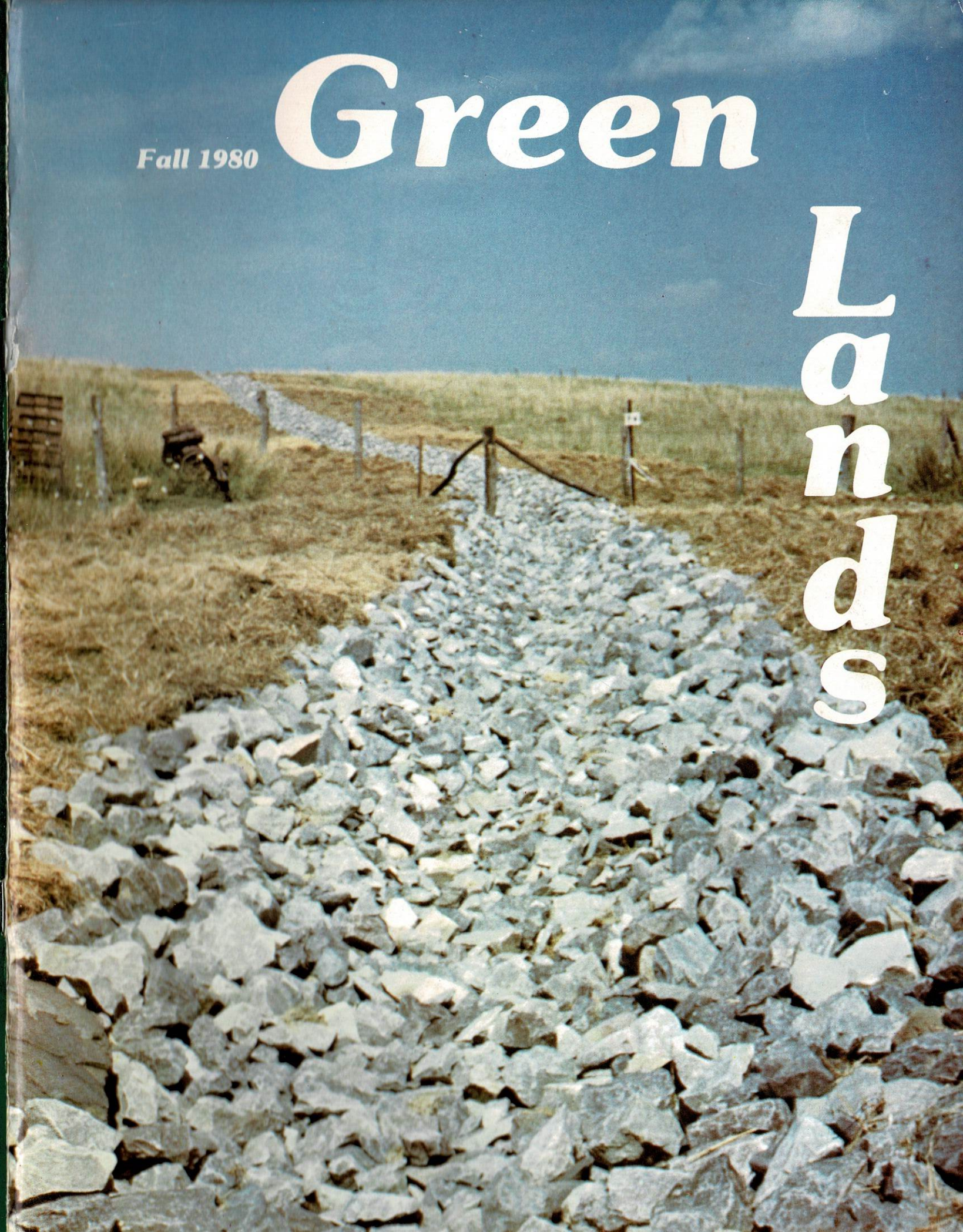


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Fall 1980

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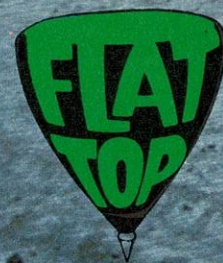
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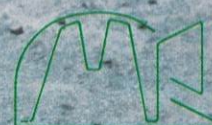
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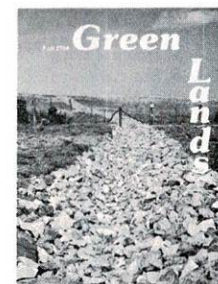
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
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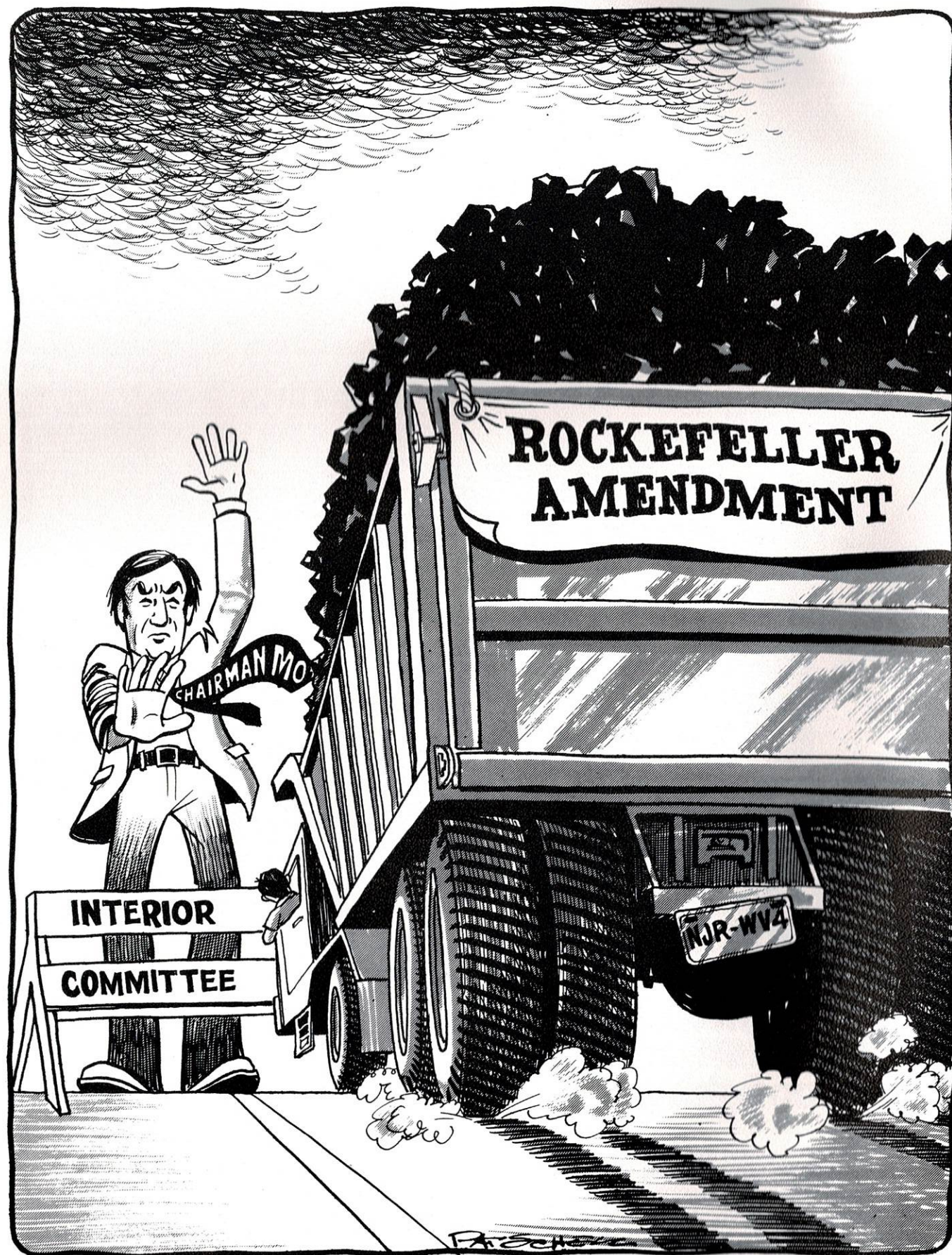
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One man—435 votes

"When the Senate passed this legislation last year, it was referred to the Interior Committee and to its Energy and Environment Subcommittee. Based on my judgment that this is a bad bill, I declined to schedule action on it." Congressman Morris Udall of Arizona.

We must at least give Congressman Udall credit for forthrightness in his account of what has happened to the Rockefeller Amendment.

Mr. Udall is the reason that the United States Senate twice entered debate on the same subject within the space of one year. The Rockefeller Amendment passed the Senate last year by the comfortable margin of 68-26. It went to the House.

In the House it went to the Committee on Interior and Insular Affairs, and from there to the Energy and Environment Subcommittee. There it sat because, in the Congressman's words, he "declined to schedule it."

A petition urging the Chairman to discharge the bill from subcommittee was signed by 25 of the 43 committee members, a clear majority. Mr. Udall declined to consider it. The bill which was considered meritorious by more than two-thirds of the United States Senate, never made it out of Chairman Udall's subcommittee.

This year, the Senate again passed the Rockefeller Amendment, this time as a rider to another bill already approved by the House. When the bill was returned to the House, care of the Amendment was again given over to Mr. Udall. He has named ten of the 15 members of the House-Senate Conference Committee which will consider the bill, as amended. He has named a majority of those conferees who favor his position. He also controls the scheduling of the conference. He has declined to schedule such a conference, and may continue to do so until this lame duck congress limps out of existence.

This process is nowhere to be found in the Constitution of the United States. What the framers of the Constitution had in mind is that a bill passed by one house would be considered by the other.

Now anyone with a high school familiarity with the workings of Congress knows that many more bills are proposed than can even be read, let alone considered. That is how and why the Committee structure and the seniority system evolved.

The system which grants Congressman Udall such power was intended to weed out frivolous legislation, to allow the Congress time and resources to consider matters of relative importance. It was not intended to vest the votes of West Virginians, or Kentuckians, or Virginians, in a man from Arizona, no matter what his length of service.

Strike the phrase

"... in section 503(a)(7) of the Act, strike the phrase 'regulations issued by the Secretary pursuant to'; . . ."

The simplicity of that proposal belies the time and energy which has been consumed by its debate. This is the famous Rockefeller Amendment to the Surface Mining Control and Reclamation Act of 1977.

Despite the fact that it merely deletes seven words from an 88 page law, all interested parties agree that the change would be an important one. The issue is difficult to state objectively, but basically, it goes like this: Should proposed state programs be judged by the environmental standards contained in the Act itself, or should they be measured against the 500 pages of specific regulations issued by the Office of Surface Mining?

