal is replaced by foreign oil, we will increase our imports by 215 million barrels of oil a year at a cost of \$2.3 billion. The lack of Congressional action on my comprehensive energy program is reason enough for alarm at our growing energy dependency. I believe it would be irresponsible to further increase this dependency by signing into law H.R. 25.

Third, H.R. 25 will result in an increase in unemployment and costs to American consumers. Job losses because of coal production cut back cannot be offset by increases of reclamation and other activities financed under this bill. The simple fact is that there would be a major increase in unemployment because of H.R. 25 and this could not come at a worse time. Furthermore, the bill would increase

consumer costs particularly for electricity. In addition to the higher costs of using foreign oil instead of domestic coal, there would be added costs because of the taxes imposed on coal and the higher coal production costs imposed by H.R. 25.

I favor action to protect the environment and reclaim land disturbed by surface mining of coal and to prevent abuses that have accompanied such surface mining in the past. We can achieve those goals without imposing ~~unreasonable~~ <sup>unreasonable</sup> further restraints on our ability to achieve energy independence, without imposing unnecessary costs, <sup>without</sup> creating unnecessary unemployment and without locking up our domestic energy resources.

The need to veto this bill is especially disappointing because of the extensive effort that has been made to obtain a bill that would achieve a balance among our various objectives that is in the Nation's best interests. Bills were proposed by the



Executive branch in 1971 and 1973. I proposed a new compromise bill in February of this year. Hundreds of hours have been spent in working with the Congress in an attempt to obtain a balanced bill.

The action that I have had to take on this bill does not resolve the issue of surface mining controls to my satisfaction nor to the satisfaction of the Nation. We must return to this issue and find the right answers--the best possible balance among our various national objectives that are involved, including environmental protection, energy, employment, consumer prices and reduced dependence on foreign oil. Since the Executive Branch and the Congress began work on this issue in 1971, there have been fundamental changes in the circumstances that must be taken into account, including new mining and reclamation practices, improved state laws, regulations and enforcement activities, and new objectives that must be balanced. In order that we may all have a better basis for addressing this issue, I have today directed the Chairman of the Energy Resources Council to organize a thorough review of today's circumstances that bear upon the need for surface mining legislation and to report back to me with his findings and recommendations by September 30, 1975. That study will involve the participation of the Environmental Protection Agency, the Council on Environmental Quality, Departments of the Interior, Commerce and Agriculture, the Federal Energy Administration and other agencies concerned.

DRAFT SIGNING

SURFACE MINING CONTROL  
AND RECLAMATION ACT OF 1975

SIGNING STATEMENT

On December 30, 1974, I issued a Memorandum of Disapproval which explained the reasons for my veto of S. 425, the Surface Mining Control and Reclamation Act of 1974. Briefly stated, I vetoed S. 425 on the grounds that it would have (a) had an unacceptable impact on our domestic coal production resulting in significantly increased unemployment and our reliance on expensive foreign oil; (b) lead to protracted regulatory disputes and litigation because of its ambiguous language; (c) produced excessive Federal expenditures and inflationary impact on the economy; and, (d) contained numerous other deficiencies.

My Memorandum of Disapproval of S. 425 noted that:

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

On February 6, 1975, in accordance with those considerations, I proposed a coal surface mining bill which followed the basic framework of the vetoed legislation changed only (a) to overcome the critical objections which lead to the veto, and (b) to reduce further the potential for unnecessary production impact, and (c) to make the legislation more effective and workable. In transmitting the bill, I reiterated that my energy program contemplates the doubling of our Nation's coal

production by 1985. I further noted that this will require the opening of 250 major new coal mines, the majority of which must be surface mines.

Following submission of my bill, the Administration continued to work in every possible way with the Congress in an effort to produce surface coal mining legislation which strikes the necessary balance between our desire for environmental protection and our clear need to increase domestic coal production.

