The original documents are located in Box 24, folder "1975/05/20 HR25 Surface Mining Control Reclamation Act (vetoed) (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

VETOED 5/20/75

DELIVERED TO THE HOUSE 5/20/75 (12:40 PM)

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day: May 20

May 18, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 25 - Surface Mining Control and Reclamation Act

In response to your decision to veto H.R. 25, attached is a proposed veto message. Frank Zarb is scheduled to brief on the message at 11 A.M. Monday.

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

RECOMMENDATION

That you sign the veto message at Tab A.

Agree _____ Disagree _____

TO THE HOUSE OF REPRESENTATIVES:

I AM today returning without my approval, H.R. 25, the proposed Surface Mining Control and Reclamation Act of 1975. I am unable to sign this bill for two major reasons. First, it would exacerbate current economic problems and make more difficult the achievement of our goal of energy independence. Although this bill attempts to address valid environmental objectives, it would impose an unacceptable burden on our Nation's economy by:

-- needlessly reducing coal production;

-- increasing reliance on foreign oil;

-- increasing the outflow of dollars;

-- escalating consumer costs, particularly for electric bills;

-- adding to unemployment, particularly in Appalachia; and by

-- hampering economic recovery.

Second, the bill is ambiguous, vague and complex, as the Record of Congressional debate indicates. It would lead to years of regulatory delays, litigation and uncertainty -- uncertainty which is not in the best interests of achieving either our environmental or our energy objectives.

[redacted] 1(a)

This country is headed into a serious energy shortage, and we are not facing up to it.

We can develop our energy sources and at the same time protect our environment; but this bill does not do that.

~~I believe we can develop our Nation's energy resources in a manner that is fully consistent with our environmental objectives.~~ I have supported responsible action to control surface mining and to reclaim damaged land. I continue to support actions which strike a proper balance between our energy and economic goals, on the one hand, and important environmental objectives on the other. Unfortunately, H.R. 25 does not strike such a balance.

Since I submitted my comprehensive national energy program earlier this year -- a program which included a tough but balanced surface mining bill -- our energy situation has continued to deterioriate. ~~We are now more dependent on foreign oil than we were at the time of the embargo.~~ ~~With domestic energy production continuing~~ to drop, ~~we are more vulnerable today than we were~~ during the Mid-East ~~oil embargo.~~ We will be even more vulnerable as our economy recovers and energy consumption increases.

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

In the face of our deterioriating energy situation and without Congressional action on a strong energy program, I cannot accept new obstacles in the path of our energy objectives. As the one abundant energy source over which the United States has total control, coal is critical to the achievement of our energy independence. We must not arbitrarily place restrictions on the development of this vital energy resource.

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

The following are my principal reasons for withholding approval of this bill:

First, H.R. 25 ~~will~~ could result in a substantial loss in coal production ~~above and~~ beyond the ~~loss~~ level that I find acceptable. The Department of Interior and the Federal Energy Administration advise me that, ~~H.R. 25 would result~~ if this bill were to become law, it would result in a production loss of 40 to 162 million tons a year. This would mean that from 6 to 24 percent of expected 1977 coal production would be lossed.

This production loss estimate does not include the potential impact of many ambiguous provisions of H.R. 25 for which loss estimates cannot be developed or ~~the~~ delays that would result from attempts to resolve these ambiguities in the courts.

The bill that I ~~urged~~ sent to the Congress ~~to pass~~ in February would have also entailed production losses -- between 33 and 80 million tons, according to the experts. I went that far, assuming that the Congress would speedily enact my energy program. The Congress has not acted. Therefore, I cannot accept the coal production losses that would result from H.R. 25.

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

Third, ~~H.R. 25 would result in further unemp~~loyment and ~~increase costs to American consumers. Coal production cut backs~~ 9000 to 36000 would result in job losses and these losses would not be offset by reclamation and other activities financed

under this bill. H.R. 25 would also result in increased costs for American consumers.

~~The second~~ Another major reason for withholding approval of H.R. 25 is its legislative shortcomings. These include:

-- The Federal-State regulatory and enforcement apparatus established by the bill would be cumbersome and unwieldy. It would inject the Federal Government immediately into a field which is already regulated by most States -- and do it in a manner that may encourage states to abandon their own efforts and leave the entire regulatory and enforcement job to the Federal Government.

-- The new tax that would be established by H.R. 25 ~~is~~ would be excessive and would unnecessarily increase the price of coal.

-- The bill provides authority under which State governments could ban surface mining of Federal coal on Federal lands -- thus preventing a national resource from being used in the national interest.

-- The Federal Government would pay landowners 80 percent or more of the cost of reclaiming previously-mined land, leaving title to the land in their hands -- thus providing a windfall profit at the expense of current coal users.

To enable us to move ahead with the development of coal production while protecting the environment, I have today directed the Department of the Interior to proceed with the steps necessary for the promulgation of revised regulations covering surface mining on Federal lands. Although the Department has had these regulations under preparation for some time, their issuance was held up pending Congressional action to make sure they were compatible with the new surface mining legislation. We must now proceed with these regulations so that we can assure reasonable and effective environmental protection and reclamation requirements on Federal lands. These regulations, together with State laws applicable to non-Federal lands, will enable us to move ahead with our environmental objectives while we develop new national legislation.

While this process is taking place, let me re-state these points for emphasis: I favor action to protect the environment, to prevent abuses that have accompanied surface mining of coal in the past, and to reclaim land disturbed by surface mining. I believe that we can achieve those goals without imposing unreasonable restraints on our ability to achieve energy independence, without

adding unnecessary costs, without creating unnecessary unemployment and without precluding the use of vital domestic energy resources.

#

MEMO TO THE RECORD:

The original of James Cannon's memo of 5/15/75 to the President concerning the strip mining bill would normally be part of the bill file. For some unknown reason in this case the memo ended up filed in Central Files as part of a case file concerning the agenda for the Economic and Energy Meeting of May 16. This case file is located in BE5 (Exec.) under the date 5/15/75.

Bill McNitt
Ford Library
11/18/83

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 15 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 25 - The Surface Mining Control and Reclamation Act of 1975
Sponsor - Rep. Udall (D) Arizona and 24 others

Last Day for Action

May 20, 1975 - Tuesday

Purpose

Establishes a Federal-State system of regulation of surface coal mining operations including reclamation, and provides for the acquisition and reclamation of abandoned mines.

Agency Recommendations

Office of Management and Budget	Disapproval (unless leadership commits itself to support amendments if the Act works badly)
Federal Energy Administration	Disapproval (Informally)
Federal Power Commission	Disapproval
Department of the Treasury	Disapproval
Department of the Interior	Approval
Department of Commerce	Approval
Department of Agriculture	Approval
Council on Environmental Quality	Approval
Environmental Protection Agency	Approval
Tennessee Valley Authority	Approval
Department of the Army	Defers to Interior
Department of Justice	Defers to other agencies

Discussion

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. The Administration worked with the Congress to produce a bill that strikes a reasonable balance between reclamation and environmental protection objectives, and the need to increase domestic coal production. These efforts in the 93rd Congress failed to produce an acceptable bill.

On December 30, 1974, you pocket-vetoed S. 425, the Surface Mining Control and Reclamation Act of 1974. The principal grounds for the veto were that the bill did not strike a reasonable balance and, therefore, would have had an unacceptably adverse impact on our coal production. The potentially large loss of coal production would have unduly impaired our ability to use the one major source of energy over which the United States has total control, restricted our choices on energy policy, and increased our reliance on foreign oil. In addition, the bill would have produced excessive Federal expenditures and an inflationary impact on the economy. It also contained numerous other deficiencies. (See Tab A for the enrolled bill memorandum and Memorandum of Disapproval, S. 425.)

On February 6, 1975, you proposed a compromise coal surface mining bill which followed the basic framework of the vetoed legislation changed only (a) to overcome eight critical objections which you identified as the key elements in your veto, (b) to reduce further the potential for unnecessary production losses, and (c) to make the legislation more effective and workable (see Tab B). In transmitting the bill, you reiterated that your energy program contemplates the doubling of our Nation's coal production by 1985 and that this will require the opening of 250 major new coal mines, the majority of which must be surface mines.

The enrolled bill would establish Federal standards for the environmental protection and reclamation of surface coal mining operations. Briefly, the bill:

-- covers all coal surface mining operations and surface effects of underground coal mining;

-- establishes minimum nationwide environmental and reclamation standards;

-- establishes immediately a Federal regulatory program in all States during the interim period (up to 30 months);

-- calls for eventual State regulation and enforcement with Federal administration when States fail to act;

-- requires each mining operation to (a) have a mining permit before mining can proceed and (b) comply strictly with the provisions of the permit throughout the mining and reclamation process;

-- creates a reclamation program for previously mined lands abandoned without reclamation, and finances infrastructure costs in areas affected by coal development. The program would be financed from a Federal fund whose income would be derived from an excise tax of 15-35¢ on each ton of coal mined; and

-- creates a new 50-50 matching Federal grant program for State mining and mineral institutes.

Federal outlays under the bill are estimated at $25 million in fiscal year 1976 and $51 million in 1977, while receipts, mainly from the excise tax, are estimated at $80 million and $150 million in those two years. Federal personnel requirements are estimated to be 600 in 1976 and 1,000 in 1977.

As the conference committee notes in its report on H.R. 25, the enrolled bill satisfactorily deals with six of the eight objections which you identified as critical in your February letter to the Congress. Nine out of nineteen other important changes that you had requested have also been made. Tab C summarizes the changes in H.R. 25 compared to your compromise bill.

Difficult questions of interpretation of certain provisions of the enrolled bill, however, create three significant new problems:

-- H.R. 25 would allow the States to establish performance standards which are more stringent that Federal standards and provides that such State standards must apply to all lands in the State, including Federal lands. Although Senate floor debate indicates that this provision can be construed to permit States to ban surface coal mining on Federal lands, House floor debate indicates that such a result is not intended. The conference report is silent on this issue.

-- H.R. 25 could substantially limit western mining operations in alluvial valley floors. As noted below, this provision is largely responsible for the extremely wide range of possible coal production losses under the bill, and it could also lockup major coal reserves in the West.

-- H.R. 25 requires mine operators to replace water used for agricultural or other activities in cases where it is adversely affected or interrupted as a result of mining. Although the conference report uses the word "compensation", suggesting the possibility of monetary compensation in lieu of replacement in kind, this interpretation is doubtful. This provision could result in effectively banning mining in parts of the West.