The Amendment has already celebrated its first birthday as a controversial caterpillar. Chances of it ever reaching the butterfly stage are iffy, at best.

Actually, the Rockefeller Amendment is part of a package of proposed changes to the surface mining act, currently and collectively known as the Byrd-Warner Amendment.

It is the brainchild and namesake of West Virginia Governor Jay Rockefeller. It first appeared in the **Congressional Record** through testimony given a Senate oversight committee by West Virginia Department of Natural Resources Director David Callaghan.

Not taken seriously at first, the proposal was seen mainly as an expression of frustration by state officialdom at the futility of dealing with an intractable Office of Surface Mining.

At the heart of the argument between state and federal regulators was an apparent contradiction between two sections of the Surface Mining Control and Reclamation Act of 1977, a piece of legislation which, in its final form, was enacted with

widespread support from state governments and from industry. Section 101(f) recognized the inherent differences among the coal producing states and declared that state agencies should take the lead in all phases of the regulatory process. Section 503(a)(7), however, calls for states to implement the law through "rules and regulations consistent with regulations issued by the (Interior) Secretary," and that, of course, means those issued by the bureaucrats at all levels of OSM.

Predictably, OSM has confused the terms consistent and identical. The States, where lies all experience in regulating the industry, were consistently frustrated by the federal hardline stance on virtually every variance from OSM's regulatory wording. After all, they reasoned, if we can develop a program which fulfills the mandates of a fairly specific federal law, where is the need to duplicate every federal regulation, many of which we find to be environmentally counterproductive?

From that line of thinking to the Rockefeller Amendment was a small step indeed. OSM had abused its power, so let it be brought back into line with the spirit of the law.

When the idea took the form of a proposed amendment, anti-coal people in and out of government clutched their collective heart over the prospect of the agency losing any of its dictatorial power. In fact, that power had already ebbed somewhat as a result of a series of reversals for OSM in federal court. To put it bluntly, several federal judges had ruled that OSM had far exceeded congressional intent and constitutional authority in numerous instances.

The bureaucrats took the threat seriously enough to resort to lobbying Congress directly, a practice which resulted in an investigation by the General Accounting Office (GAO). (The investigation turned up conflicting evidence as to the misuse of public funds, and to date has proceeded no further.)

In the House and Senate, scare words like "gutting the Act," and "race to the bottom," found their way into the **Congressional Record**. In the Senate, where the bill was introduced as S.1403, passage came last fall by an impressive majority of 68-26.

On the House side, however, the Amendment ran into parliamentary difficulties (see editorial, p.-7), and never made it out of subcommittee. When the measure reappeared in the Senate this session as a rider to a maritime bill, the fight was on again.

Senatorial stands on the bill broke across many traditional lines. The issue was non-partisan with respect to political parties. It was not a battle of liberals versus conservatives. It did not even develop as a coal state/non coal state controversy. There was, however, some regionalism evident in the speechmaking and in the voting.

The Senators from the eastern coal states argued their case eloquently, and well they might, for they were locked in debate with a line of thinking that is ready to accept federal control of land use concepts on state and privately owned lands.

The stakes are high, and to a great extent have been obscured by the rhetoric of debate. Under any conditions, an unwieldy number of state/federal/industry disputes will have to be resolved in court. What is actually at risk here is the legal basis on which those judicial decisions will be rendered.

With or without the Rockefeller Amendment, there will still be some 115 environmental standards contained in the Act itself (see pp 16-17). Also, the Secretary of the Interior will, in any circumstance, retain the power of veto over proposed state regulatory programs.

If the Rockefeller Amendment passes, the Secretary will be legally obliged to evaluate the state program against congressional intent as specifically expressed in the Act. Under the status quo, OSM, through the Secretary of the Interior, has a blank check

to impose any type of regulation on any coal mine in the country. This concept is, needless to say, a little frightening to the industry.

To a certain extent, the damage has already been done. Under the approval process outlined by the Act, a state basically has two chances to achieve initial regulatory primacy under the permanent program. That is, the state program can be approved by the Secretary six months after submittal, or it can be turned down and approved after 60 days worth of revision.

This has become a very persuasive influence in the hands of OSM. Many legislatures have been stampeded into enacting legislation which duplicate OSM regulations. In some cases this was necessary to give the state agency any chance of achieving primacy. Those states must now live with the substance of the regulations, even if OSM is subsequently held to have exceeded Congressional intent in requiring them.

The federal agency has also been less than subtle in withholding the nearly \$500 million it has collected from operators over the three years of its existence. The fund was to have gone primarily for reclamation of abandoned mine lands, a priority with backers of the original legislation.

These funds are scheduled for state use upon approval of the permanent program. Consequently, very few acres have been reclaimed under the plan.

These matters go to the heart of what the Rockefeller Amendment will accomplish, if enacted. The Office of Surface Mining has demonstrated repeatedly that it lacks the experience, the expertise, and most importantly, the will, to regulate the industry in a reasonable fashion. That is why the United States Senate has decided to relegate it to a role of oversight and coordination. That is why the United States House of Representatives and the President, if and when they get the opportunity, should do the same.

Empty arguments

The battle of the Rockefeller Amendment has been fought partly with misinformation. Whether deliberately, or simply from force of habit, opponents of the bill have, from the beginning, obscured its real implications behind a smokescreen of guesswork and mis-interpretation.

Often nonfacts become accepted through repetition. Here we risk repeating nonfacts one more time, strictly for debunking purposes.

NONFACT—The Rockefeller Amendment would “gut” the surface mining act.

ACTUALLY, what is generally regarded as “good legislation” would not be very good at all if it could be “guttled” by the deletion of seven words. The proposed Amendment affects only the OSM regulations. The 115 environmental standards contained in the Act would remain in place.

NONFACT—The Rockefeller Amendment would allow each state to interpret the law.

ACTUALLY, each state would have to go through the same approval process as is currently mandated. The Secretary of the Interior would retain power of veto over proposals which do not measure up to the Act.

NONFACT—The Rockefeller Amendment would result in a “race to the bottom”, which states would compete to see who could have the weakest law.

ACTUALLY, for the reasons cited above, no such thing would take place. Even assuming the worst motives within state governments, the major coal producing states would still find it in their best interests to achieve regulatory primacy, and this they could do only by adhering to the federal Act.

NONFACT—The Rockefeller Amendment would result in 24 different state programs, and that is bad.

ACTUALLY, that’s good. It’s what Congress intended in Section 101(f) of the Act, which states, “because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States.”

NONFACT—The Rockefeller Amendment will set back those states whose programs are at or near approval.

ACTUALLY, those states won’t be affected. It is important to remember that the OSM regulations will not cease to exist. They simply will not be required to be a part of every state program on a verbatim basis. Those states who have chosen to implement OSM standards word-for-word will still achieve primacy.

NONFACT—The Rockefeller Amendment will result in more litigation, tying up federal courts needlessly.

ACTUALLY, the Amendment should result in less litigation, because far less time will be spent litigating whether OSM’s regulations are within the mandates of the Act. In any event, there could hardly be more litigation than we have seen over the last three years.

NONFACT—The Rockefeller Amendment would put the Office of Surface Mining out of business.

ACTUALLY, that’s a pleasant thought, but unfortunately, untrue.

Declarations and Admissions

Editor's Note: In its 1980 session, the United States Senate has again passed the Rockefeller Amendment. This time around the Amendment was part of a package titled the Byrd-Warner Amendment, after the junior Senators from West Virginia and Virginia, respectively. The Senate debate on the matter produced some memorable and some surprising quotes, a sampling of which is offered here. While not all of the Senators quoted were supporters of the Rockefeller Amendment, they seem to agree that the Surface Mining and Reclamation Act of 1977 is strong enough to stand on its own.

"It is rare that we in the Senate have the opportunity such as we do now to have such a clear issue of regulatory overkill for us to correct in a clear and understandable fashion."—Senator Huddleston of Kentucky.

"State and industry officials have raised a variety of reasonable objections to the Act and to the regulations which have been promulgated under it. However, I will argue and argue forcefully that now is not the time to address these problems and this amendment is not the method."—Senator Baucus of Montana.

"The effect of the Byrd Amendment is to cut through the Gordian knot of an OSM program in shambles as a result of Federal court scrutiny of the overreaching regulatory excesses of OSM. The OSM regulations will not be eliminated by passage of the Byrd Amendment."—Senator Warner of Virginia.

"That point must be stressed, and proponents of the Amendment have repeated—until we are almost blue in the face—that the environmental provisions of the Act would remain in place."—Senator Byrd of West Virginia.

"I have little faith in our judiciary without guidance from the Federal regulations to be able to interpret the adequacy of a State's proposal on the technical requirements of land reclamation and water protection."—Senator Melcher of Montana.

"There is nothing in this amendment that would allow any State to develop any kind of program that would be less than what the law provides."—Senator Huddleston of Kentucky.

"...the bureaucracy has somehow interpreted our actions in passage of the Surface Mining Act to mean that they have the right to dictate to the States the exact methods by which the State can meet the requirements of the law."—Senator Huddleston of Kentucky.

"In effect OSM has said 'we have interpreted the law and have written hundreds of regulations, and you, Mr. Governor, can take our rules or forfeit the right to regulate surface mining in your state'."—Senator Warner of Virginia.

"Having worked for environmental legislation—the record shows it over and over again—I reject attacks on the pending amendment or its sponsors as anti-environmental. It is not that."—Senator Randolph of West Virginia.

"In recognition of the various aspects of land reclamation and water protection, the Act is detailed but still reflects responsible flexibility."—Senator Melcher of Montana.

"It is, to my mind, hard to imagine how the amendment would 'gut' the Act when it clearly retains the requirements that the States must comply with the Surface Mining Act and the standards in it and that OSM will review State plans to insure that they comply."—Senator Heinz of Pennsylvania.

"Basically, what Congress needs to do is reaffirm its original intention that the States shall be the agents for the regulation of surface mining within their respective borders."—Senator Byrd of Virginia.

"The 1977 Strip (sic) Mining Act is a bill whose passage is proof that this nation can reconcile its need for coal and mineral resources with its commitment to preserving the environment."—Senator Metzenbaum of Ohio.

"OSM must recognize the rights of the States under the 10th Amendment to the Constitution."—Senator Ford of Kentucky.

"When the coal mining operators of the country say they are upset about the regulations issued by the Office of Surface Mining, that is understandable and to that extent I would be upset also if I were a Senator from one of the heavy coal producing states."—Senator Bumpers of Arkansas.

"Congress established Federal mining and reclamation standards in that statute which were intended to serve as the model for state programs. The Act is quite specific as to the nature and quality of environmental protection which must result from each State program."—Senator Byrd of West Virginia.