I am pleased to report that these efforts have proven successful -- I am today signing H.R. 25, the Surface Mining Control and Reclamation Act of 1975. It is gratifying that Congress has reacted favorably on a number of the critical and other substantive changes which I requested from last year's bill. It is my hope that H.R. 25 can now serve as the basis for assuring that the Nation's environmental protection and reclamation requirements are appropriately balanced against our need for increased coal production.

However, I must also note that H.R. 25 contains several provisions which could have an unacceptable impact on domestic coal production. I am signing the enrolled bill with the clear understanding that should significant coal production losses develop, Congress will act immediately on corrective legislation to remedy the problem.

THE WHITE HOUSE  
WASHINGTON

May 9, 1975

TO: PAUL THEIS  
FROM: *Glenn*  
GLENN SCHLEEDE

Attached is a more extensive  
veto message on the surface  
mining bill drafted by OMB  
which should be useful to  
you.

Attachment

cc: Mike Duval  
~~Jim~~ Cavanaugh



May 9, 1975

John Davis - Council of Economic Advisors

Subject: Strip Mining Bill

The President should sign (Option 1) or agree  
the bill become law without a signature (Option 3)

From an economic view there is nothing to be gained  
by a veto.

Greenspan has no strong feelings on this

↓  
Changed his position somewhat with oral comments  
during meeting in Roosevelt Room on Monday  
May 12. Gave Zabo his proxy.



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

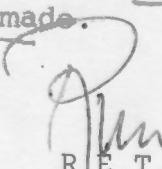
WASHINGTON, D.C. 20460

THE ADMINISTRATOR

Jim:

Attached is my letter to the President on the strip mine bill. I would appreciate it if you would bring it to the President's attention.

As a courtesy, I have had a copy hand delivered to Frank Zarb. No other copies have been made.

  
R. E. T.

312 MAY 2 11 10 32







UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 9 1975

OFFICE OF THE  
ADMINISTRATOR

Dear Mr. President:

Ten years ago, in March of 1965, Congress recognized the mounting adverse environmental and social impacts of strip mining when it enacted the Appalachian Regional Development Act. A national study resulted which concluded that the adverse impacts are serious and growing and recommended to the Congress a national regulatory program to control all surface mining.

During years of debate the Congress has never seriously questioned the need for strip mining legislation. However, the requirements have been, as you are very much aware, the subject of heated debate. Throughout this period these requirements have been thoroughly analyzed and in almost every instance workable solutions have been found. We have worked hard for further improvements to the bill that you vetoed last December. These efforts have been successful in improving most of the critical issues and many other less significant ones. The bill before you, in my opinion, now represents an effective balance between the Nation's need to develop our vast coal energy resources while assuring the necessary protection to our environment and maintaining a strong economy.

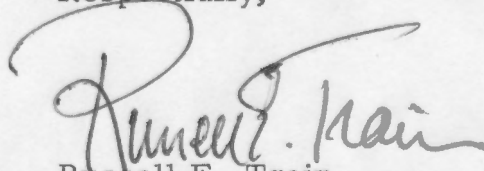
While it is difficult for me to question the estimated impacts that this bill would have on coal production and employment, I must point out that there has been considerable challenge and debate both within the Administration and by the Congress and the public on the accuracy of the estimates. More important, however, is the clear fact that in the State of Pennsylvania, which has reclamation requirements similar to the proposed bill, production continues to increase along with the number of mines and employment. I am also encouraged by yesterday's announcement by the Tennessee Valley Authority, the largest single purchaser of coal in the United States, that they support the legislation and will recommend that you sign the bill.



The environmental problems associated with the mining of coal continue to grow at an unacceptable pace. More than two million acres of land and 11,000 miles of streams have already been despoiled by exploitative strip mining. The impending surface mining of 1,700 acres and more every week to meet the present demand for coal is greatly compounding the problem. This pace will rapidly intensify with the Nation's increasing dependence on coal as the dominant source of energy. The need for Federal legislation at this time is great.