COAL PRODUCTION LOSSES
(1st full year of implementation -- millions of tons/year)

	S.425 (Vetoed)	Administration Bill*	H.R.25*
Small mines	22- 52	15-30	22- 52
Steep slopes, siltation and acquifer provisions	15- 68	7-38	7- 44
Alluvial valley floor provisions	11- 66**	11-12	11- 66
TOTAL LOSS	48-186**	33-80	40-162
Percent of expected CY 1977 production (685 million tons)	7% to 27%	5% to 12%	6% to 24%

* Tab D sets out Interior's assumptions underlying the designated production loss estimates.

** Interior has recently advised OMB that its December 1974 estimate for alluvial valley floor coal production losses of 11-21 million tons/year under S. 425 was too low. It should have had an upper range of 66 million tons -- the above table has been revised to correct this error.

As these coal production loss data clearly indicate, the alluvial valley loss component is critical to an assessment of total losses. Interior's high estimate of loss assumes a total ban on surface mining in western alluvial valleys. Yet, on this point, the conference report states:

> "The House bill contained an outright ban of surface mining on alluvial valley floors west of the one hundredth meridian west longitude. The Senate amendment specified that a permit or portion thereof should not be approved if the proposed mining operation would have a substantial adverse effect on crop lands or hay lands overlying alluvial valley floors where such crop lands or hay lands are significant to ranching and farming operations.

"The conferees resolved these differences in virtually the same way as resolved in S.425. The Conference Report stipulates that part or all of the mining operation is to be denied if it would have a substantial adverse effect on alluvial valley floors where farming can be practiced in the form of irrigated or naturally subirrigated hay meadows or other crop lands where such alluvial valley floors are significant to the practice of farming or ranching operations. The resolution also stipulated that this provision covered potential farming or ranching operations if those operations were significant and economically feasible. Undeveloped range lands are excluded in each instance.

"There has been considerable discussion on the potential geographical extent of this provision. For example, estimates have ranged up to nearly 50 percent, of the land over the strippable coal in the Powder River Basin being included under this provision. The conferees strongly disagree with such interpretations noting that specific investigations of representative portions of the Powder River Basin in the Gillette area, indicate that only 5 percent or so of the lands containing strippable coal deposits appeared to be alluvial valley floors. It should also be noted that the Department of the Interior advised the conferees that 97 percent of the agricultural land in the Powder River Basin is undeveloped range land, and therefore excluded from the application of this provision."

If operating experience produces a loss near the lower end of the range, the bill's total impact could be well within the range of the Administration bill. On the other hand, if the higher end of the range is realized, then an unacceptable loss could result. The enrolled bill is replete with ambiguous or difficult-to-define terms and in using the coal production loss estimates, it is essential to recognize the large uncertainties in them.

Arguments in Favor of Veto

1. Because coal currently is the only major energy source over which the United States has total control, we should not unduly impair our ability to use it. The loss of significant coal production would be inconsistent with the Administration's objective of doubling coal production by 1985 as part of our energy independence goal. The risk of experiencing large production losses should not be taken. The United States must import foreign oil to replace domestic coal that is not produced. At the high end of estimated production loss, this could mean additional oil imports of at least 550 million barrels in the first full year of the bill's implementation. The net oil replacement cost could be as much as $3.7 billion at the current prices of foreign oil and domestic coal.

2. The economic consequences of such a production loss and higher oil imports could be severe:

-- Utility fuel costs could increase as much as 18%.

-- Unemployment could increase by 36,000 in the coal fields and in industries that could not obtain replacement fuel sources.

-- Small mine operators could be put out of business.

-- Additional pressure would be brought on the dollar in international markets because of outflows of as much as $6.1 billion for the higher level of oil imports.

-- Higher costs of fuel, strip mining, reclamation, and Federal and State administration could impair economic recovery.

3. In the future, a significant amount of our national coal reserves would be locked up because of restrictions on surface mining in alluvial valleys and national forests. In the "worst case" situation, this could amount to over half of total reserves potentially mineable by surface methods.

4. An elaborate Federal-State regulatory system would be created, requiring substantial numbers of Federal personnel and containing the possibility of a Federal takeover of the regulation of strip mining and reclamation in the event of a State's failure to develop and carry out a program meeting the bill's standards.

5. A State could exercise control over mining of federally owned coal on Federal lands. Under one interpretation of the bill, a State could ban such mining.

6. Federal legislation may be unnecessary, because during the past four years all major coal producing States have enacted new laws on strip mining or strengthened existing laws. In most cases State legislation now appears adequate. Although in some cases enforcement has been lax, it may be too early to reach a final judgment because many State laws were recently enacted. If a veto is sustained, it appears likely that there will be a period of a year or more to re-evaluate the situation before new legislation is considered by the Congress.

7. Because of the ambiguities in H.R. 25 and the extensive litigation that would result, many coal companies believe that no Federal legislation would give greater certainty to their production in the short run than would the bill.

8. In addition to the arguments noted above, the enrolled bill contains other significant objections, but not identified as critical in your February letter: (a) surface owners would have the right to veto mining of federally owned coal, or could realize a substantial windfall; and (b) the Abandoned Mine Reclamation Fund would provide grants to reclaim private lands and finance local public facilities and related costs incurred because of coal development in the area; i.e., an impact aid program. (In limiting the use of the fund to areas directly affected by coal mining but permitting its use for a wide variety of purposes, this bill could influence future congressional action on the use of revenues from leasing on the Outer Continental Shelf.)

Arguments in Favor of Approval

1. The enrolled bill is landmark environmental legislation establishing minimum Federal reclamation standards, eliminating damaging strip mining practices, and providing for reclamation of abandoned strip mined lands. Although the major coal producing States have enacted new or strengthened laws, their quality is uneven and adequate enforcement is at best doubtful.

2. Estimates of coal production loss that might result from the bill are highly uncertain and speculative. The range of possible loss is so wide as to cast substantial doubt on their public defensibility. The high end of the range (162 million tons in the first full year of implementation) is clearly a "worst case" situation which assumes that all the bill's ambiguities will be resolved in a manner that maximizes restraints on production. Statements by the bill's proponents and in the conference report support a more reasonable interpretation of the bill's potential restrictions on production than does a "worst case" analysis. The lower end of the range of estimated loss (40 million tons) is well within the range of loss estimated for the Administration's compromise legislative proposal (33-80 million tons).

3. Peak production loss would probably occur in the first full year of implementation. Once the bill's ambiguities are overcome by regulation and litigation, the industry will have environmental groundrules and standards governing its operations, thereby providing a certain basis for future expansion of production to meet market demand.

4. The Congress gave extensive consideration to Administration proposed changes to the bill vetoed last December. Six of the Administration's eight critical objections are satisfactorily dealt with in H.R. 25, and a number of other recommended improvements were adopted. Although the enrolled bill still contains deficiencies, it is probably the best legislation on strip mining obtainable from this Congress. If unacceptably large coal production losses should result -- and this is highly uncertain -- the Administration could seek corrective legislation. Senator Jackson has publicly agreed to work swiftly to resolve such problems if they arise.

5. A veto would be portrayed by the bill's supporters as an anti-environment move by an Administration unwilling to accept a serious effort by the Congress to compromise and to achieve a reasonable trade-off between energy and environmental objectives.

Other Considerations

Opinion is divided as to whether a veto can be sustained in the House, but there is no doubt that it would be overridden in the Senate:

-- The Senate passed S. 7 by 84-13 and the conference report on H.R. 25 by a voice vote.

-- The House passed H.R. 25 by 333-86 and the conference report by 293-115. The negative votes on the conference report were 22 short of the 137 necessary to sustain a veto. If the entire House votes, 146 votes would be needed.

OMB Recommendation

On the merits (coal production losses, impact on federalism, legal ambiguities), this bill should be vetoed. The bill falls short of the kind of legislation we would write, if we were beginning anew.

However:

-- The proposals submitted to the Congress in February by the Administration did not insist upon certain deletions or changes in provisions that contribute to production losses and deal inappropriately with the roles of the Federal Government and the States.

-- The major ambiguities in the language and legislative history of the bill make highly uncertain the real, quantifiable impact of the bill.

-- The bill's potential impact on production is extremely difficult to attribute specifically to the failure of Congress to make recommended changes in the earlier vetoed bill.

-- There is a very significant possibility that a veto would be overridden.

OMB, therefore, recommends that:

I. You meet with the congressional leadership that produced the bill, to:

   A. Share with them your concerns about the bill.

   B. Indicate your willingness to sign the bill if, and only if, (1) they will agree to support modification of the law if, as it is implemented, your concerns are realized, and (2) they are prepared to state their agreement publicly.

II. You veto the bill if the congressional leaders refuse this approach.

In accord with our recommendation, we have prepared, for your consideration, both a draft veto message and a draft signing statement. The signing statement notes your intent to seek corrective legislation from the Congress should significant coal production losses develop as a result of the bill.

James T. Lynn
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: May 17, 1975 Time: 6:30pm

FOR ACTION: Jim Lynn
Bill Seidman
Frank Zarb
Jack Marsh
Vern Loen
Charles Leppert

cc (for information): Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: May 18 Time: noon

SUBJECT:

Revised Veto Message - H.R. 25 Surface Mining Control and Reclamation Act

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
x For Your Comments
x For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

You will be contacted tomorrow by phone for your comments.

Thank you.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Cavanaugh
For the President

DRAFT VETO STATEMENT - H.R. 25 - SURFACE MINING CONTROL AND RECLAMATION ACT

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

I will not sign this bill for two major reasons. First, it would make it more difficult for America to deal with current energy and economic problems and to achieve our goal of energy independence by 1985. While addressing valid environmental objectives, this bill would impose an unacceptable burden on our Nation's economy by:

-- needlessly reducing coal production;

-- increasing reliance on foreign oil;

-- increasing the outflow of dollars;

-- escalating consumer costs ;- particularly for electric bills;

-- adding to unemployment, particularly in Appalchia; and

-- restricting economic recovery.

Second, the bill is extremely ambiguous, vague and complex. It would lead to years of litigation and uncertainty -- uncertainty which is not in the best interest of achieving either our environmental or our energy objectives.

I believe we can develop our nation's energy resources in a manner that is fully consistent with our environmental objectives. I have supported responsible action to control surface mining and to reclaim damaged land. I continue

to support actions which strike a proper balance between our energy and economic goals on the one hand and important environmental objectives on the other. Unfortunately, H.R. 25 does not strike such a balance.

Earlier this year, I submitted my comprehensive national energy program which included a tough but balanced surface mining bill. Our energy situation has continued to deterioriate. We are now more dependent on foreign oil than we were at the time of the embargo. With domestic energy production continuing to drop, we are more vulnerable today than at the beginning of this year. We will be even more vulnerable as our economy recovers and energy consumption increases.