"I think that a very good case can be made, and should be made, that the spirit of Public Law 95-87 giving states primacy in developing their own regulations in compliance with the Act is actually enhanced by passage of this Byrd Amendment."—Senator Percy of Illinois.

"The State's concern, the concern expressed by many that the States ought to be able to run their own program if they desire, has been frustrated by an overzealous federal administration that seeks to come in and substitute for state discretion, a federal discretion that completely supplants the opportunity of the states in many instances to run it in their own way."—Senator McClure of Idaho.

"The legislative branch must demonstrate to a gravely concerned public that we are able and willing to assume a measure of control over the bureaucratic beasts that we create."—Senator Hatch of Utah.

"In the last analysis, the matter will now be up to the house."—Senator Metzenbaum of Ohio.

Litigation:

A status report on OSM regulations

Editor's note:

The following is a summary of the litigation which has arisen from the regulations issued by the Office of Surface Mining pursuant to the implementation of the Surface Mining Control and Reclamation Act of 1977. This compilation, a joint effort of the American Mining Congress and the National Coal Association, clearly shows that the regulations have been attacked from solid ground by a variety of sometimes conflicting interest groups. This situation merely underlines the need for the state authority originally mandated by Congress.

Interim Program Litigation (District Court Level)

The litigation involved twenty-two suits filed in the Spring of 1978 under Section 526(a) of the Surface Mining Act. Plaintiffs included National Coal Association/American Mining Congress, two regional trade associations, three states, several environmental groups, and a number of individual coal operators. The cases were assigned to Judge Thomas A. Flannery and proceeded on a consolidated basis.

The industry and state plaintiffs challenged the interim program regulations on both procedural and substantive grounds. The four procedural challenges claimed defects in the manner in which the regulations were promulgated, and sought to invalidate the entire set of regulations. The thirty-nine substantive challenges claimed that specific regulations were invalid, either because they were unauthorized by the Act or because they were not technically supported by the administrative record.

The challenges were disposed of by Judge Flannery in two separate decisions, issued May 3, 1978 and August 24, 1978. Although the procedural challenges were all denied, Judge Flannery ruled in the industry's favor as to eleven of the substantive challenges. Significant industry victories were achieved with respect to the regulatory requirements for pre-existing structures, dams impounding waste, sediment pond design criteria, relationship of OSM and EPA hydrology requirements, cover of toxic materials, and valley and head-of-hollow fills.

Interim Program Litigation (Court of Appeals Level)

National Coal Association/American Mining Congress, several individual industry plaintiffs, and the environmentalists appealed from Judge Flannery's decision. The parties limited the appeal to three procedural issues and five substantive issues.

On May 2, 1980, the Court of Appeals entered its decision. It ruled against the industry on the procedural issues but reversed Judge Flannery and ruled in favor of the industry on four of the five specific issues. The favorable rulings resulted in invalidation of OSM's prime farmlands grandfather clause, distance limitation for blasting, peak particle velocity for blasting, and the rejection of Judge Flannery's "gap" theory for upholding certain OSM hydrology regulations that were more stringent than EPA's regulations.

Following the Court's decision, OSM and the environmentalists filed petitions for rehearing and asked the Court for en banc reconsideration. On June 30, 1980, the Court issued a non-substantive amendment to the prime farmlands portion of its May 2 opinion. Thereafter, on July 10, 1980, the Court denied all petitions for rehearing. As a result, the interim program decision is now final at the Court of Appeals level.

Permanent Program Litigation (District Court Level)

This litigation involved nine separate suits filed in mid-1979 under Section 526(a) of the Act. Plaintiffs were National Coal Association/American Mining Congress, one regional trade association, two states, four individual coal operators, and several environmental groups. As with the interim program litigation, the cases were assigned to Judge Flannery and consolidated.

The results of the permanent program litigation have been highly favorable from industry's point of view. Numerous issues raised by industry and the states were conceded outright by OSM, and numerous others were favorably decided by Judge Flannery in his February 26 and May 16, 1980 opinions.

The numbers by rough count: (a) The industry plaintiffs collectively won 47 of the 81 issues they presented. NCA/AMC won 29 of its 40 issues. (b) The state plaintiffs won 7 of their 30 issues. (c) The environmental plaintiffs won 3 of their 8 issues.

Industry victories were achieved in a broad cross-section of subject areas. Particularly significant victories came with respect to state implementation, hydrology, air quality, permitting, post-mining land use, areas unsuitable, roads, prime farmlands, and water replacement.

Permanent Program Litigation (Court of Appeals Levels)

In mid-July, notices of appeal from Judge Flannery's decisions were filed by all parties. The issues that will be raised on appeal have not yet been identified; it is expected, however, that OSM will appeal broadly, giving particular attention to regulations that were invalidated by Judge Flannery because OSM lacked authority to regulate in those areas.

Because of its urgency, and because it had already been briefed and argued to the Court of Appeals in a preliminary injunction context, one issue was severed from the main body of the appeal and presented to the reviewing court on an advance basis. In a very significant decision, the Court ruled on July 10, 1980 that OSM does not have authority—at least for State Program states—to promulgate regulations requiring permit application information in excess of the information required by Sections 507 and 508 of the Act. The Court did not specify which permit application regulations are effectively invalidated by its ruling, but rather remanded the case to Judge Flannery for further proceedings necessary to make those determinations and to remand the defective regulations to OSM. Before those proceedings can take place, however, the Court of Appeals must decide a recent motion by OSM which asks the court to rehear the issue and suggests a rehearing en banc.

Related Lawsuits

During the past two or three years, there have been a number of lawsuits filed around

the country challenging the constitutionality of the Act or certain portions of it. Two of those lawsuits may have overall program significance, because they produced District Court rulings that portions of the Act are unconstitutional.

In **Virginia Surface Mining and Reclamation Association vs. Andrus**, Civil Action No. 78-0224-B (W.D. Va., Jan. 3, 1980), Judge Williams enjoined Sections 151(d) and (e) of the Act (requiring steep slopes to be restored to approximate original contour) as violative of the Tenth Amendment; enjoined Sections 518 (penalties), 521(a)(1)–(3) (violation notices and cessation orders) and 525 (administrative review) as constituting an enforcement scheme violative of the Fifth Amendment's "taking" clause. Judge Williams rejected challenges to Title V of the Act as a whole based on Commerce Clause, equal protection and due process grounds.

In **Indiana, et al. vs. Andrus**, Civil Nos. IP 78-500-C and IP 78-501-C (S.D. Ind., June 10, 1980), Judge Noland declared unconstitutional and enjoined enforcement of numerous provisions of the Act. He held some twelve provisions violative of the Commerce Clause and the Tenth Amendment, eight of those and two additional provisions violative of the Fifth Amendment's "due process" clause, and four provisions violative of the Fifth Amendment's "taking" clause. The principal effects of the court's ruling were in the areas unsuitable and prime farmlands provisions, but many other substantive provisions were also affected.

As the result of stay which OSM has obtained from the Supreme Court, the injunctions issued in the Virginia and Indiana cases are not now in effect. Both of those cases have been appealed by OSM to the Supreme Court, along with a third case of lesser importance (**Star Coal Company**) in which a federal district court in Iowa held unconstitutional the civil penalty escrow payment provisions of the Act. Most of the jurisdictional statements in the three cases have now been filed in the Supreme Court.

The cases have been consolidated and will be argued before the Supreme Court during the upcoming court term.

Congressional Standards

The following is a capsulized summary of the 115 environmental standards contained in the text of Public Law 95-87. It should not be construed as an official document of the United States government or any of its agencies. Although the standards summarized here may be found in Sections 5.15 and 5.16 of the Surface Mining Control and Reclamation Act of 1977, the phrasing and the numbering system is ours.

These are the standards by which Congress intended the Secretary of the Interior to judge state regulatory programs. The Secretary has the authority to reject all, or any part of, a state proposal, based on its merit versus these standards.

Proponents of the Rockefeller Amendment believe that if a state program can meet these standards, and satisfy the Secretary of the Interior on that point, then they should be allowed the flexibility to carry out the program in the manner which best suits their regional peculiarities.

They further believe this to be the intent of Congress as expressed in Section 1.01(f) of the Act, which states:

"because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States."

1) Mandates efficient mining to minimize future land disturbance.

2) Requires that mined land be restored to its full pre-mining land use potential.

3)4)5) Requires that land be restored to its approximate original contour, with two exceptions, and specified the conditions necessary to those exceptions.

6) Requires the stabilization of all surface areas affected by the mining operation.

7) Dictates procedure for segregation and handling of topsoil.

8) Requires the restoration of topsoil or the best available subsoil.

9)10)11)12) Specifies procedure for soil removal, storage, replacement, and reconstruction for mining on prime farm lands.

13)14)15)16)17)18) Places restrictions and limitations on the construction of permanent water impoundments.

19) Limitations and conditions, including prohibiting, of augering operations.

20)21)22) Mandates procedures for avoiding toxic mine drainage.

23)24) Requires procedures for minimizing sedimentation.

25)26)27)28)29) Additional standards for minimizing disturbance to the prevailing hydrologic balance.

30) Requires the revegetation, stabilization and general restoration of waste piles into a contour compatible with surrounding countryside.

31)32) Prohibits surface mining within 500 feet of a deep mine, but allows exception where it can result in improved

resource recovery, or hazard abatement, if all regulatory authorities concerned can agree.

33) Mandates regulations for waste piles used as dams or embankments, relating to design, location, construction, operation, maintenance, modification, removal, and abandonment.

34) Requires the disposal of toxic materials to prevent combustion and/or contamination of ground and surface water.

35)36)37)38)39) Places restrictions on blasting, and sets forth requirements for notification and record keeping.

40)41)42)43)44)45)46)47)48) Variances from concurrent reclamation limited to situations with combined surface and underground operations, and sets forth conditions necessary to such variance.

49) Regulates road construction, maintenance, removal and abandonment.

50) Prohibits road construction from interfering with normal stream channels.

51) Requires the reestablishment of vegetative cover which is native to the affected area, and capable of self regeneration.

52)53)54) Holds the operator responsible for revegetation for a period of five or ten years, depending on annual rainfall, and provides for early bond release for long term agricultural use.

55) Restricts the placement of mineral, spoil, or overburden, to the permit area.

56)57)58)59)60)61)62)63) Sets standards for the placement of spoil materials and

the design, construction, and maintenance of spoil storage areas.

64) Mandates the use of the best available technology to minimize disturbance to wildlife.

65) Requires an undisturbed natural barrier at the lowest coal seam to deter slips and erosion.

66)67)68)69)70)71)72)73)74)75)76)77) Sets forth the procedures and conditions for variation from returning mined land to its original contour on mountaintop, removal operations.

78)79)80)81)82)83)84)85)86) Specifies mining and reclamation procedures where land is not being returned to original contour.