Mr. President, I would not argue that the bill before you is perfect. But I strongly believe that there comes a time when one must resolve an issue and move on to other concerns. The bill before you goes a long way towards meeting the objection you articulated in December. Its merits far outweigh its deficiencies. I strongly recommend that you sign it into law.

Respectfully,

A large, stylized handwritten signature in dark ink, appearing to read "Russell E. Train". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Russell E. Train  
Administrator

The President  
The White House  
Washington, D.C. 20500





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 9 1975

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Administrator

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The White House  
Washington, D. C. 20500

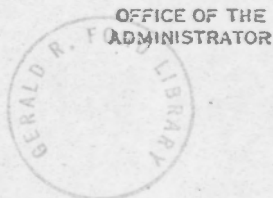






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WASHINGTON, D.C. 20460

MAY 9 1975



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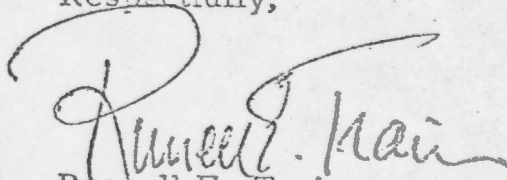
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Russell E. Train  
Administrator

The President  
The White House  
Washington, D.C. 20500



THE WHITE HOUSE  
WASHINGTON

MAY 9 1975

due: 5/9  
noon

May 9, 1975

MEMORANDUM FOR :

PHIL BUCHEN  
MAX FRIEDERSDORF  
ALAN GREENSPAN  
BOB HARTMANN  
JIM LYNN  
JACK MARSH ✓  
BILL SEIDMAN  
PAUL THEIS

FROM :

JIM CANNON

SUBJECT :

DECISION MEMORANDUM ON H.R. 25,  
SURFACE MINING BILL

The President has asked for a decision memorandum by close of business today on the strip mining bill. The first draft of such a memorandum is enclosed, along with a draft statement of disapproval in the event that he decides to veto the bill.

May we have your comments and corrections as soon as possible but not later than noon today so that we can revise the memorandum and get it to the President. May we also have your recommendation on the bill.

We will also be checking the memorandum with Frank Zarb, Russ Train, Russ Peterson, Kent Frizzell and Rog Morton.

Thanks for your help.

Enclosure.

Jim -  
We have a chance  
to sustain a veto, but it  
will require great effort and  
then only by a close margin,  
if successful, in my opinion gm





THE WHITE HOUSE

WASHINGTON

May 9, 1975

MEMORANDUM FOR

JIM CANNON

FROM:

MAX FRIEDERSDORF

*M.F.*

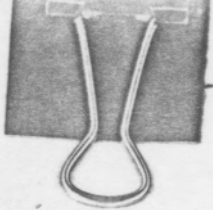
SUBJECT:

Surface Mining Bill

I recommend the President veto the bill on the grounds of job loss, higher utility rates due to loss of coal production and to be consistent with his former action on this legislation.

Your memo is incorrect insofar as Congressional Relations staff belief that a veto can be sustained. (page 5) We were 30 votes short in the House on the conference report. The situation has improved, but sustaining a veto in either body will be extremely difficult. Not impossible, but uphill and less than 50-50.





received 5/9/75  
9:05 a.m.  
gail

THE WHITE HOUSE  
WASHINGTON

May 9, 1975

MEMORANDUM FOR :

PHIL BUCHEN  
MAX FRIEDERSDORF  
ALAN GREENSPAN  
BOB HARTMANN  
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Thanks for your help.

Enclosure.

Veto, 5/9 9.15 AM

called  
Cannon's office  
1:25 p.m. 5/9/75  
gail and sent immediately  
thereafter.

1. Recommend veto  
2. Veto message needs considerable reworking - should be tied to Congress failure to date to enact energy program to reduce oil & increase other sources.  
DTH