Coupled with this steadily deterioriating situation is the fact that the Congress has yet to act on a comprehensive energy program capable of achieving the goals on which we all agree. Although several Congressional committees have worked hard to develop solutions and have produced a few notable initiatives, their proposed programs on balance, will not achieve our energy goals. Besides, their programs have a long way to go in the Congress before the legislation reaches my desk. The path is tortuous, and it is not clear that it will result in anything that strengthens the program developed by the House Committee on Ways and Means or the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce.

In the face of our deterioriating energy situation and without Congressional action on a strong energy program, I certainly cannot accept more burdensome obstacles in the path of our energy objectives. We must have programs to reduce energy consumption and to increase domestic energy production. Coal is critical to the achievement of our energy objectives. Coal is ~~the~~ our one abundant energy source over which the United States has total control. We must not arbitrarily place a self-imposed embargo on an energy resource that can be the major contributing factor in our program for energy independence.

It is with a deep sense of regret that I find it necessary to reject this legislation. My Administration has worked hard with the Congress to try to develop an acceptable surface mining bill and other energy programs which could, when taken together, enable us to reduce our energy imports and meet our common environmental objectives. Unfortunately, the Congress did not accept the compromise measure I proposed even though it would have dealt in a balanced way with our energy and environmental objectives.

A fair and objective evaluation of the record will show that my Administration went more than half way towards the objectives of ~~those who~~ the sponsors of 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 find acceptable. The Department of Interior and the Federal Energy Administration advise me that H.R. 25 would result in a production loss of 40 to 162 million tons a year.
The bill that I urged the Congress to pass in February would have also entailed production losses -- between 33 and 80 million tons according to the experts. That is as far as I could go at a time when I could assume that the 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 the additional coal production losses that would result from H.R. 25.

Furthermore, the production loss estimates of 40 to 162 million tons for H.R. 25 cover only those provisions for which an estimate can be developed. The analysis does not include the potential impact of many provisions of the bill for which estimates cannot be developed or the delays that would result from attempts to resolve ambiguities in the courts. Thus, the production losses could even exceed the estimates.

Second, the reduction in coal production will mean that our nation will have to import more foreign oil. This will increase our

dependency 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 unwise 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. Coal production cut backs will result in job losses and these losses would not be offset by 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.

In addition to the above economic and energy impacts, the bill has a number of other shortcomings. Examples include:

- The Federal-State regulatory and enforcement apparatus established by the bill would be cumbersome and unwieldy. It would inject the Federal Government immediately into a field which is regulated already by States -- and do it in a manner that may encourage states to abandon their own efforts and leave the entire regulatory and enforcement job to the Federal Government.
- The new tax that would be established on coal is higher than necessary and would add to the price of coal.
- The bill could be used by a State government to ban strip mining of Federal coal on Federal lands - thus preventing a national resource from being used in the national interest.
- The Federal Government, using the proceeds of the new coal tax, would pay landowners 80% or more of the cost of reclaiming their land, mined over before the law was passed, and leave the title to the land in their hands--thus providing a windfall profit at the expense of current

- In the name of protecting surface owner rights, the bill would allow a surface owner to prevent surface mining of Federally owned coal unless the surface rights owner was paid the full market price of his land plus substantial additional fees. Yet the title to the reclaimed land would remain with the surface ownder -- clearly a windfall profit at the expense of coal consumers.

- The bill would provide Federal funding for a mining institute in every state for both institutional support and research, whether or not required to meet the objective of protection from adverse environmental effects of strip mining.This is another case of having the Federal Government pay costs which would normally be borne by States.

- Over 70 billion tons of our National coal reserves could be locked up. this is over half of our total reserves mineabl by surface methods.

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 restraints on our ability to achieve energy independence, without imposing unnecessary costs, without 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.

The Department of the Interior has had under preparation for some time revision of surface mining regulations applicable to Federal lands. These regulations could have been issued under existing law but their promulgation has been held up pending completion of action of surface mining legislation so that the regulations could be made compatible with the new legislation. I am now instructing the Secretary of the Interior to complete the development and to promulgate ~~promulgate~~ revised regulations for

strip mining on the Federal lands. These regulations will include reasonable and effective environmental protection and reclamation requirements. The promulgation of these regulations applicable to Federal lands, together with actions by the States under their laws applicable to non-Federal lands, will permit us to move foreward ~~with~~ toward our environmental objectives while we work out the next steps on national legislation

THE SECRETARY OF THE TREASURY

WASHINGTON

May 14, 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Recommendation on H.R. 25, the "Surface Mining Control and Reclamation Act of 1975"

On February 6, 1975, you submitted a proposed surface mining bill to the Congress and identified the Administration's specific problems with the legislation you had previously vetoed. The Congress has now passed a new bill. I recommend that you veto H.R. 25 for the following reasons:

1. The Department of Interior and the Federal Energy Administration agree on an estimate that the coal production loss resulting from the bill will be in the order of 40-162 million tons, commencing in the first full year of implementation. Oil imports to replace this loss could range from 482,000 to 1,500,000 barrels per day. This impact upon coal production and oil imports is contrary to the security and economic interests of the Nation.

2. The value of coal production lost would range from $3/4 billion to $2 1/2 billion annually, commencing with the first full year of implementation. Even if full allowance is made for adjustments permitted by the supply and demand elasticities for this and other fuels, local dislocations would be severe. The short deadlines in the bill make it particularly disruptive in the first three years, thus exacerbating the losses. These losses would be serious at any time; in the present state of the economy and of the energy market, they are unacceptable.

3. A thorough review is needed on the whole mined-land reclamation question, including a complete analysis of the effectiveness of state legislation passed recently. The states' surface protection legislation is tailored to their specific problems, and a report to you by concerned government agencies (EPA, CEQ, Interior, Treasury, FEA, OMB, Commerce, etc.) would be appropriate.

4. The bill contains many ambiquities and it is virtually certain that legal complications and court actions will be initiated. Conservatively, it is estimated that these court actions will cause delays in coal production for at least two years.

If you determine to veto H.R. 25, I believe that item 3 should be included in the veto message, to assure that the necessity for Federal surface mining legislation, as well as all other aspects, will be considered in the future.

Although the new bill passed by Congress mitigates some of the adverse effects of the bill which you previously vetoed, I believe that the disadvantages which I have listed outweigh any improvements.

William E. Simon

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: MB

Date: May 14 Time: 500pm

FOR ACTION: Paul Leach
Bill Seidman
Alan Greenspan
Max Friedersdorf
Paul Theis

cc (for information): Jim Cavanaugh
Jack Marsh

1975 MAY 14 PM 5 33
NSC/S

FROM THE STAFF SECRETARY OAC / BAK

JC 5/15/75

DUE: Date: May 15 Time: 1100am

SUBJECT:

FY 76 budget amendment for the International Financial Institutions - Investment in Inter-American Development Bank

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
__x__ For Your Comments
__x__ For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

MB

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Cavanaugh
For the President

THE WHITE HOUSE

WASHINGTON

The Speaker of the

House of Representatives

Sir:

I ask the Congress to consider an amendment to the request for appropriations transmitted in the budget for the fiscal year 1976 in the amount of $275,000,000 for the Inter-American Development Bank. The proposed amendment further provides for the removal of limitations placed on the use of $50,000,000 made available for payment to the Bank in fiscal year 1975.

Memo from OMB

The details of this proposal are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Respectfully,

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: MB

Date: May 13 Time: 640pm

FOR ACTION: Pam Needham
Max Friedersdorf
Ken Lazarus
Paul Theis

cc (for information): Jim Cavanaugh
Jack Marsh

1975 MAY 14 PM 5 33

FROM THE STAFF SECRETARY OK | GAS JC 5/14/75

DUE: Date: May 15 Time: 200pm

SUBJECT:

Annual Report - ACTION

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
__x__ For Your Comments
____ For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

MB

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Cavanaugh
For the President

To the Congress of the United States

I herewith transmit the ACTION Annual Report for fiscal year 1974 as required by section 407 of the Domestic Volunteer Service Act of 1973.

THE WHITE HOUSE

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1, 1c

Date: May 14 Time: 700pm

FOR ACTION: NSC/S
Max Friedersdorf
Ken Lazarus
Paul Theis

cc (for information): Jim Cavanaugh
Jack Marsh

OMB/CAT

FROM THE STAFF SECRETARY

DUE: Date: ASAP Time:

SUBJECT:
Foreign Aid Legislation package

ACTION REQUESTED:

___ For Necessary Action
x For Your Recommendations
___ Prepare Agenda and Brief
___ Draft Reply
x For Your Comments
___ Draft Remarks

REMARKS:

Please call Judy Johnston, x2219

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED

Jim Cavanaugh
For the President

THE WHITE HOUSE

WASHINGTON

May 15, 1975

MEMORANDUM FOR: JIM CAVANAUGH

FROM: MAX L. FRIEDERSDORF MLF

SUBJECT: Action Memorandum - Log No.
FY 76 budget amendment for the International Financial Institutions - Investment in Inter-American Development Bank

The Office of Legislative Affairs concurs with the agencies that the subject amendment be signed.

Attachments

STATEMENT BY THE PRESIDENT

I am today signing H.R. 25, the Surface Mining Control and Reclamation Act of 1975.

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 did not strike an appropriate balance between the need to increase coal production in the United States and reclamation and environmental protection. It would have had an unacceptably adverse effect on domestic coal production, which would have unduly impaired our ability to use the one abundant energy source over which we have total control, restricted our future choices on national energy policy, and increased our reliance on foreign oil. I also pointed out that S. 425 provided for excessive Federal expenditures and would have had an inflationary impact and that the bill 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, (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 environmental protection and increased coal production.

I appreciate the effort that Congress made in its attempt to produce an acceptable bill. Nevertheless, I regret that more of the changes I thought so important have not been made. I continue to have serious reservations about the potential adverse impact H.R. 25 may have on domestic coal production. Notwithstanding these concerns, and recognizing the large uncertainties about the bill's consequences, I am now willing to submit the Surface Mining Control and Reclamation Act to the acid test of experience. In doing so, I truly hope that the Act can serve as a reasonable basis for accomplishing the necessary increases in coal production as well as realizing the Nation's environmental protection and reclamation objectives.

I must emphasize that my approval of this legislation is based on the assumption that its adverse effects on coal production will not be excessive. The congressional proponents of this legislation have steadfastly maintained that the production losses will be minimal. I hope they are correct. If, however, coal production is unduly restricted by the operation of this Act, I will act immediately to seek corrective legislation from the Congress to remedy the problem.

TO THE HOUSE OF REPRESENTATIVES

I am returning herewith, without my approval, H.R. 25, the Surface Mining Control and Reclamation Act of 1975.