87)88) Prohibits the placement of spoil and other materials downslope, except in an approved storage area.

89) Requires the elimination of highwalls.

90)91) Prohibits disturbance of land above the highwall except as is necessary to facilitate compliance with other regulations.

92) Applies all material handling criteria to operations on slopes of 20 degrees or more.

93)94)95)96)97)98) Sets forth the procedures and conditions for variations from original contour requirements on contour mining operations.

99)100)101)102)103)104)105)106)107)108)109)110)111)112)113)114)115) Sets forth standards for the surface effects of underground mining.

The relevant sections

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

Sec. 515.

- (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate.
- (b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—
 - (1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reffectng the land in the future through surface coal mining can be minimized;
 - (2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;
 - (3) except as provided in subsection (c) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials

removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover the acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;

- (4) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;
- (5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;
- (6) restore the topsoil or the best available subsoil which is best able to support vegetation;
- (7) for all prime farm lands as identified in section 507(b) (16) to be mined and reclaimed, specifications for soil removal, storage, replacement, and reconstruction shall be established by the Secretary of Agriculture, and the operator shall, as a minimum, be required to—
 - (A) segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;
 - (B) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;
 - (C) replace and regrade the root zone material described in (B) above with proper compaction and uniform depth over the regraded spoil material; and
 - (D) redistribute and grade in a uniform manner the surface soil horizon described in subparagraph (A);
- (8) create, if authorized in the approved manner mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—
 - (A) the size of the impoundment is adequate for its intended purposes;
 - (B) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

- (C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable Federal and State law in the receiving stream;
 - (D) the level of water will be reasonably stable;
 - (E) final grading will provide adequate safety and access for proposed water users; and
 - (F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial recreational, or domestic uses;
- (9) conducting any augering operation associated with surface mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete; and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the regulatory authority determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety: *Provided*, That the permitting authority may prohibit augering if necessary to maximize the utilization, recoverability or conservation of the solid fuel resources or to protect against adverse water quality impacts:
- (10) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—
- (A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—
 - (i) preventing or removing water from contact with toxic producing deposits;
 - (ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;
 - (iii) casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;
 - (B) (i) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable State or Federal law;
 - (ii) constructing any siltation structures pursuant to subparagraph (B) (i) of this subsection prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;
 - (C) cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the regulatory authority;
 - (D) restoring recharge capacity of the mined area to approximate premining conditions;
 - (E) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;
 - (F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and
 - (G) such other actions as the regulatory authority may prescribe;
- (11) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure the final contour of the waste

- pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act;
- (12) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided*, That the regulatory authority shall permit an operator to mine near, through or partially through an abandoned underground mine or closer to an active underground mine if (A) the nature, timing, and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are jointly approved by the regulatory authorities concerned with surface mine regulation and the health and safety of underground miners, and (B) such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public;
- (13) design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection (f) of this section, 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;
- (14) insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;
- (15) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—
- (A) provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed blasting site and by providing daily notice to resident/occupiers in such areas prior to any blasting;
 - (B) maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;
 - (C) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;
 - (D) require that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority;
 - (E) provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half mile of any portion of the permitted area the applicant or permittee shall conduct a pre-blasting survey of such structures and submit the survey to the regulatory authority and a copy to the resident or owner making the request. The area of the survey shall be decided by the regulatory authority and shall include such provisions as the Secretary shall promulgate.
- (16) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations: *Provided, however*, That where the applicant proposes to combine surface mining operations with

underground mining operations to assure maximum practical recovery of the mineral resources, the regulatory authority may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

(A) if the regulatory authority finds in writing that:

- (i) the applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;
- (ii) the proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;
- (iii) the applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and the permits necessary for the underground mining operations have been issued by the appropriate authority;
- (iv) the areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;
- (v) no substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this Act;
- (vi) provisions for the off-site storage of spoil will comply with section 515(b) (22);

(B) if the Secretary has promulgated specific regulations to govern the granting of such variances in accordance with the provisions of this subsection and section 501, and has imposed such additional requirements as he deems necessary;

(C) if variances granted under the provisions of this subsection are to be reviewed by the regulatory authority not more than three years from the date of issuance of the permit; and

(D) if liability under the bond filed by the applicant with the regulatory authority pursuant to section 509(b) shall be for the duration of the underground mining operations and until the requirements of sections 515(b) and 519 have been fully complied with.

(17) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property;

(18) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(19) establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(20) assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided*, That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further*, That when the regulatory authority

issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exception to the provisions of paragraph (19) above;

(21) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(22) place all excess spoil material resulting from coal surface mining and reclamation activities in such a manner that—

(A) spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way to assure mass stability and to prevent mass movement;

(B) the areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(C) appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(D) the disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(E) if placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the regulatory authority, the spoil could be placed in compliance with all the requirements of this Act, and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(F) where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient size to prevent mass movement, is constructed;

(G) the final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(H) design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(I) all other provisions of this Act are met.

(23) meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this Act, taking into consideration the physical, climatological, and other characteristics of the site; and

(24) to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(25) provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the regulatory authority shall determine shall be retained in place as a barrier to slides and erosion.

(c) (1) Each state program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit surface mining operations for the purposes set forth in paragraph (3) of this subsection.

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a permit without regard to the requirement to restore to approximate original contour set forth in subsection 515(b) (3) or 515(d) (2) and (3) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c) (4) (A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

(3) In cases where an industrial, commercial, agricultural, residential or public facility (includ-

ing recreational facilities) use is proposed or the postmining use of the affected land, the regulatory authority may grant a permit for a surface mining operation of the nature described in subsection (c) (2) where—

- (A) after consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with premining use;
 - (B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be—
 - (i) compatible with adjacent land uses;
 - (ii) obtainable according to data regarding expected need and market;
 - (iii) assured of investment in necessary public facilities;
 - (iv) supported by commitments from public agencies where appropriate;
 - (v) practicable with respect to private financial capability for completion of the proposed use;
 - (vi) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and
 - (vii) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;
 - (C) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;
 - (D) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;
 - (E) all other requirements of this Act will be met.
- (4) In granting any permit pursuant to this subsection the regulatory shall require that—
- (A) the toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;
 - (B) the reclaimed area is stable;
 - (C) the resulting plateau or rolling contour drains inward from the outcrops except at specified points;
 - (D) no damage will be done to natural watercourses;
 - (E) spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use: *Provided*, That all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of subsection (b) (22) of this section;
 - (F) insure stability of the spoil retained on the mountaintop and meet the other requirements of this Act;
- (5) The regulatory authority shall promulgate specific regulations to govern the granting of permits in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.
- (6) All permits granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.
- (d) The following performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however*, That the provisions of this subsection (d) shall not apply to those situations

in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area or where an operator is in compliance with provisions of subsection (c) hereof:

- (1) Insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut: *Provided*, That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraph 515(b) (3) or 515(d) (2) shall be permanently stored pursuant to section 515(b) (22).
 - (2) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the appropriate original contour, which material will maintain stability following mining and reclamation.
 - (3) The operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section: *Provided, however*, That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.
 - (4) For the purposes of this subsection (d), the term "steep slope" is any slope above twenty degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.
- (e) (1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection, provided that the watershed control of the area is improved; and further provided complete backfilling with spoil material shall be required to cover completely the highwall which material will maintain stability following mining and reclamation.
- (2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement to restore to approximate original contour set forth in subsection 515(d) (2) of this section may be granted for the surface mining of coal where the owner of the surface knowingly requests in writing, as a part of the permit application that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities) in accord with the further provisions of (3) and (4) of this subsection.
 - (3) (A) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is deemed to constitute an equal or better economic or public use;
 - (B) is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and
 - (C) after approval of the appropriate state environmental agencies, the watershed of the affected land is deemed to be improved.
- (4) In granting a variance pursuant to this subsection the regulatory authority shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, insure stability of the spoil retained on the bench, meet all other requirements of this Act, and all spoil placement off the mine bench must comply with subsection 515(b) (22).
- (5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.
- (6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the permittee affirmatively

demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

- (f) The Secretary, with the written concurrence of the Chief of Engineers, shall establish within one hundred and thirty-five days from the date of enactment, standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in section 515(b) (13) and section 516(b) (5). Such standards and criteria shall conform to the standards and criteria used by the Chief of Engineers to insure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications the standards and criteria developed pursuant to this subsection must include provisions for: review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

SURFACE EFFECTS OF UNDERGROUND COAL MINING OPERATIONS

Sec. 516.

- (a) The Secretary shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations, embodying the following requirements and in accordance with the procedures established under section 501 of this Act: *Provided, however,* That in adopting any rules and regulations the Secretary shall consider the distinct difference between surface coal mining and underground coal mining. Such rules and regulations shall not conflict with nor supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 nor any regulation issued pursuant thereto, and shall not be promulgated until the Secretary has obtained the written concurrence of the head of the department which administers such Act.
- (b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to—
- (1) adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: *Provided,* That nothing in this subsection shall be construed to prohibit the standard method of room and pillar mining;
 - (2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations;
 - (3) fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;
 - (4) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not degrade below water quality standards established pursuant to applicable Federal and State law surface or ground waters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;
 - (5) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in

accordance with the standards and criteria developed pursuant to section 515(f), 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;

- (6) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;
 - (7) protect offsite areas from damages which may result from such mining operations;
 - (8) eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;
 - (9) minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by—
 - (A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—
 - (i) preventing or removing water from contact with toxic producing deposits;
 - (ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;
 - (iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and
 - (B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable State or Federal law), and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;
 - (10) with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 515 of this title for such effects which result from surface coal mining operations: *Provided,* That the Secretary shall make such modifications in the requirements imposed by this subparagraph as are necessary to accommodate the distinct difference between surface and underground coal mining;
 - (11) to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;
 - (12) locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.
- (c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.
- (d) The provisions of title V of this Act relating to State and Federal programs, permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 501 of this Act.

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From the platform of the National Democratic Party

For the past four years, the Democratic Party's highest legislative priority has been the development of our nation's first comprehensive energy policy. Our actions were necessitated by the Republican Administration's policy that fostered dependence on foreign oil. This Republican legacy led to America's petroleum paralysis, which weakened our security, undermined our strength abroad, threatened our environment and endangered our economic health.

In perhaps no other domestic area did we inherit such a dangerous situation:

- Domestic production of oil and natural gas was steadily declining, with price controls discouraging exploration and production;
- Natural gas shortages were regularly plaguing parts of our country;
- Our dependence on foreign oil was increasing every year;
- Wasteful energy practices existed in our industries, homes and transportation;
- Solar and other renewable energy resources were being almost completely ignored;
- Synthetic fuel production has been stalled;
- The federal government was not promoting energy conservation;
- Our allies were unwilling to make adequate efforts to reduce their energy consumption; and
- Our energy policy was being made by nearly a dozen different agencies and bureaus throughout the federal government.