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 did not strike an appropriate balance between the need to increase coal production in the United States and reclamation and environmental protection. It would have had an unacceptably adverse effect on domestic coal production, which would have unduly impaired our ability to use the one abundant energy source over which we have total control, restricted our future choices on national energy policy, and increased our reliance on foreign oil. I also pointed out that S. 425 provided for excessive Federal expenditures and would have had an inflationary impact and that the bill contained numerous other deficiencies.

My Memorandum of Disapproval of S. 425 noted that:

> "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.
>
> * * * * * * * * *
>
> "...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, (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 environmental protection and increased coal production.

With genuine regret, I must report that our efforts to produce a balanced bill have failed.

H.R. 25, as enrolled, is similar to S. 425 (93rd Congress) in that it 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 develop and enforce a program for the regulation of surface coal mining with substitution of a federally administered program if the States do not act.

In its present form, H.R. 25 would have an unacceptable impact on our domestic coal production. By 1977-1978, the first year after the Act would take full effect, the Federal Energy Administration and the Department of the Interior have estimated that coal production losses could range from a minimum of 40 million tons to a maximum of 162 million tons (between 6% and 24% of expected production for that period). In addition, ambiguities in the bill could lead to protracted regulatory disputes and litigation, causing additional production losses.

As I stated in December and continue to believe today, our Nation cannot accept coal losses of that magnitude for a number of reasons:

- Coal is the one abundant energy source over which the United States has total control. We must not arbitrarily place a self-imposed embargo on an energy resource that can be the major contributing factor in our program for energy independence.

- The United States must import expensive foreign oil to replace domestic coal that is not produced to meet our needs. Substantial losses of domestic coal production cannot be tolerated without serious economic consequences. This bill could make it necessary to import at least an additional 550 million barrels of oil per year at a cost of more than $6 billion to our balance of payments.

- Unemployment would increase in both the coal fields and in those industries unable to obtain alternative fuels--total job losses could exceed 35,000.

In addition, H.R. 25 contains a number of other serious deficiencies:

- Over 70 million tons of our national coal reserves could be locked up--this is over half of our total coal reserves potentially mineable by surface methods.

- Higher costs for fuel, for mining production and reclamation and for Federal and State administration could impair economic recovery.

- State control over mining of Federally owned coal on Federal lands could result in severe restrictions, or perhaps even a ban, on production from those lands.

- The Federal role during the interim program could (a) lead to unwarranted Federal preemption, displacement, or duplication of State regulatory activities, and (b) discourage States from assuming an active, permanent regulatory role in the future.

- H.R. 25 would give surface owners the right to "veto" the mining of federally owned coal or possibly enable them to realize a substantial windfall.

In sum, I think it is clear that H.R. 25 would place our Nation's most abundant energy resource in serious jeopardy--this must not happen. The bill is contrary to the combined interest of consumers, industry, coal miners, and the taxpayer. Accordingly, I am withholding my approval from H.R. 25.

In doing so, I am once again sincerely disappointed that we have been unable to agree upon an acceptable bill. Considerable effort on the part of both the Executive and Legislative branches has been put forth in this effort. In light of our inability to achieve an acceptable bill, I am today directing the Energy Resources Council to initiate an overall study of the coal surface mining reclamation issue. This study will reexamine all aspects of this complex issue, including the adequacy of present State law. The Council's report and recommendations will be submitted to me within six months. I will then recommend an appropriate course of action. Over this period, I hope that the Congress will also reflect further on the many difficult issues presented by this legislation. I hope that in this way we will be able to reach a mutually satisfactory approach that assures that the Nation's environmental protection and reclamation requirements are appropriately balanced against our need for increased coal production.

THE WHITE HOUSE

May , 1975

DRAFT VETO STATEMENT - H.R. 25 - SURFACE MINING CONTROL AND RECLAMATION ACT

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

I will not sign this bill for two major reasons. First, it would make it more difficult for America to deal with current energy and economic problems and to achieve our goal of energy independence by 1985. While addressing valid environmental objectives, this bill would impose an unacceptable burden on our Nation's economy by:

-- needlessly reducing coal production;

-- increasing reliance on foreign oil;

-- increasing the outflow of dollars;

-- escalating consumer costs - particularly for electric bills;

-- adding to unemployment, particularly in Appalachia; and

-- restricting economic recovery.

Second, the bill is extremely ambiguous, vague and complex. It would lead to years of litigation and uncertainty -- uncertainty which is not in the best interest of achieving either our environmental or our energy objectives.

I believe we can develop our nation's energy resources in a manner that is fully consistent with our environmental objectives. I have supported responsible action to control surface mining and to reclaim damaged land. I continue

to support actions which strike a proper balance between our energy and economic goals, on the one hand, and important environmental objectives on the other. Unfortunately, H.R. 25 does not strike such a balance.

~~Earlier this year~~, Since earlier this year, I submitted my comprehensive national energy program which included a tough but balanced surface mining bill. Our energy situation has continued to deterioriate. We are now more dependent on foreign oil than we were at the time of the embargo. With domestic energy production continuing to drop, we are more vulnerable today than ~~at the beginning of this year~~ during the mid-East oil embargo. We will be even more vulnerable as our economy recovers and energy consumption increases.

Coupled with this steadily deterioriating situation is the fact that the Congress has yet to act on a comprehensive energy program capable of achieving the goals on which we all agree. ~~Although~~ Several Congressional committees have worked hard to develop solutions ~~and have produced a few notable initiatives, their~~ Unfortunately, their proposals to date are inadequate to proposed ~~programs on balance, will not achieve our~~ energy ~~goals~~. The achievement of the comprehensive objectives I have set. Besides, ~~their~~ Their programs have a long way to go in the Congress before ~~the~~ any legislation reaches my desk. ~~The path is tortuous~~ Even then and it is not clear that it will result in anything that ~~strengthens~~ or improves on the legislation currently under development in the Congress. ~~the program developed by the House Committee on Ways and Means or the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce.~~ I will provide the nation with an effective energy program.

In the face of our deterioriating energy situation and without Congressional action on a strong energy program, I certainly cannot accept obstacles in the path of our energy objectives. Coal is critical to the achievement of our energy objectives. As the one abundant energy source over which the United States has total control, we must not arbitrarily place restrictions on the development of this vital energy resource.

It is with a deep sense of regret that I find it necessary to reject this legislation. My Administration has worked hard with the Congress to try to develop an acceptable surface mining bill and other energy programs which could, when taken together, enable us to reduce our energy imports and to meet environmental objectives. Unfortunately, the Congress did not accept the compromise measure I proposed, even though it would have dealt

A fair and objective evaluation of the record will show that my Administration went more than half way toward reaching a compromise with the sponsors of H.R. 25.

While the Congress accepted some of the proposals I made in H.R. 25 ~~sought~~, it rejected others which were important ~~to my objectives~~ in reducing the adverse impact on coal production and making the ~~of the bill more clear~~ legislation more clear and precise and ~~workable~~ and, hence, more workable.

The following are my ~~key objections to this bill~~ principal reasons for withholding approval of 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 find acceptable. The Department of Interior and the Federal Energy Administration advise me that H.R. 25 would result in a production loss of 40 to 162 million tons a year.

The bill that I urged the Congress to pass in February would have also entailed production losses -- between 33 and 80 million tons, according to the experts. ~~That is as far as I could go at a time when I could~~ I went that far, assuming that the Congress would speedily enact my energy program. The Congress has not acted. ~~But because of the delays on my energy program, I know now that it will be more difficult to achieve our energy objectives and~~, therefore, I cannot accept the ~~additional~~ coal production losses that would result from H.R. 25.

~~Furthermore, the~~ This production loss estimates of ~~40 to 162 million tons for H.R. 25 cover only those provisions for which an estimate can be developed. The analysis~~ does not include the potential impact of many provisions of ~~the bill~~ HR 25 for which estimates cannot be developed or the delays that would result from attempts to resolve ambiguities in the courts. ~~Thus, the production losses could even exceed~~ would be considerably more than estimates.

Second, the reduction in coal production ~~will~~ would mean that ~~our nation~~ the United States will ~~have to~~ be forced to import more foreign oil. ~~This will increase our~~ would increase our

dependency and we will lose more U.S. dollars and thus jobs. To demonstrate the seriousness of this problem it is estimated that for every 50 million million tons of lost coal (which would have been replaced by foreign oil), we would be forced to increase our imports by an additional 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. At a time when our dependence on Arab oil is expected to double in just 2½ years, I believe it would be unwise to further increase this dependency by signing into law H.R. 25. If a large coal production loss is felt, our dependence on Mid-East oil would triple by 1977.

Third, H.R. 25 will result in further unemployment and an increase in costs to American consumers. Coal production cut backs would result in job losses and these losses would not be offset by 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 near-term

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.

The second major reason for withholding approval of H.R. 25 is that the bill has a number of other shortcomings. These include:

- The Federal-State regulatory and enforcement apparatus established by the bill would be cumbersome and unwieldy. It would inject the Federal Government immediately into a field which is regulated already by most States -- and do it in a manner that may encourage states to abandon their own efforts and leave the entire regulatory and enforcement job to the Federal Government.

- The new tax that would be established by H.R. 25 on coal is higher than necessary and would unnecessarily increase and would add to the price of coal.

- The bill provides authority under which could be used by a State government to ban surface strip mining of Federal coal on Federal lands - thus preventing a national resource from being used in the national interest.

- The Federal Government would pay The Federal Government, using the proceeds of the new coal tax, would pay landowners 80 percent or more of the cost of reclaiming previously-mined their land, mined over before the law was passed and leave the title to the land in their hands -- thus providing a windfall profit at the expense of current coal users.

(1)

50

To enable us to move ahead with the development of coal production ~~will~~ would protecting the environment, I have today directed the Department of the Interior to proceed with the promulgation of revised new regulations covering surface mining on Federal lands. The Department has had these regulations under preparation for some time ~~and they could have been issued~~ their ~~issuance~~ was held up pending Congressional action ~~on surface mining legislation~~ to make sure they were compatible with the new surface mining legislation. We must now proceed with

(2)

(6)

~~strip mining on the Federal lands.~~ ~~These~~ regulations ~~will~~ so that ~~include~~ we can assure reasonable and effective environmental protection and reclamation requirements on Federal lands. ~~The promulgation of~~ These regulations, ~~applicable to Federal lands,~~ together with ~~actions by the~~ State ~~under their~~ laws applicable to non-Federal lands, will ~~permit~~ enable us to move ~~forward~~ ahead ~~with~~ toward our environmental objectives while we ~~work out the next~~ develop new ~~steps on~~ national legislation.