The struggle to develop an energy policy was difficult and time-consuming. Tough decisions, especially in the area of oil price decontrol, were necessary to reduce our dependence on foreign oil.

Not all of our energy problems have been solved. Yet the achievements of the past four years leave little doubt that we are finally serious about the problems caused by our excessive reliance on foreign oil. As a result of our national energy policy, oil imports will be cut in half by the end of this decade, saving our nation hundreds of billions of dollars. A framework is now in place that will permit further progress in the 1980's. Our economic security demands that we drastically reduce the massive flow of dollars into the OPEC treasuries and oil company bank accounts at the expense of American consumers and business.

Our progress on energy has been realized because we have achieved four principal goals:

- Incentives have been provided for the production of new energy sources;
- Incentives for new oil production have been added, together with a windfall profits tax, which will fund low income energy assistance and energy research and development;
- Incentives have been provided to encourage conservation of our existing energy resources; and
- Improved international energy cooperation

has reduced our dependence on OPEC.

These actions have produced enormous energy benefits to our nation:

- We are importing one million barrels of oil a day less than last year;
- Domestic natural gas exploration and production are at record-high levels;
- Domestic natural gas exploration and production are at record-high levels;
- Domestic oil exploration is at a 20-year high, and the decline in domestic production has been averted;
- Per capita energy consumption is decreasing;
- Use of solar energy has increased considerably, and gasohol production has increased by 600%;
- Coal production has increased, and foreign markets for our coal have been developed;
- Gasoline consumption is 8% less than last year.

In the 1980's, this program can be improved, as the framework laid in the last four years is used to ensure our energy security for all times.

America's energy future requires a continued strong national policy based on two fundamental principles; efficient use of energy that will conserve our resources, preserve our economy and create jobs for Americans; and development of secure, environmentally safe and reasonably priced energy sources.

It is—and must be—the goal of the Democratic Party to mobilize this nation to use energy efficiently without asking Americans to suffer the loss of our strong economy and hard-earned standard of living. Energy efficiency, especially in buildings, transportation, and industrial production, must be made this nation's top priority.

The following specific actions must be taken.

We must make energy conservation our highest priority, not only to reduce our dependence on foreign oil, but also to guarantee that

our children and grandchildren have an adequate supply of energy. If we can convince one of every four drivers exceeding the 55 mile per hour speed limit to reduce their speed, we can save 100,000 barrels a day. Conservation is the cheapest form of energy production.

We must establish a massive residential energy conservation grant program. We must provide subsidized loans, direct financial assistance, and other substantial incentives to make all residences in the United States energy efficient, through upgrading insulation, heating, cooling and waterheating. Special incentives should be afforded for the use of renewable energy resources such as passive active solar energy systems. Our goal should be to ensure that all economically justified energy efficiency investments are made by 1990.

We should use our energy programs to aid in rebuilding the industrial heartland. Industry must be given financial incentives to improve the energy efficiency of industrial processes and to build substantial amounts of generating capacity through co-generation.

We must implement mandatory Building Energy Performance Standards (BEPS) to encourage the design and construction of energy efficient buildings. Energy efficiency standards should apply to all new construction. Implementation of energy efficiency standards should begin with federal government buildings. In addition, the federal government should lead the way in implementing solar and energy efficiency improvements programs through its loan and insurance agencies by requiring energy conservation standards for federally assisted properties.

In recognition of the potential for substantial energy savings if our most efficient methods of transportation are utilized, we must provide direct economic assistance where private capital is unavailable to improve those means of transport.

Major new efforts must be launched to develop synthetic and alternative renewable energy sources. In pursuing a strong program of synthetic fuel plants we must also be sensitive to environmental and water concerns. The federal government must help eliminate red-tape involved in the construction of vital energy facilities. The Energy Mobilization Board, an essential mechanism to speed the construction of vital energy facilities, should be able to override state and local substantive law only with the consent of Congress and the President.

The Democratic Party regards coal as our nation's greatest energy resource. It must play a decisive role in America's energy future. We must increase our use of coal. To accomplish this, we must see that shippers are not overburdened with excessive rates for transportation. Severance taxes levied for depletion of natural resources should be equitable. We must make clean coal conversion a reality. To this end, we will assist utilities that are large enough to permit coal conversion while maintaining or improving air quality. We must also provide incentives for industrial boiler coal conversion. Coal conversion can and must be accomplished in a manner that protects public health, nationally, regionally and locally. It can and must increase the use of coal, reduce the demand for oil, and provide employment where jobs are needed the most.

The federal government should accept its responsibility as trustee for the American Indian and Alaska Native tribes to ensure that tribal resources develop at a pace that preserves the existing life-style and that the tribes participate in the contracting process for resource development with full knowledge of the environmental tradeoffs. The federal government must continue to cooperate with tribal governments in such matters as changes in the use of sacred and religious areas. The Democratic Party believes that

American Indian and Alaska Native reservations should remain the permanent homeland for these peoples.

We recognize that Hawaii, U.S. territories and Trust territories in the Pacific Basin are particularly vulnerable because of their total dependence on imported oil for meeting their energy needs. These insular areas do not have access to the alternative sources of energy that are available elsewhere. Consequently, the Democratic Party recommends that these areas, where feasible, be chosen as sites for demonstration and/or pilot alternative energy projects, especially ocean thermal energy conversion, solar and wind.

We must lead the Western World in developing a program for increased use of coal in Europe, Japan, and the developing nations.

Oil exploration on federal lands must be accelerated, consistent with environmental protections.

Offshore energy leasing and development should be conditioned on full protection of the environment and marine resources. Lease sales should proceed only after appropriate safeguards necessary to preserve and protect vital natural resources are put in place. The determination of what safeguards are needed must be based on a complete assessment of the effects of offshore activity on the marine and coastal environment, and must be made in conjunction with the Environmental Protection Agency and the National Oceanic and Atmospheric Agency, the federal agencies charged with protecting our nation's fishery and other environmental resources.

Solar energy use must be increased, and strong efforts, including continued financial support, must be undertaken to make certain that we achieve the goal of having solar energy account for 20% of our total energy by the year 2000.

We must develop other promising alternatives, including biomass, fusion, geopressure, co-generation, geothermal, wind

and hydro power. The Democratic Party vigorously supports substantial funding for the construction of an engineering test facility for fusion technology. Fusion energy is a safe, clean alternative source of energy which can be used to generate electricity efficiently.

We must encourage research and development of hydrogen or electric powered vehicles. We must fully commit ourselves to an alcohol fuel program. The federal government should expand its use of alcohol fuels in government and military vehicles. This will help reduce surplus feed grain and help to stabilize prices. The Democratic Party pledges that production of fuel-grade alcohol will be increased until at least a target of 500 million barrels of ethanol by 1981 is achieved.

A stand-by gasoline rationing plan must be adopted for use in the event of a serious energy supply interruption. In times of supply interruption, rationing is essential for equitable and prompt distribution of gas to the public. The Strategic Petroleum Reserve should be filled as market conditions permit, consistent with the requirements of existing law.

Legislation must be enacted to prohibit purchases by oil companies of energy or non-energy companies unless the purchase would enhance competition.

The major oil companies must be responsible and accountable in their production, importation and distribution of fossil fuels. Oil is as basic to our economy, defense, and general welfare as electric power and money. Consequently, the oil companies must be invested with public purpose. To accomplish this objective, we support strengthened leasing regulations, reporting requirements and monitoring by the Departments of Energy and Justice.

Thorough investigations of the compliance of the oil companies with energy price laws and regulations must be continued, and tough penalties imposed in the event of non-compliance. The Department of Energy, con-

sistent with the law, should share its energy data with the Department of Justice and the Federal Trade Commission.

We must make conservation and renewable energy our nation's energy priorities for the future. Through the federal government's commitment to renewable energy sources and energy efficiency, and as alternative fuels become available in the future, we will retire nuclear power plants in an orderly manner.

We must give the highest priority to dealing with the nuclear waste disposal problem. Current efforts to develop a safe, environmentally sound nuclear waste disposal plan must be continued and intensified.

The NRC shall issue no licenses or permits for new nuclear plants until the Kemeny Commission recommendations are fully implemented.

Existing plants must be required to meet the safety recommendations of the Kemeny Commission. The Democratic Party supports prompt implementation of their recommendations. No plant unable to meet these standards can be allowed to operate.

Safe permanent disposal of all high level radioactive waste and transuranic waste should be the primary responsibility of the federal government, in consultation and concurrence with state, local, tribal, and territorial governments throughout the entire decision-making process, including the actual siting and operation of repositories. Every state should be responsible for the management and disposal of all low-level waste generated by non-defense sources within its boundaries. Where appropriate, this responsibility should be exercised through state regional compacts. There should be more federal funding for research and development of safer, more efficient methods of radioactive waste disposal.

Funds generated by the Windfall Profits Tax must be used to expand mass transit. Federal assistance should be provided for construction and operation costs.

From the platform of the Democratic Party of West Virginia

The West Virginia DEMOCRATIC PARTY commends the efforts of our Governor and our Congressional Delegation in promoting West Virginia coal. We recognize the continuing need for major emphasis on the use of coal in the solving of our major problems in the field of energy.

WE DEMOCRATS WILL PRESS FOR:

- Passage of the coal conversion legislation now pending in Congress;
- Acceleration in the development and use of synthetic fuels derived from coal;
- Federal participation in the construction and repair of coal haul roads in major coal producing states which should be provided as part of a nationwide energy program;
- Improvement of the rail beds of this nation for the transportation of the energy to its destination;
- Upgrade port facilities to assist in the delivery of our products to the export markets around the world;
- Insistence upon vital input from our State in the formulation of Federal regulations in the mining industry;
- Completion of the SRC-II coal liquefaction plant in Monongalia County;
- Coordination of efforts between the UMWA and the operators to bring stability to the industry;
- Continued emphasis on safe working conditions for the miners through our inspection program; and
- Protection of our environment by a fair, but vigorous, program of enforcement;
- Strongly urging the approval of West Virginia's surface mining act and its regulations by the Federal Office of Surface Mining;
- Supporting State primacy in the regulation and enforcement of water pollution control mandates set forth in the Federal Clean Water Act;

From the platform of the Republican Party of West Virginia

Today, more than ever, we must encourage the development of an energy policy which will reduce this nation's dependence on foreign oil. To that end, the Republican Party of West Virginia encourages the initiation of programs that will provide maximum development of coal to meet the energy requirements of the State and nation. During the Administration of Governor Arch Moore, the combined efforts of industry and State Government led to the development of new surface mining techniques that were adopted nationwide. It was clearly demonstrated that coal could be mined without destroying our natural environment. This partnership can be effective again with the removal of excessive regulations, layered bureaucracies and governmental red tape. The Republican Party calls for State primacy in permitting and regulation of mining and water quality programs. In 1973-74, the Arch Moore Administration called for mandatory conversion of oil-burning facilities to coal. The Republican Party supports full and unrestricted mandatory conversion to coal of those facilities which still draw upon expensive foreign and dwindling domestic oil and gas supplies. Such a program must be a firm national policy rather than a concession to special interests for short-term political expediency. The Republican Party continues to support those programs which improve the working conditions of our miners, and which provide the highest quality of life for miners and their families. We encourage the continuing development of meaningful mine health and safety programs that will provide the greatest protection possible to our miners. The Republican Party supports the enactment of a national energy policy which emphasizes the development and use of coal while fostering the wise use of our other domestic energy resources. We believe that we can achieve the necessary balance to solve our energy, economic and industrial problems, while improving our job markets and preserving the precious environment of our State.