~~While~~ While this process is taking place, let me re-state three points for ~~emphasize that I am~~ ~~point I favor~~ emphasis: I favor

(3)

favor action to protect the environment and reclaim land disturbed by surface mining of coal, and to prevent abuses that have accompanied surface mining in the past. We can achieve those goals without imposing unreasonable restraints on our ability to achieve energy independence, without imposing unnecessary costs, without 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

TO THE HOUSE OF REPRESENTATIVES:

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

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

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

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

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

Since I submitted my comprehensive national energy program earlier this year -- a program which included a tough but balanced

surface mining bill -- our energy situation has continued to deteriorate. With domestic energy production continuing to drop, we are today more vulnerable to the disruption of oil supplies than we were during the Mid-East oil embargo. We will be even more vulnerable as our economy recovers and energy consumption increases. This vulnerability places us in an untenable situation and could result in new and serious economic problems.

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

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

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

clarify various provisions of the legislation to make it precise and more workable.

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

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

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

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

-- Ambiguous, vague and complex provisions -- as the record of Congressional debate indicates. The bill would lead to years of regulatory delays, litigation and uncertainty against the best interests of achieving either our environmental or energy objectives.

-- Cumbersome and unwieldy Federal-State regulatory and enforcement provisions. H. R. 25 would inject the Federal Government immediately into a field which is already regulated by most states. Since 1971, 21 states which produce over 90 percent of the nation's surface mined coal have either enacted new environmental legislation governing surface mining or have strengthened laws already on the books.

-- H. R. 25's tax provisions which would be excessive and unnecessarily increase the price of coal.

-- Its provisions which enable State governments to ban surface mining of coal on Federal lands -- thus preventing a national resource from being used in the national interest.

-- Its provisions permitting the Federal government to pay private landowners 80 percent or more of the cost of reclaiming previously-mined land, leaving title to the land in private hands, could provide windfall profits at the expense of coal consumers.

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

Gerald R. Ford

THE WHITE HOUSE,

May 20, 1975.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 5-16-75

TO: Bob Linder

FROM: Jim Frey

Attached is the FEA views letter on H.R. 25, the strip mining bill, for inclusion in the enrolled bill file. Thanks.

OMB FORM 38
REV AUG 73

FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

May 15, 1975

DEPUTY ADMINISTRATOR

MEMORANDUM TO JAMES T. LYNN

FROM: JOHN A. HILL

SUBJECT: FEA position on enrolled strip mining bill

FEA POSITION

The Federal Energy Administration has carefully evaluated the enrolled strip mining bill and the very difficult issue of whether or not it should be approved. On the basis of this review, FEA recommends that the President veto the bill.

RATIONALE FOR FEA RECOMMENDATION

Although the enrolled bill does reflect some of the changes requested by the Administration, it is, on balance, no better than the bill (S. 425) passed by the 93rd Congress and approved by the President in December:

- The changes accepted by the Congress are largely those which bear no critical relationship to the production impacts associated with S. 425 (e.g. unemployment provisions, slight modifications of citizen's suits);

- The vague provisions and ambiguities of S. 425 are still present in the enrolled bill, with the same potential for production delays and losses that will result from litigation and court rulings;

- The bill creates several new problems not contained in S. 425 all of which will have adverse, but nonquantifiable, production impacts.

In addition to these general concerns, FEA's recommendation is based upon the following specific considerations.

- Coal production losses -

  The production losses estimated to result from the bill are unacceptably large, even at the low end of the range (40 million tons). It is also likely that the impacts will be greater than those estimated to result from a few key provisions once many

of the ambiguities in the law are litigated in the courts. Although these losses can probably be made up by 1980 as the industry adjusts to the requirements of the bill, loss of this level of production during the next three to five years can only be made up out of oil imports.

. Oil imports -

The bill will increase oil imports over the near-term by an estimated 380,000 to 1.7 million barrels per day. These increases will not only add to our invulnerability but do so at a time when our vulnerability is likely to be the greatest.

. Lack of progress on energy program -

The Congress is having considerable difficulty enacting a comprehensive energy program to reduce our vulnerability in the near-term and eliminate it by 1985. If Congress fails to act on an acceptable program, unnecessary restrictions on coal production will be even more damaging to the Nation's energy goals.

. FEA's coal conversion program -

FEA's program of converting oil and gas fired utilities to coal will require an estimated 50 million tons of coal. Given the difficulties that are already being encountered in assuring this level of additional coal production, further restrictions on our ability to mine coal will seriously hamper successful completion of the effort.

. Other economic costs/impacts -

The bill will result in a substantial number of job losses (both directly and indirectly), increase consumer costs of electricity, and generate further outflows of dollars to pay for imported oil (perhaps as much as $6.1 billion per year by 1977). Given the current state of the economy, the problems consumers are already having with their utility bills, and the weakened state of the dollar, FEA has concluded that the benefits of the bill do not outweigh its cost in these areas. Of equal concern is the impact that the bill will have on small miners. As is the case with most regulatory programs, the majority of small mining companies will be eliminated.

. The need for Federal strip mining regulation -

Although the Administration is on record as favoring Federal strip mining regulation by virtue of the fact that it has submitted its own bills that involved such regulation, it is never too late to reassess the need for Federal regulation. Since Federal regulation first began to be seriously considered in 1971, considerable regulatory activity has occurred at the State level. Twenty-one of the states (including 11 of the 12 leading surface coal producing states) have enacted laws governing the surface mining of coal. Although most of the laws are not as strict as the enrolled bill, they do represent the views of those who live in surface mining areas and do not contain many of the objectionable, unacceptable provisions of the enrolled bill. The issue of whether or not the Federal Government ought to launch another large regulatory bureaucracy and accept the uncertainties contained in the enrolled bill, particularly in light of our current energy situation, thus deserves serious consideration.

ADVANTAGES OF ENROLLED BILL

FEA's decision to recommend a veto of the enrolled strip mining bill reflects the fact that the enrolled bill does contain a number of desirable provisions and objectives, including the reclamation of orphaned lands, the requirement that future lands be reclaimed, the limited allowances for regional variations, and various other contributions to our national environmental goals. In addition, acceptance of the bill would finally settle the issue of Federal regulation of surface mining -- an issue that has divided the Congress, the public, and the Executive Branch for the past two years.

CONCLUSION

In summary, the basic issues can be broken down into the following components:

. Are the energy, economic and regulatory impacts associated with the bill acceptable in light of our current energy and economic situation?

. Will the absence of Federal regulation in this area lead to unacceptable environmental harm or damage?

Although the issue is complex, FEA has concluded that the impacts are unacceptable and that the absence of Federal regulation will not produce unacceptable environmental damage in light of laws that have already been implemented by the States.

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

MAY 1975
MAY 9 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H. R. 25, an enrolled enactment, entitled

"Surface Mining Control and Reclamation Act of 1975."

The Department of Commerce supported wholeheartedly the President's veto of surface mining legislation enacted by the 93rd Congress. We concurred in the President's recommendations as to changes critically needed to overcome objections to the 93rd Congress legislation as well as the changes requested to further reduce the potential for unnecessary production impact and to make the legislation more workable and effective. H. R. 25, as adopted by the Congress, includes provisions to overcome some of these objections, most notable of which is the deletion of the provision with respect to special unemployment compensation.

While the Department believes that it would have been preferable to have strip mining legislation which accommodated all of the recommendations made by the President, we, nevertheless, recognize that H. R. 25 represents the Congress' second effort and that some substantial concessions have been made. Under the circumstances, we believe that no useful purpose would be served by a veto of H. R. 25.

Sincerely,

Karl E. Bakke

General Counsel

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

MAY 12 1975

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 25, an enrolled bill "To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes."

The Environmental Protection Agency strongly urges the President to sign the enrolled bill.

We find that the authority in the bill to bring about effective, environmentally protective, uniformly stringent regulation of surface coal mining nationwide overwhelmingly offsets any objectionable features of the bill. The need for Federal legislation at this time is great, when experience has shown that complete reliance on the States has to date produced uneven, inadequate protection of health, welfare, and the environment; and when the coal mining industry is poised for tremendous expansion of its operations in the environmentally fragile West in order to meet a national demand for coal aggravated by the need for finding new sources of energy within the United States.

The bill would establish a national program of State surface coal mining and reclamation regulatory programs meeting minimum Federal standards. Department of the Interior administrative and enforcement assistance and backup are provided, which can be imposed in States not meeting Federal requirements.

The Environmental Protection Agency is directly involved in administration of the provisions of the bill with regard to the regulations promulgated by the Secretary of the Interior governing State regulatory programs,

and the regulations promulgated by the State to implement its program. The Administrator's written concurrence is required in each instance for those regulations which relate to air or water quality standards under the Federal Water Pollution Control Act or the Clean Air Act. In addition, the Secretary is required to solicit and publicly disclose the Administrator's views concerning aspects of a proposed State program with respect to which the Administrator has special expertise, before the proposed program can be approved.

The bill would impose interim requirements administered and enforced by the States with Federal back-up pending an effective permanent State program. The requirements would include the key performance standards to be included in the permanent regulatory program.

The interim performance standards would be applicable upon enactment to all mining areas from which the overburden had not been removed and to operations in existence on the date of enactment within 135 days of enactment. Six months from enactment, Federal regulations governing State programs would be promulgated. Within 18 months from enactment all States must submit proposed programs, which the Secretary has 6 months to approve or disapprove. Twenty months after enactment permits under permanent State programs, whether approved or not, must be applied for; and after 30 months all mining operations must have an approved permit.

The bill would also regulate the surface effects of underground coal mining.

The bill provides procedures for designation of areas within a State or on Federal lands which are unsuitable for surface coal mining, and would prohibit surface coal mining, subject to valid existing rights, on the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System (including study rivers), National Recreation Areas, and in national forests.

The bill would authorize citizen suits for the purpose of securing enforcement of the provisions of the Act.

The bill would establish and fund through coal production fees a program for reclamation of abandoned surface and underground coal-mined areas; financially support State mining and mineral research centers; and provide for studies of necessary additional mining regulation.

The bill would impose certain of the requirements of the interim and permanent programs on mining on Indian lands, administered by the Secretary of the Interior.

Under the bill, Federal enforcement is complementary to State enforcement and can supplant it when a State fails to enforce. This is true for both interim and permanent programs. The bill provides that when Federal inspection reveals a violation which creates or could create imminent danger to public health or safety, or could cause "significant, imminent environmental harm to land, air or water resources", the Secretary shall order immediate cessation of operations until the violative conditions are abated or the order modified or rescinded.

The bill contains additional administrative and program authorities, including establishment in the Department of the Interior of an Office of Surface Mining Reclamation and Enforcement; authority to designate predominantly residential-use Federal lands as unsuitable for mining of any mineral; authorization of experimental practices; alternative coal mining technologies research; and protection of the owner of the surface over federally owned coal.