From the platform of the National Republican Party

Energy is the lifeblood of our economy. Without adequate energy supplies now and in the future, the jobs of American men and women, the security of their lives, and their ability to provide for their families will be threatened and their standard of living will be lowered. Every American is painfully aware that our national energy situation has deteriorated badly over the past four years of Democratic control. Gasoline prices have more than doubled. Our oil import bill has risen 96 percent. Our energy supplies have become increasingly vulnerable because U.S. oil production outside of Alaska is now 23 percent below 1973 levels. The threat of sudden shortages, curtailments, and gas lines has become a recurring reality.

This steady deterioration has not only compounded our economic problems of inflation, recession, and dollar weakness, but even more importantly, it has infected our confidence as a nation. Energy shortages, spiralling costs, and increasing insecurity are beginning to darken our basic hopes and expectations for the future.

The National Association for the Advancement of Colored People has very accurately focused on the effects that a no-growth energy policy will have on the opportunities of America's Black people and other minorities. The NAACP said that "a pessimistic attitude toward energy supplies for the future . . . cannot satisfy the fundamental requirement of a society of expanding economic opportunity."

In commenting on the Carter energy proposals, the Association said, "We cannot accept the notion that our people are best served by a

policy based upon the inevitability of energy shortage and the need for government to allocate an ever diminishing supply among competing interests. . . (The plan) reflects the absence of a black perspective in its development."

Three and one-half years ago, President Carter declared energy the "moral equivalent of war" and sent Congress 109 recommendations for action, including the creation of a new Department of Energy. Since then, the federal budget for government's energy bureaucracy has grown to about \$10 billion per year and more than 20,000 pages of new energy regulations and guidelines have been issued. But these have not fostered the production of a single extra unit of energy.

The Democratic Congress has joined in the stampede, taking action on 304 energy bills since 1977. As a result, the federal bureaucracy is busy from coast to coast allocating gasoline setting building temperatures, printing rationing coupons, and readying standby plans to ban weekend boating, close factories, and pass out "no drive day" stickers to American motorists—all the time saying, "we must make do with less." Never before in the history of American government has so much been done at such great expense with such dismal results.

Republicans believe this disappointing cycle of shrinking energy prospects and expanding government regulation and meddling is wholly unnecessary. We believe that the proven American values of individual enterprise can solve our energy problems. This optimism

stands in stark contrast to the grim predictions of the Democrats who have controlled Congress for the last 25 years.

They seem to believe not only that we are a nation without resources, but also that we have lost our resourcefulness. Republicans believe in the common sense of the American people rather than a complex web of government controls and interventions that threaten America's ability to grow. We are committed to an alternative strategy of aggressively boosting the nation's energy supplies; stimulating new energy technology and more efficient energy use; restoring maximum feasible choice and freedom in the marketplace for energy consumers and producers alike; and eliminating energy shortages and disruptions, which are a roadblock to renewed national economic growth, rising living standards, and a reawakening of the hopes and dreams of the American people for a better and more abundant future.

We believe the United States must proceed on a steady and orderly path toward energy self-sufficiency. But in the interim, our pressing need for insurance against supply disruption should not be made hostage to the whims of foreign governments, as is presently the case under the Carter Administration. We believe it is necessary to resume rapid filling of strategic oil reserves to planned levels of 500 million barrels in the short-term and ultimately to the one billion barrel level and to ensure that non-contiguous areas of the United States have their fair share of emergency oil reserves stored within their respective boundaries, as authorized by the Energy Policy and Conservation Act of 1975.

In order to increase domestic production of energy, Republicans advocate the decontrol of the price at the well head of oil and gas. We believe that the so-called windfall profits tax (which is unrelated to profit) should be repealed as it applies to small volume royalty owners, new oil, stripper wells, tertiary-

recovery, and heavy crude oil, and that the phase-out of the tax on old oil should be accelerated. This tax legislation should be amended to include a plowback provision. We will seek decontrol of prices on all oil products and an end to government authority to allocate petroleum supplies except in national emergency. We also believe that market restrictions on the use of natural gas should be eliminated.

Coal, our most abundant energy resource, can bridge the gap between our other present energy sources and the renewable energy sources of the future. The coal industry has been virtually ignored by the Carter Administration and the Democratic Congress. In 1977, President Carter promised to double coal production by 1985. Instead, because of obstructionist actions of the Administration, coal production has increased by only 11 percent to date and future prospects are dim. Today, thousands of coal miners are out of work and without hope for the future.

Republicans support a comprehensive program of regulatory reform, improved incentives, and revision of cumbersome and overly stringent Clean Air Act regulations. This program will speed conversion of utility, industrial, and large commercial oil-burning boilers to coal to the greatest extent feasible, thus substantially cutting our dependence on foreign oil. This program must begin immediately on a priority basis and be completed at the earliest date possible.

To effectively utilize this vast resource, our coal transportation systems must be upgraded and the government controls on them relaxed. Government regulation regarding the mining and use of coal must be simplified. We will propose a policy which will assure that governmental restraints, other than necessary and reasonable environmental controls, do not prevent the use of coal. We also reaffirm that mined lands must be returned to beneficial use and that states, in accordance with past Congressional mandate, have the primary

responsibility to implement rules concerning the mining of coal which are adapted to the states' unique characteristics.

Coal, gas, and nuclear fission offer the best intermediate solutions to America's energy needs. We support accelerated use of nuclear energy through technologies that have been proven efficient and safe. The safe operation, as well as design, of nuclear generating plants will have our highest priority to assure the continued availability of this important energy source. The design and operation of these plants can be guaranteed in less than the 10 to 12 year lead time now required to license and build them. We believe that the licensing process can and should be streamlined through consolidation of the present process and the use of standardized reactor designs.

The Three Mile Island incident suggests the need for certain reforms, such as in the area of operator training, but illustrates that properly designed and operated nuclear plants do not endanger public health or safety. We further encourage the research, development, and demonstration of the breeder reactor, with its potential for safely contributing to our nation's future energy supplies.

Nuclear power development requires sound plans for nuclear waste disposal and storage and reprocessing of spent fuel. Technical solutions to these problems exist, and decisive federal action to choose and implement solutions is essential. The Democratic-controlled Congress and Administration have failed to address the spent fuel problem. A Republican Congress and Administration will immediately begin to implement plans for regional away-from-reactor storage of spent fuel with the goal of implementation of a program no later than 1984.

Republicans are committed to the rapid development of permanent storage facilities for nuclear wastes. Since waste disposal is a national responsibility, no state should bear an unacceptable share of this responsibility.

Republicans will also move toward reprocessing of spent fuel.

Republicans will continue to support the development of new technologies to develop liquid, gaseous, and solid hydrocarbons which can be derived from coal, oil shale, and tar sands. The decontrol of oil and gas prices will eliminate any necessity for government support for a synthetic fuel industry except possibly for limited demonstration projects. Clean air, water, waste disposal, mine reclamation, and leasing rules must be made rational and final to accelerate private investment.

Gasohol is an important, immediately available source of energy that is helping to extend our petroleum reserves. We encourage development of a domestic gasohol industry.

We also believe the government must continue supporting productive research to speed the development of renewable energy technologies, including solar energy, geothermal, wind, nuclear fusion, alcohol synthesis, and biomass, to provide the next generation of energy sources.

Conservation clearly plays a vital role in the consideration and formulation of national energy policy. Republicans reject, however, the position of the Democrats which is to conserve through government fiat. Republicans understand that free markets based on the collective priorities and judgments of individual consumers will efficiently allocate the energy supplies to their most highly valued uses. We also believe that the role of government is best performed by structuring creative cost-effective incentives to achieve energy efficiency and conservation.

We reject unequivocally punitive gasoline and other energy taxes designed to artificially suppress energy consumption.

Much inefficient energy use results from government subsidization of imported oil and holding the price of natural gas substantially below its market value. When the price of energy is held artificially low, there is no

incentive for conservation. This kind of energy consumption stems not from the excesses of the public, but the foolish policy distortions of government. Every BTU of genuine energy "waste" in our economy would rapidly disappear if we immediately and completely dismantle all remaining energy price controls and subsidies.

A Republican policy of decontrol, development of our domestic energy resources, and incentives for new supply and conservation technologies will substantially reduce our dependence on imported oil. We reject the Carter Administration's incessant excuse that the high price of imported oil and OPEC are the primary cause of inflation and recession at home and a weak dollar and declining balance of payments abroad. The fastest way to bring international oil prices under control is to stop printing so recklessly the dollars in which those prices are denominated. Fully 60 percent of the world oil price increase since 1973 represents the depreciation of our dollars rather than an increase in the real price of oil.

Virtually all major environmental legislation in the past decade reflected a bipartisan concern over the need to maintain a clean and healthful environment. While the new environmental policies have resulted in improving air quality, cleaner waters, and more careful analysis of toxic chemicals, the price paid has far exceeded the direct and necessary cost of designing and installing new control technology. In the energy area, the increased complexity of regulations, together with continual changes in the standards imposed, have brought about tremendous delays in the planning and construction of new facilities ranging from electric power plants to oil refineries, pipelines, and synthetic fuel plants.

Republicans believe that an effective balance between energy and environmental goals can be achieved. We can ensure that government requirements are firmly grounded on the best scientific evidence available, that

they are enforced evenhandedly and predictably, and that the process of their development and enforcement has finality.

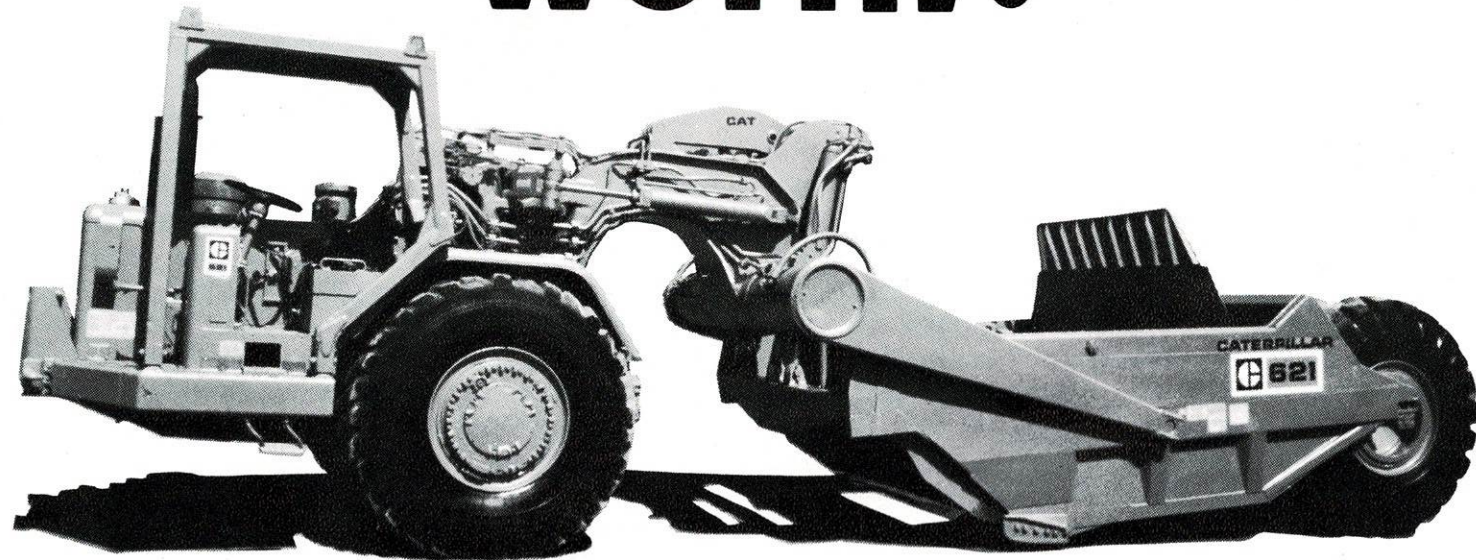
Republicans condemn the Democrats' withdrawal of a massive amount of the most promising federal lands from prospective energy development, including the rich potential of our Outer Continental Shelf. It has been estimated that by the end of the 1980s resources from government-controlled acreage could yield over two million barrels of oil per day and four trillion cubic feet of gas per year, the equivalent of nearly all of our imports from OPEC countries. It is clear that restrictive leasing policies have driven us further to depend on OPEC by severely impairing the exploration for, and development of, domestic oil, gas, and coal resources, thereby aggravating our balance of trade deficit and making our country less secure. Republicans will move toward making available all suitable federal lands for multiple use purposes including exploration and production of energy resources.

Republicans believe that in order to address our energy problem we must maximize our domestic energy production capability. In the short term, therefore, the nation must move forward on all fronts simultaneously, including oil and gas, coal, and nuclear. In the longer term, renewable resources must be brought significantly on line to replace conventional sources. Finally, in conjunction with this all-out production initiative, we must strive to maximize conservation and the efficient use of energy:

The return to the traditions that gave vitality and strength to this nation is urgent.

The free world—indeed western civilization—needs a strong United States. That strength requires a prospering economy. That economy will be secure with a vigorous domestic energy industry. That vigor can only be achieved in an atmosphere of freedom—one that encourages individual initiatives and personal resourcefulness.

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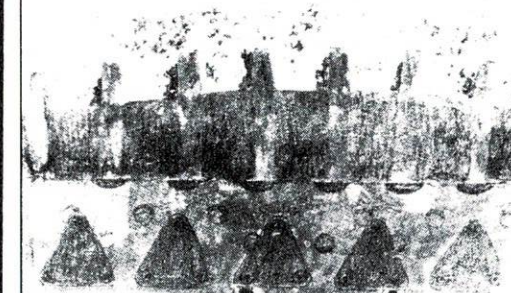
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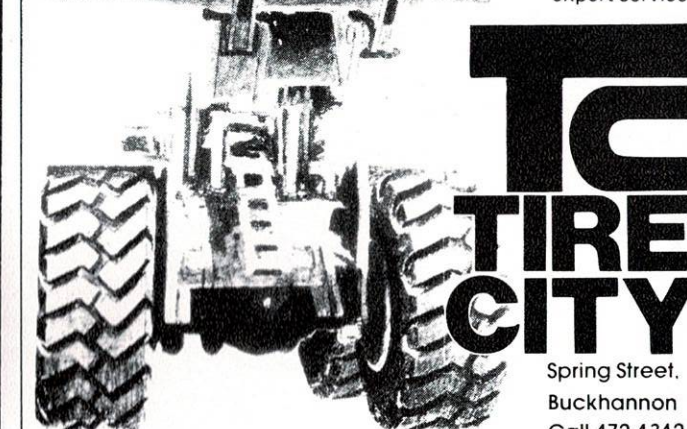


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Jim Roy uses a map of the permit area to explain the Kelley Coal Co., Inc. operation.



The tour's four-wheel drive caravan totaled more than forty vehicles.

DNR makes its rounds with public in tow

Once again this summer, personnel from West Virginia's Department of Natural Resources maneuvered 12 dozen or so people around the state for a first hand look at the surface mining industry.

For the 13th consecutive year, DNR put its reputation on the line, guiding friend and foe alike over 11 mining operations and reclamation sites, over which they have all the jurisdiction allowed by federal law.

For both operator and regulator, "The Tour" has come to be a source of pride. Over the years it has gone a long way in establishing West Virginia as a trend setter in reclamation.

That's not how or why the tour started, however. The first tour, back in 1968, was strictly business. Representatives from several agencies concerned with mining and its possible effects drove around in two or three cars, and each looked at the operations from a different point of view.

The participants exchanged information from their various fields of expertise, and they all proved useful to operators and inspectors, who got a lot of free advice on specific problem areas. In turn, the agrono-

mists, foresters, etc. became acquainted with the mining and reclamation process.

West Virginia was, and is, the only state to conduct such a tour, and consequently, the group expanded to the point where it was necessary to make group travel arrangements.

By the mid-1970's, the evaluation tour was a major undertaking, requiring weeks of preparation and meticulous attention to detail. Anyone who has traveled in the 40 or 50 vehicle caravan through West Virginia's winding secondary roads can attest to the agency's success at handling the tour's burdensome logistics.

As the tour has expanded in sheer numbers, it has also grown and changed in character. Out-of-state visitors, mostly from state agencies, have become a fixture, the press is usually along for one or two days and even a few anti-coal "citizens" have found a place in the 4-wheeled caravan.

As always, however, DNR regarded its tour as a working week, and committee assignments were duly made and carried out. Committee findings will be compiled and mailed to all tour participants.



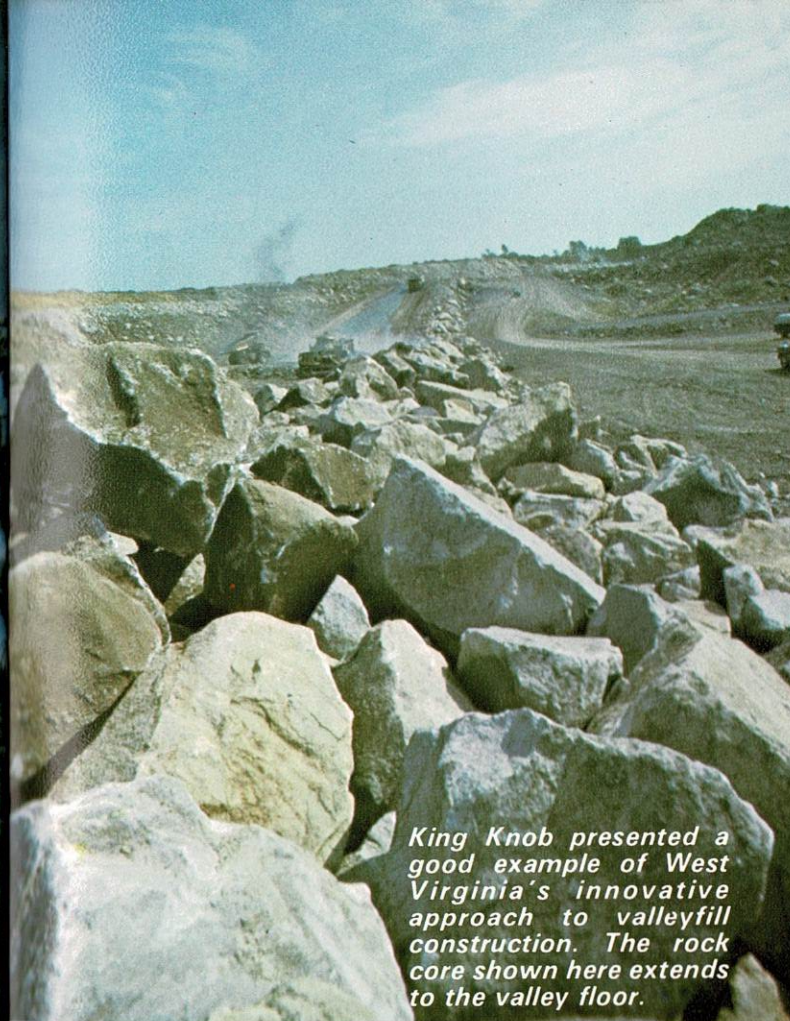
LH & J demonstrated the capabilities of a drag line in overburden removal.