There are features of the bill which are of overriding importance: those governing State surface coal mining and reclamation programs, prohibition of mining in certain areas, the high degree of reclamation required by the performance standards, and abandoned mine reclamation. These key provisions are essential to fill a void in Federal environmental protection legislation. With approximately 2 million acres of land and 11,000 miles of streams already despoiled by exploitative strip mining, and the impending surface mining of 1,700 acres and more every week to meet the increasing demand for coal, Federal legislation is urgently needed.

We regard the environmental protection performance standards as the backbone of the bill, and the benefits they promise as an essential goal of such importance that this Administration should not fail to endorse them.

The performance standards are aimed at abuses whose past effects remain all too evident in large acres of Appalachia; and at anticipated problems in the West, where disruption of the surface ecosystem and the natural water regimen can mean disruption or destruction of the ranching and farming which have been basic to the economy of the region since its settlement, and will remain so.

The environmental costs to Appalachia have been tremendous, and will endure. The environmental costs to most portions of the western United States have the potential of being even greater. The performance standards of the bill which control downslope spoil placement, offsite spoil deposition, mountaintop mining, water quality and quantity protection, restoration of self-regenerative vegetation, and other environmental concerns will help to minimize those costs and are the minimum responsibility of government.

Our position on the hydrology protection provisions is that to assure truly effective reclamation, protection of water resources--including through the alluvial valley floor prohibition--is essential. The provisions should not be termed overly restrictive. Where they are specific and detailed, as for example regarding leachate, control of toxic discharges, and prevention of suspended solids, they are fully consistent with and complementary to the Federal Water Pollution Control Act. Where they are more generally phrased, as in the requirement to minimize disturbances to the hydrologic balance and to the quantity and quality of water entering surface and groundwater systems, we point out that the requirement is flexible and not absolute and, as noted, the required degree of protection is necessary if pre-mining uses in the West are to be able to be resumed. The alternative--creation of unproductive waste-land--is unacceptable.

We also note that the alluvial valley floor prohibition applies only to such floors having the ability to sustain a farming operation and is limited to operations actually located in the alluvial valley floors, not operations otherwise affecting them.

Similarly, we support the underlying tenet of the legislation that surface coal mining should not take place where the minimum performance standards can not be met, not only for the foregoing reason that full restoration of preceding uses should occur, but because the nation's coal resources are great enough that we need not squander the productivity of our land and water for the transitory expedient of extracting coal. The on-going efforts of the Secretary of the Interior to sort out those areas of greater and lesser restoration likelihood, coupled with the bill's authority for designation of areas unsuitable

for coal surface mining by the States and for prohibition of mining on national lands having other important values, not only have great protective merit but are simply a prudent policy of maintaining the productivity of affected lands, given the availability of coal elsewhere and by other mining methods. They also have the salutary effect of creating reserves in the extremely unlikely event that such coal would be needed in a national emergency.

We view the provisions for restoration of abandoned mined areas as a necessary and desirable concomitant of the environmental protection performance standards. While the reclamation fee to be levied on coal operators may carry some objections, we regard it as necessary to provide sufficient funds for an effective program, non-inflationary in that the cost to the consumer is a small fraction of gross costs, and as fair as possible in that the cost can be passed to the consumer and it is impossible to impose the cost on those who caused the damage in the past.

We regard the well-founded objections to the bill's mining and mineral research center provisions as being on a scale so far smaller than the benefits to accrue from the bill's environmental protection provisions that they do not merit consideration as cause for veto. The same is true of criticism directed at the provisions governing Federal-State roles. Beyond that, the contention that the Federal government should not have an enforcement role in the interim program and a reduced but active role in the permanent program attacks the best means of assessing and aiding the success of the State programs.

We view the surface owner protection provisions retained by the Conference Committee and approved by both Houses as adequately confined to genuine ranchers, as well as sufficiently circumscribed to prevent windfall profits by the provisions which govern the sale of surface rights and require competitive bidding for coal leases.

The Senate-House Conference Committee met several Administration objections to the bills before it. While the Committee retained the prohibition of mining in alluvial valley floors having a potential for ranching or farming, it rejected those provisions of the House bill which would have greatly increased the area affected. We regard the area affected by the Conference bill provisions as minimal and amply justified by the importance of alluvial valley floors to the West.

We do not regard the contention that a State is authorized by the bill to prohibit surface coal mining on Federal lands as viable, both on its face and because the authorizing provision in question depends on approval by the Secretary of the Interior.

The Conference Committee fully met Administration objections to the citizen suits and unemployment assistance provisions, and adequately removed the prohibitory aspects of the siltation, impoundments, and alluvial valley hydrologic integrity provisions.

While the Committee retained the requirement that mining operations be designed to prevent irreparable offsite damage to hydrologic balance, we strongly urge that this is a reasonable, necessary requirement. First, it is a design requirement only; and second, even as a performance requirement it could only be regarded as equitable that an operator should not have irreparable effects on a critical resource of persons whose land is not within the area of his permit.

For the same reasons we regard the requirement to replace water supply or provide other compensation (presumably where the above-mentioned design has failed to work, resulting in contamination or diminution of offsite water resources) as reasonable, fair, and necessary.

We concur with the views in the Senate Report on S. 7, now part of the bill's legislative history, which state that the Secretary of the Interior has adequate authority to define ambiguous terms, obviating the need for the Administration proposal of specific authority to do so.

Recent Administration estimates of the initial impact of the bill on coal production cite a loss range of 50 to 162 million tons of coal in the first year. It is our view that the actual initial loss resulting from the stringent performance standards of the bill can be compensated for by conservation of the resource, increased production at existing surface and underground operations, and the benefits brought about by the bill. Future production loss factors should be offset adequately by the strong market for coal and by technological advances, an area of rapid and promising change.

Finally, it is our view that the basic policy of the Federal government should be to encourage and otherwise act to bring about the mining of coal by healthy and safe

underground methods and the improvement of those methods since the great preponderance of U.S. coal reserves lies underground. Many of the arguments against this enrolled bill are patently based on the position that U.S. policy should be to exhaust surface minable reserves before moving on to the underground reserves. Such a policy would be neither necessary or wise, nor in the national interest. Arguments against the bill should be rejected to the extent they reflect that policy, which is largely the case with respect to the arguments against the national forests prohibition, the alluvial valley floor provisions, the unsuitability designation provisions, and others of the so-called "lock-up" provisions.

In summary, the Environmental Protection Agency fully supports and recommends approval of the enrolled surface coal mining and reclamation bill.

Sincerely yours,

Russell E. Train

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

May 10, 1975

Dear Mr. Lynn:

This responds to your request for the views of this Department with respect to H.R. 25, an enrolled bill entitled "The Surface Mining Control and Reclamation Act of 1975."

Although the Interior Department has serious reservations about the potential effects of the bill, it recommends that the President approve the bill.

The bill is basically similar to S. 425 which was passed by the 93rd Congress, although not approved by the President. While Congress did not adopt all amendments recommended by the Administration, some changes have been made, including partial or total revisions in the provisions dealing with citizen suits, reclamation fees, special unemployment provisions, stream siltation, hydrologic disturbance, and anti-degradation.

However, some objectionable features remain. For example, the alluvial valley floor and hydrologic provisions are particularly vague and confusing. The Secretary is not given enough authority in defining ambiguous terms. Provisions dealing with such matters as steep slopes, surface owner consent, prohibition of mining in National Forests, and enforcement timing are still troublesome.

DISADVANTAGES OF THE BILL

Energy Impacts

° The bill would not help our efforts to reduce our country's reliance on high cost foreign oil. Based on a projection of 685 million tons of coal production, the bill could cause potential coal production losses in the range of 40 - 162 million tons in the first full year of implementation; by contrast, projected losses under the Administration's 1975 bill would be in the range of 33 - 80 million tons. This range of estimated loss includes only those provisions for which an estimate can

be developed. Although this loss could be reduced over time, any incremental losses in production would have to be made up substantially by increased oil imports.

° Some of the prohibitory provisions in the bill could cause a lockup of 20 to 70 billion tons of valuable coal reserves. The estimated U.S. coal reserve base is 434 billion tons.

° Events during the past several days cause further concern about the relationship of this bill to the President's stated goals for national energy self-sufficiency.

For the second time in 14 months, the U.S. Geological Survey sharply lowered its estimates of how much oil and natural gas in the U.S. remains to be discovered. This finding gives additional emphasis to increased coal production as a major key to such energy self-sufficiency.

The FEA plan for converting utilities to coal (and thereby both save domestic oil and gas and cutback foreign oil consumption) is encountering opposition in part because of uncertainty about the availability of adequate coal supply. The conversion program would require an additional 48 million tons of coal per year.

These developments make even more disturbing the fact that our dependence on foreign oil is apparently even greater than it was before the Arab embargo. Thirty-eight percent of the oil we now use is from foreign sources--up from our 35% dependence in 1973.

The current outlook for favorable Congressional action on the comprehensive energy proposals still before Congress is not good. Hence, unnecessary restrictions on coal production would be even more damaging to the Nation's energy goals.

Cost/Economic Impacts

° The conference bill could cause costs for surface mined coal to increase by $0.50 to $1.50 per ton. The weighted average FOB price for surface mined coal was about $11 per ton in 1974; this price is expected to be somewhat higher in 1975. The cost for underground mined coal will rise slightly because of the reclamation tax and some expenses needed to comply with the sections of the bill dealing with underground mining. In other words, costs to the consumer, mostly

in the form of increased electricity costs, would exceed $300 million per year. In addition, administrative costs for States and the Federal Government are estimated to be around $90 million for the first year plus the cost of any unemployment benefits.

° Job losses attributable to the bill could be significant, and the Appalachian region could have a disproportionate share of any loss.

° The bill favors larger operators over smaller ones.

° An intent is to encourage relatively greater underground coal mining, which will result in higher costs, lower reserve recoveries and inherently greater hazards to workers.

Administrative/Legal Impacts

° Legal problems and administrative and litigation delays will result from the bill's ambiguous language.

ADVANTAGES OF THE BILL

The proposed bill offers many advantages and improvements including:

° The issue of Federal regulatory legislation for coal surface mining would finally be settled.

° The bill goes a long way toward assuring tough reclamation standards and enforcement in all States.

° The bill takes into consideration regional factors, such as steep slopes in the East and water availability in the West.

° When the bill is fully implemented, no coal will be surface mined unless the mined out areas are adequately reclaimed.

° The bill contributes to the overall national goal of environmental quality.

° The bill provides authority for reclaiming the scars of some past mining on so-called orphan lands.

° The bill also allows authority for using abandoned mine reclamation funds for other purposes connected with the infrastructure needed to support expanding mining activities in new and old areas.

° Although the Department has adequate authority to adopt regulations for coal mining and reclamation on Federal lands, this legislation should reduce opposition to any resumption of leasing of Federal coal.

CONCLUSION

This legislation still contains some problem areas and features that the Department does not agree with, and the potential effects of the bill on the energy/economic situation could be serious. Nevertheless, considering the four years of work that has already gone into the bill and considering its substantial positive environmental benefits and the fact that some legislation is desirable, the conclusion of the Department is that the overall circumstances dictate that the bill be signed.

Sincerely yours,

Kent Frizzell

Acting Secretary of the Interior

Honorable James Lynn
Director
Office of Management & Budget
Washington, D. C.

ASSUMPTIONS UNDERLYING INTERIOR PRODUCTION LOSS ESTIMATES

A. General

Interior estimates of production losses have necessarily been developed on assumptions that bear substantially on predicting the actual impact of surface mining legislation. Principal among such considerations are the following:

1. Losses are shortfalls from adjusted Project Independence projected gains. Losses are asserted as amounts by which coal production will fall short of projected increases in production called for by the Project Independence Report. Interior used a figure of 685 million tons as the amount of projected production in the first full year of implementation. This compares with 1974 production of 601 million tons. Project Independence projections are subject to other factors such as clean air restrictions, delivery system constraints, demand limitations and altered energy price projections. The Interior estimates of production could be modified by changes in these factors. In any event, such losses do not represent actual loss of production from present levels.

2. Some parts of the estimates are based on constant 1974/75 relative price levels of coal. A basic uncertainty in production

levels results from uncertainty as to coal price levels and other energy price levels. Higher coal prices than the constant relative prices assumed in the Interior analysis could mean more coal production and lower relative coal prices could mean less production. This is particularly important since the estimates of increased costs resulting from the bill are in the range of $.50 to $1.5 per ton. Weighted Price for surface mined coal f.o.b. mine averaged about $11/ton in 1974, and for all coal averaged about $15 per ton. Prices for long-term coal contracts have been rising although spot contract prices are declining. If prices of competing energy sources increase, then over time, this suggests that cost increases can be passed on with smaller production losses than have been estimated. Similarly, price declines would lead to greater production losses than have been estimated. Attached hereto is an economic elasticity analysis indicating how price changes ameliorate production losses.

3. Losses are based on assumption of currently prevailing mining methods and technology. Technological improvements in both surface and underground mining methods could marginally diminish production losses.

4. Other supply and demand constraints may be more significant to increased coal production than surface mining legislation. Coal

production is affected by the cumulative effects of constraints such as transportation, manpower, availability of equipment, clean air and other environmental requirements, and limited coal user demand. Of these, the Clean Air Act and limited coal user demand may constitute more serious independent limitations on coal production than surface mining legislation.

5. Time. In addition to the factors discussed above, the rate at which the productive system recovers and moves toward the Project Independence desired levels is dependent on the time which it will take for the industry to adjust and deal with the problem presented in the bill. This makes difficult any estimates of the coal industry's recuperative efforts beyond the first full year of complete implementation. In the short range (which could extend through the next 5 years), the industry's recuperative ability would be severely limited. But over time, the industry's ability to adapt to requirements of surface mining legislation would improve. This is not to say that production will not increase but rather that the makeup tonnage will be difficult to achieve over the short run. It should also be noted that potential losses that could result from prohibitory provisions in the proposed legislation would reduce the production base rate for the longer range.

B. Projected Production Losses from H.R. 25 as Passed

Based on these assumptions, an assessment of the final language of H.R. 25 indicates estimated potential production loss figures of from 40 to 162 million tons for the first full year of implementation. Without the Conference Report language on alluvial valley floors being available, Interior had originally projected the minimum loss figure at 51 million tons. These losses occur as a result of the bill's impact in three major areas for which the impacts are shown as follows:

	H.R. 25	Administration Bill
a. Small mines	22-52	15-30
b. Steep slopes, siltation, and aquifer provisions	7-44	7-38
c. Alluvial valley floor provisions	11-66	11-12
Total	40-162	33-80

Additional unquantifiable losses could result from other provisions, including ambiguous terms, the designation of lands suitable for mining, and the surface owner protection provisions. A lack of technical manpower and equipment immediately available and vagaries regarding permit application requirements may further hamper production.

The following methodology was employed in the analysis of the major categories of anticipated potential losses.

1. Small Mines: An examination of a large cross section of surface coal mines producing less than 50,000 tons per year and located principally in the East resulted in a determination that their ability to comply with the provisions of the bill relating to bonding and permit application was inherently limited. Specifically, the requirements for the collection of extensive hydrologic data, for preparing detailed underground maps, for strata cross section and test boring, for the preparation and presentation of highly detailed mining and reclamation plans and for the assessment of mine impact on hydrologic balance, are beyond the present capability of many of these small mines.

   The best engineering estimates of potential losses which could result range from a 42 percent minimum to a 100 percent maximum loss of coal production from small mines for the first full year of implementation. Applying these percentages to the projected production figures if no bill were enacted results in a range of annual production losses from 22 million tons minimum to a 52 million ton maximum. The maximum loss stated is the total loss of production from all mines producing less than 50,000 tons per year with none of this production being otherwise replaced.

2. It is estimated that the losses from the category of steep slopes, siltation and aquifers would range from 7-44 million tons.

This figure can be separated as follows: Steep slopes (7-25 million tons), aquifers (0-9 million tons) and siltation (0-10 million tons).

In estimating potential production losses from steep slope restrictions, the total amount of surface production derived from slopes over 20°, as calculated and updated from the CEQ report of 1973 prepared for the Senate Interior Committee, was examined to see how it would be affected. Our best engineering estimates are that 6 percent to 23 percent of the estimated steep slope production during the first full year of complete implementation would be affected due to some loss of productivity from nearly every steep slope operation.

In assessing possible production losses from aquifer protection provisions, we estimated that at worst up to 9 million tons of planned production near an aquifer fed water source would be abandoned because of an adverse opinion by a regulatory authority or court. At best, regulatory authorities and courts would allow mining to continue as planned.

In estimating potential production losses from siltation inhibitions, it was estimated that up to 10 million tons of production could be lost because of operator's inability to construct the additional diversion ditches, impoundment structures and water treatment facilities required by the Act. In addition some areas might be

mined only if permanent large siltation structures were built. Under the bill large siltation structures must be removed after mining. Such removal could lead to unacceptable sedimentation. Under favorable conditions and interpretation by regulatory authorities no losses would be incurred as a result of siltation provisions.

3. Losses resulting from provisions relating to alluvial valley floors would range from 11 to 66 million tons during the first full year of implementation. To arrive at a possible loss of 66 million tons, surface mine production data were collected for 1974 production west of the 100th meridian west longitude which amounted to 63 million tons. Based on a mine-by-mine analysis it was judged that approximately 45 million tons of this production was mined from alluvial valley floors as defined in the bill or was being mined on areas that could adversely affect alluvial valley floors. Although attempts were made to exclude undeveloped rangelands from the alluvial valley floor provisions, these areas still could be interpreted as potential farming or ranching lands of significance and could thereby be excluded from mining. By projecting the ratio of 1974 production being mined in these affected areas to projected production for the first full year (90 million tons), a resulting loss of 66 million tons was derived. The possible minimum loss

figure of 11 million tons attributable to the alluvial valley floor.provision was determined by examination of three key unknown factors in the present language: (1) the area that is now under intensive agriculture usage (including farming and hay meadows) is not clearly known; (2) the amount of undeveloped rangeland is not precisely known; and (3) potential farming and ranching as defined in H.R. 25 could be limited (or extensive) but cannot be clearly determined. Based on assessment of these factors and on best professional judgment of the mining activities in areas of current and potential operations as described in H.R. 25, it is estimated that approximately one-sixth (11 million tons) of the maximum production loss could be considered a minimum for the first full year of complete implementation under a very loose interpretation. There is a problem of interpretation of the Joint Conference Report language which states "that 97 percent of the argicultural land in the Powder River Basin is undeveloped rangeland and therefore is excluded from the application of this provision." This language could lower the estimated minimum production loss projections to 11 million tons for the alluvial valley floor provisions.

From an engineering viewpoint, there are contained within this language many ambiguous or difficult-to-define terms such as "significant," "substantial," and "potential," and it is impossible to develop a precise minimum figure.

C. Conclusion

Interior's estimates indicate potential serious production impacts resulting from surface mining legislation which must be weighed against the environmental and land use benefits of the bill. In using these estimates, it is essential to consider carefully the uncertainties inherent in them, the assumptions on which they are based, and where within the stated ranges are the impacts most likely to occur.

Elasticity Calculations

In deriving the calculated figures, it is assumed that the coal supply curve is horizontal at the point of intersection with the coal demand curve. This is a reasonable assumption.

The supply and demand curves apply to surface-mined coal only, but the results do not change much if total (surface and underground) curves are used.

We estimate that the long-run demand elasticity of coal is .7. The calculations, therefore, are projected to 1980.

Case 1

Assume that the average increase in cost as a result of H.R. 25 is $.85 per ton for surface-mined coal. This is our modal estimate. (For small mines, the figure could be as high as $1.50).

Assume a base price in 1975 dollars for surface-mined coal of $11.00.

Assume that the amount of surface-mined coal in 1980 is 400 million tons. This is based on a production of 330 million tons in 1976 and a growth rate of 5%.

Then, using the standard elasticity formula, we get a reduction of
21.6 million tons per year

If it is assumed that the change in cost is $1.00, the loss is
25.5 million tons per year

Case 2

For some alternative assumptions, the figures would come out as follows:

Change in cost	$.50
Coal price	$9.00
Elasticity	.7
Coal output	450 million tons
Reduction in output	17.5 million tons per year

Change in cost	$1.20
Coal price	$9.00
Elasticity	.5
Coal output	400 million tons
Reduction in output	26.7 million tons per year

Change in cost	$1.00
Coal price	$12.00
Elasticity	.8
Coal output	380 million tons
Reduction in output	25.3 million tons per year

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

May 13, 1975

Honorable James T. Lynn
Director
Office of Management and Budget

Dear Mr. Lynn:

Your office requested this report on the enrolled enactment H.R. 25, the "Surface Mining Control and Reclamation Act of 1975."

This Department recommends that the President approve the bill.

The enactment authorizes (1) the establishment of the Office of Surface Mining Reclamation and Enforcement, (2) grants-in-aid to State mining and mineral resources and research institutes, (3) abandoned mine reclamation, (4) control of the environmental impacts of surface coal mining, and (5) designation of lands unsuitable for noncoal mining and various necessary administrative and miscellaneous provisions.