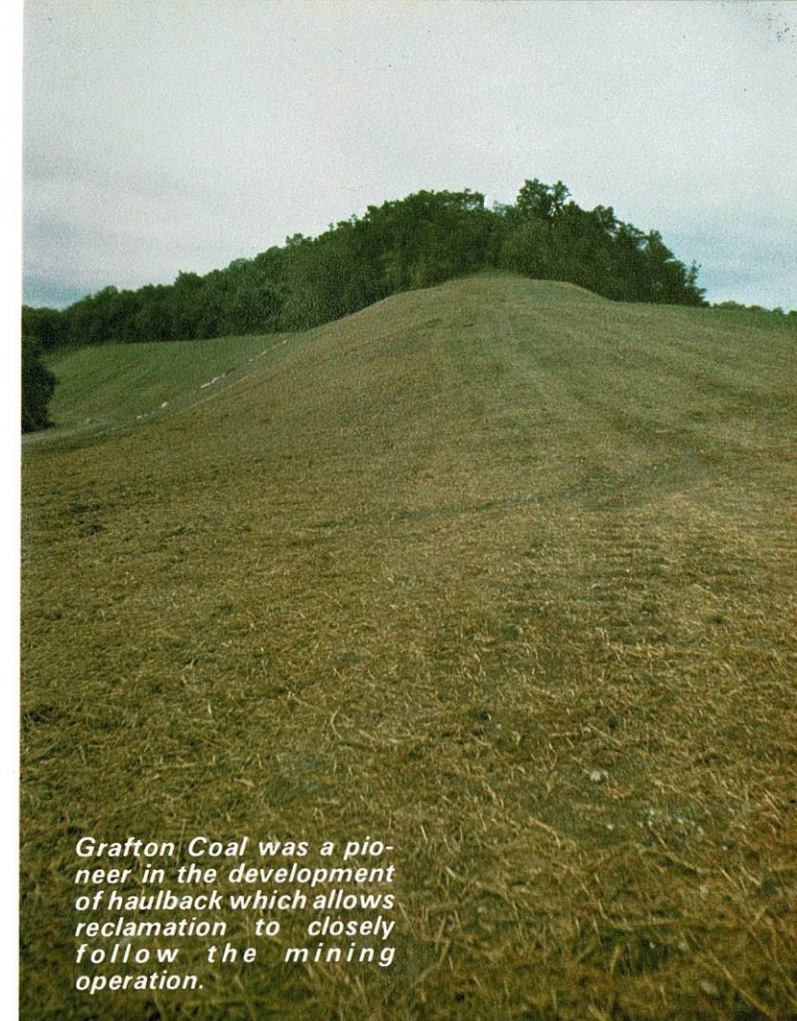
Dippel & Dippel provided an excellent example of the farm like appearance of good northern West Virginia reclamation.



This section of Valley Camp's haulback operation is now ready for seeding.



King Knob presented a good example of West Virginia's innovative approach to valleyfill construction. The rock core shown here extends to the valley floor.




Grafton Coal was a pioneer in the development of haulback which allows reclamation to closely follow the mining operation.



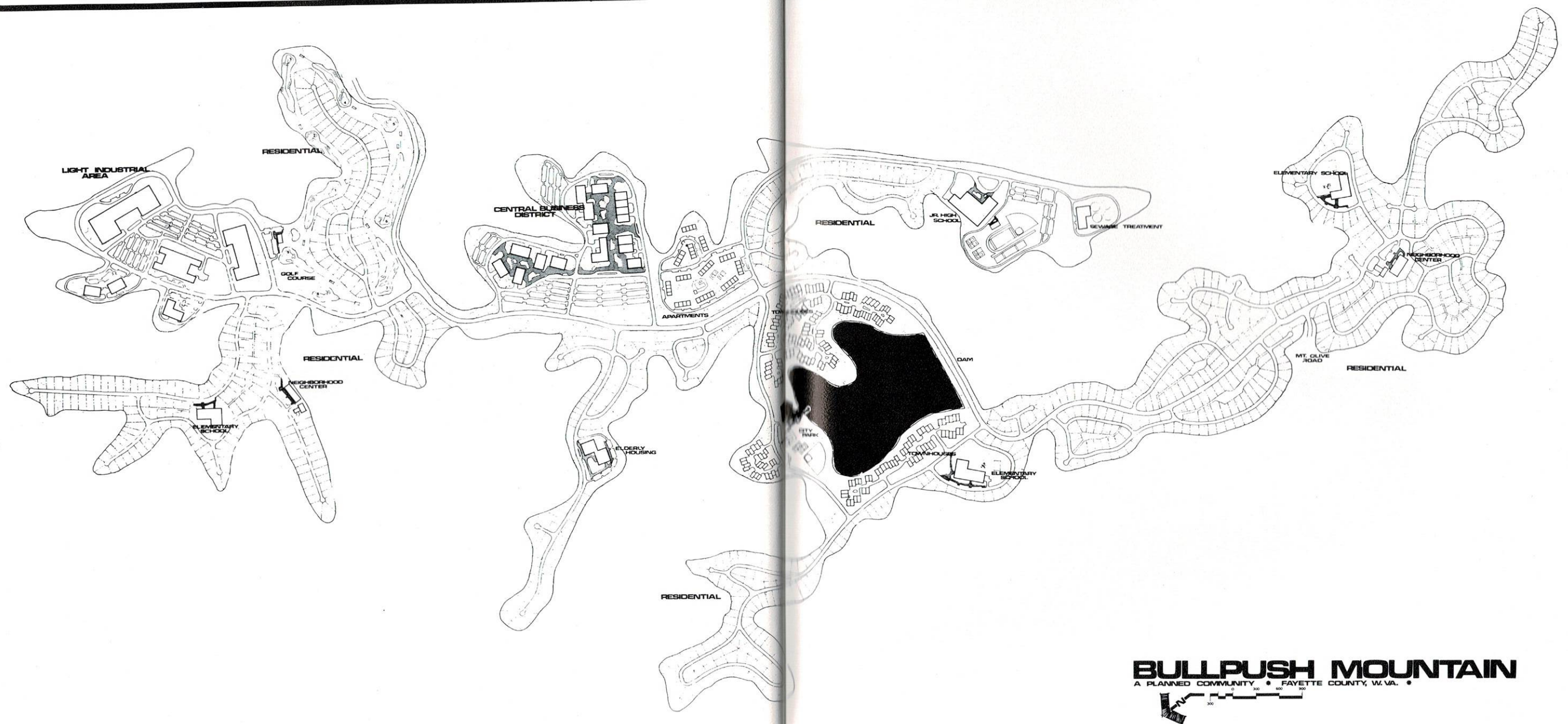
Cedar Coal has used the haulback to minimize disturbed area as evidenced by the proximity of the tree line to this haul road.



Nothing enhances a reclaimed site like thick vegetation, as Kelly Coals demonstrates here.

An aerial photograph showing a vast mountain landscape. In the center, a large, irregularly shaped area of land has been cleared of forest, appearing as a bright green patch. This cleared area is surrounded by dense, dark green forested hills and valleys. In the distance, more mountain ranges are visible under a clear sky. A small body of water is visible within the cleared area. A few small structures or vehicles are scattered within the cleared zone.

The vast mountaintop removal operation of Perry & Hylton, under contract to Cannelton Industries, cannot be adequately captured in one picture. This completed site now supports several head of cattle and may someday be part of a mountaintop town in Eastern Kanawha County.



In recent years, mountaintop removal surface mining has been touted as a partial answer to the chronic shortage of living space in southern West Virginia. The planned community shown above is a feasible example of how this concept might be carried out. The mountain depicted here is the site of the oldest and largest continuous mountaintop operation in the state. It is located less than 25 miles from the state capitol. Cannelton Industries, Inc. obtained the permit in 1970, and Perry and Hylton, Inc. does the mining. Mining will continue into the mid-1980's.

This plan covers over 2000 acres, and will accomodate 10-12 thousand people. The plan calls for a self contained community with churches, schools, shopping, medical facilities, and light industry. The point where the elderly housing is located is the same shown on the preceeding pages.



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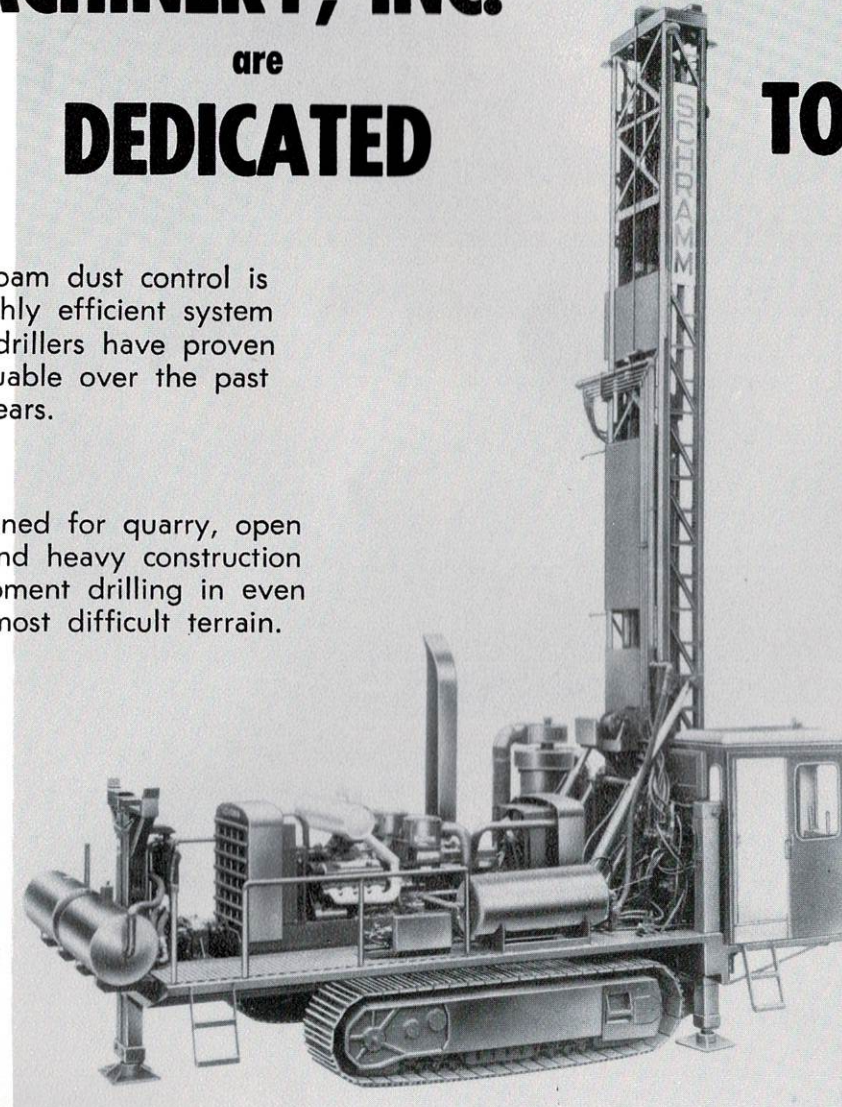
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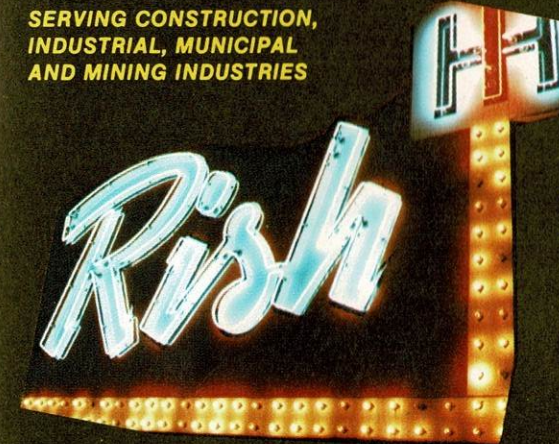
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