In recommending approval, we are cognizant of Presidential concerns regarding certain provisions of this legislation. While some undeveloped coal sources could be "locked up", thereby affecting unemployment, opportunities for employment will be increased by an active reclamation program. Such a program requires labor, materials and equipment, all of which stimulate employment. Budget outlays would increase, principally because of grants-in-aid to state mining and mineral resources research institutes, and administrative costs. However, most of the money used in restoration of abandoned mines will come from the private sector through the Abandoned Coal Mine Reclamation Fund. Even though coal prices may increase, returning land to productive capacity would be a National gain.

This Department would have preferred that the prohibition of surface coal mining operations on Federal lands within the boundaries of National Forests not be included in the legislation and that surface coal mining on these lands continue to be at our discretion. We are also concerned with the Federal lessee protection provision of the enactment. This provision would require the written consent or execution of a bond in favor of grazing or other surface lessees prior to the issuance of a Federal permit for surface coal mining operations. This provision appears to grant to the surface land lessee a degree of control or authority over the surface lands that exceed the conditions of the lease. We believe that the responsibility to ensure protection or adequate restoration of surface resources and associated improvements should be a condition of the Federal coal permit or lease and be established at the Federal discretion.

This Department has cooperated with the Department of the Interior throughout the evolution of this legislation. We recognize that H.R. 25 is the result of compromise. At the Department of the Interior's request, we have provided

technical assistance in drafting Federal regulations needed to implement the proposal if it becomes law.

Even though we have concerns regarding certain provisions of the enactment, this recommended approval is based on the need for national guidance in surface mining and to ensure the restoration of our mined lands. This Department provides the leadership in surface mine reclamation and has demonstrated that certain lands can be surface mined and returned to sustained productive use in agriculture, forestry, recreation, wildlife, watershed protection, and other purposes. Lack of national leadership has led to the eroding surface mined lands that exist today. This Department believes it to be in the national interest to provide that guidance now.

Under Title IV of the enactment, the Secretary of the Interior shall transfer funds to this Department for technical and financial assistance to landowners entering into long-term agreements for reclamation purposes. Based on an estimated annual production of 600 million tons of coal, approximately $27 million could be available annually from the Abandoned Mine Reclamation Fund to the Department of Agriculture for use in the rural lands reclamation program. Current resource inventories indicate that these funds are needed in the restoration of abandoned surface mined lands.

Sincerely,

J. Phil Campbell
Under Secretary

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

MAY 12 1975

Honorable, James T. Lynn
Director,
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (H.R. 25), "Surface Mining Control and Reclamation Act of 1975."

The Department of Justice defers to those agencies more directly concerned with the subject matter of the bill as to whether it should receive executive approval.

Sincerely,

A. Mitchell McConnell, Jr.
Acting Assistant Attorney General

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

12 MAY 1975

Honorable James T. Lynn

Director, Office of Management of Budget

Dear Mr. Lynn:

This is in reply to your request for the views of the Department of the Army on enrolled enactment H. R. 25, 94th Congress, an Act "To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and other purposes."

The enrolled enactment would establish a comprehensive, nationwide program to regulate surface coal mining operations, and to some extent the surface effects from underground coal mining operations, for the express purpose of protecting the Nation - its people and environment - from the potential adverse effects of such operations. The responsibility for administering the provisions of this Act would rest with the Office of Surface Mining Reclamation and Enforcement, within the Department of the Interior to be established under Title II of the enrolled enactment.

With respect to the overall merits of the major substantive matters covered in the enrolled enactment, the Department of the Army defers to the views of those Federal agencies with the primary interest in these areas.

The enrolled enactment would also have a direct impact on the programs and activities of the Department of the Army in certain specific areas. First, Title IV of H. R. 25 would establish a fund and a program for the reclamation of abandoned or "orphan" mined lands, and for the relief of areas that will be impacted by the rapid development of mining. Section 405(a)(10) authorizes the Secretary of the Interior with the assistance of the Army Corps of Engineers to utilize all available data and information on reclamation needs and measures, including that developed by the Corps of Engineers for the National Strip Mine Study authorized by Section 233 of the Flood Control Act of 1970, to conduct, operate or manage reclamation facilities and projects under the provisions of this section.

Second, Title V of H. R. 25 sets out the procedures and the environmental standards to be utilized by the Secretary of the Interior in the regulation of surface coal mining and reclamation and in the regulation of the surface effects of underground coal mining operations. Section 515(b)(13) and Section 516(b)(5) would require the Secretary of the Interior in permitting such activities to assure that such operations will, as a minimum, design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed in Section 515(e), all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments. Such safety, engineering and design standards and criteria for the construction, modification, and abandonment of these impoundments would be established within 135 days from the date of enactment by the Corps of Engineers, under the provisions of Section 515(e), while the responsibility for the issuance of such regulations and for subsequent on-site inspections of such impoundments rests with the Department of the Interior. In addition the Corps of Engineers would also be responsible for approving the system of inspection to be established by the Department of the Interior for the enforcement of these regulations and to participate in the training of inspectors for such enforcement activity.

The Department of the Army understands that the basic responsibility for the regulation and enforcement, including on-site supervision and inspection, of these operations, would rest with the Department of the Interior, and that the Corps' role would be limited to the development of the basic standards and criteria and review of the proposed plans for such coal mine waste impoundments.

With the understanding that the Department of the Army and the Department of the Interior will reach an agreement for establishing standards and criteria for regulating these coal mine waste dams and embankments, and providing that the necessary fiscal resources can be made available, the Department of the Army should be able to develop the necessary standards and criteria within the time frame specified in the enrolled enactment. However, without further clarification as to the scope and nature of the technical assistance to be provided by the Corps of Engineers following completion of the standards and criteria, it is impossible to determine the extent of the impact of such assistance on current manpower and fiscal resources.

With respect to the specific involvement of the Department of the Army as outlined above, the Department of the Army believes that these

responsibilities are generally consistent with the technical capabilities of the Corps of Engineers. Accordingly, with respect to these specific provisions, the Department of the Army has no objection to the approval of the enrolled enactment.

Sincerely,

Howard H. Callaway

Howard H. Callaway
Secretary of the Army

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

May 12, 1975

Dear Mr. Hyde:

The Council on Environmental Quality has reviewed H.R. 25, the Surface Mining Control and Reclamation Act of 1975, and recommends that the President sign the enrolled bill.

Sincerely,

Gary Widman

Gary Widman
General Counsel

Mr. J.F.C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE
37902

TVA 40TH ANNIVERSARY OF PEOPLE IN PARTNERSHIP

OFFICE OF THE BOARD OF DIRECTORS

May 8, 1975

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to the Office of Management and Budget's oral request for TVA's views on enrolled bill H.R. 25, "A bill to provide for the cooperation between the Secretary of the Interior and the states with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes."

TVA long has urged legislation to require reclamation of strip-mined land. We are concerned that H.R. 25 is too detailed to be good legislation; that it tends toward the nature of regulations more than law. We are also concerned that H.R. 25, designed primarily to control surface mining and to require reclamation, may be applied in a way to deny the Nation substantial tonnages of needed coal, at a time when its supply is critical. Nevertheless, it does have the advantage of providing an evenhanded approach to mining and reclamation which is needed. And in view of the urgent need for a reclamation law and the extended efforts that have been made to bring it to the present state, we believe it is time to act.

We therefore conclude that the merits of H.R. 25 outweigh its remaining problems and we would hope that its most serious shortcomings will be corrected by amendment as experience demonstrates the need for it.

For these reasons, we recommend that the President approve the bill to enable the implementation of a national program of surface coal mine control and reclamation.

Sincerely yours,

Aubrey J. Wagner
Chairman

FEDERAL POWER COMMISSION
WASHINGTON, D.C. 20426

Enrolled Bill, H.R. 25-94th Congress
Surface Mining Control and Reclamation Act

MAY 13 1975

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Ms. Ramsey
Legislative Reference Division
Room 7201, New Executive Office Building

Dear Mr. Lynn:

This is in response to Mr. Hyde's request of May 9, 1975, for this Commission's views on H.R. 25, an enrolled bill, "To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes."

The bill establishes an Office of Surface Mining Reclamation and Enforcement within the Department of the Interior to administer a program for issuing permits to engage in coal surface mining operations. The bill further provides for the funding of a program for the reclamation or restoration of lands used for such operations. The procedures and environmental standards for regulation are detailed in Title V of the bill.

The Commission is concerned about the potentially adverse impact which enactment of this bill is likely to have on coal supplies needed to meet electric utility demands, especially the 50 percent projected increase in such needs within the next five years. We are also concerned that enactment of the measure will bring about price increases in coal used by electric utilities as well as in the price of electricity to all consumers.

Although the Commission has not independently developed estimates of the coal production losses attributable to the bill, it is clear that such losses are certain to be substantial, and much marginal production may be curtailed or eliminated by reason of increased costs. Perhaps the greatest potential production and strippable reserve losses stem from a possible ban on mining in alluvial valleys through State actions and the requirements for preservation of essential hydrologic functions of such areas. The Bureau of Mines staff has estimated that this provision alone could prevent as much as 65 billion tons (47.5 percent) of the strippable coal from being mined. Furthermore, the Bureau of Mines staff estimates that this provision could result in a loss of 22 to 66 million tons of coal production annually by 1978 -- the year when the bill takes full effect.

In addition, it should be recognized that the very complexity of the machinery for implementing the permit program and the various administrative procedures for hearing and reviews, including the wide discretion given to the States in the regulation of mining activities involving Federal lands, creates uncertainty and inherent delays with a consequent likely loss of significant production.

A reduction in coal availability is particularly onerous for the electric power industry now that the national interest requires a shift by such utilities from natural gas and oil fired steam-electric generation to coal fired in accordance with the Energy Supply and Environmental Coordination Act, Pub. Law 93-319, approved June 22, 1974 (88 Stat. 246). In addition, any reduction in coal supply as a result of enactment will create a significant increase in price in the spot coal market which supplies almost 25% of coal used by electric utilities.

The bill will measurably increase costs and retard the development of coal gasification projects urgently needed as a supplementary source of fuel.

The Commission agrees that the environmental goals of this legislation in preventing or mitigating adverse environmental effects of present or future surface coal mining operations are laudable. However, we do not believe that enactment of this bill would be in the national interest when such goals are weighed against the potentially adverse impact on fuel supplies, generating costs and electric energy rates.

We, therefore, recommend that the President disapprove the enrolled bill and return it to the Congress.

Sincerely,

John N. Nassikas

John N. Nassikas
Chairman

In duplicate