

CONGRESSIONAL RECORD MARCH 1, 1977

Legislative History

Congressional Record

March 1, 1977

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123 CONG.REC. S53266

March 1, 1977

Mr. METCALF. Mr. President, at the hearing held on the surface mining bill (S.7) on February 7, certain questions were raised about a report entitled "Energy and Economic Impacts of H.R. 13950." These questions focused on the differences in the coal production loss estimates calculated from the alluvial valley floor provisions of H.R. 13950, between the initial ICF draft report dated January 24 and the final draft report dated February 1, 1977.

S3266 On February 9, I asked for the ICF Corp. to explain these differences. They responded to my request on February 18. I believe their response completely clarifies the situation. In view of the wide interest in and discussion of the questions, I ask unanimous consent that my letter to ICF and their response be printed in the RECORD for the information of Senators and other interested persons.

S3266 There being no objection, the material was ordered to be printed in the RECORD, as follows:

{S3267} WASHINGTON, D.C., February 9, 1977.

S3267 Mr. DON KLEIN, ICF, Inc., Washington, D.C.

S3267 DEAR MR. KLEIN: On 7 February, 1977, during a hearing held by the Subcommittee on Minerals, Materials and Fuels on S. 7, the Surface Mining Control and Reclamation Act of 1977, Senator Hatch raised certain questions about a report entitled "Energy and Economic Impacts of H.R. 13950", which was submitted by ICF, Inc., to the Council on Environmental Quality and the Environmental Protection Agency under Contract No. EQ6AC016.

S3267 Senator Hatch referred to differences in the coal production loss estimates calculated from the alluvial valley floor provisions of H.R. 13950, between the initial ICF draft report dated 24 January and the final draft report dated 1 February, 1977.

S3267 We would appreciate it if you would explain what the differences are and why ICF changed the estimates in the initial draft. Did any employee of the Federal Government direct ICF to change the estimates? Your response will be inserted into the hearing record.

S3267 Very truly yours, LEE METCALF, Chairman, Subcommittee on Minerals, Materials and Fuels.

S3267 ICF, INC., Washington, D.C., February 18, 1977.

S3267 Senator LEE METCALF, Chairman, Subcommittee on Minerals, Materials, and Fuels, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, D.C.

S3267 DEAR SENATOR METCALF: Mr. Daniel E. Klein, Project Manager of our surface mining reclamation study, has given me your letter concerning our draft report (of January 24, 1977 and February 1, 1977) entitled "Energy and Economic Impacts of H.R. 13950," submitted to the Council on Environmental Quality and the Environmental Protection Agency under Contract No. EQ6AC016. He did so because I am the ICF Director in charge of this study.

S3267 GENERAL COMMENTS

S3267 As I am sure you understand, it is common practice for government agencies to solicit comments on draft reports prepared by contractors. This review procedure is common in academia and most professional research efforts as well. We think this is a good procedure because it gives those who prepare the reports (like ourselves) the benefit of experience and expertise that is not available in any one organization. We welcome such reviews because they generally help to improve the quality of our products.

S3267 This practice was followed for our analysis of the impacts of H.R. 13950. The purpose of the January 24 draft was to solicit comments from our clients and other knowledgeable professionals. Of the numerous comments received, most were obviously based on thoughtful and careful review. We considered each comment carefully. When we judged the comment was not sound, we attempted to refine our report appropriately. When we judged the comment was not sound, we made no changes. In no instance was any compromise made to the analytical integrity of our report in order to effect findings which would appear politically desirable. No changes were

made which would distort or conceal substantive points. No omissions of previously-analyzed issues were made. No changes were made which would impart a partisan tone (either for or against) to the discussion. It was we (and not our clients) who determined whether and how we would respond to each specific comment.

S3267 Given that this was the procedure that was followed and that this procedure is common practice, we were surprised and distressed that questions concerning differences between our January 24 and February 1 drafts were raised during the Subcommittee hearing on February 7th. This we consider an extremely important matter because we understand the tone of these questions reflected adversely on our professional integrity. Accordingly, we appreciate this opportunity to respond to the points raised in your letter.

S3267 It is our view that the February 1 draft is superior to the January 24 draft because we were able to refine the earlier draft in response to numerous thoughtful comments. Hence, we would characterize our report as having been "refined" or "changed for the better" but not as having been "tampered with" or "laundered."

S3267 Further, please note that none of the summary findings and/or conclusions changed between the two drafts. The changes were limited to refining a portion of two sets of numerical estimates (in each report we suggested that specific numbers should not be given undue emphasis) and to making numerous editorial changes.

S3267 On February 10, 1977, we prepared a memorandum for our clients (CEQ and EPA) which details the modifications we made between the interagency review version of January 24, 1977 and the Draft Final Report released February 1, 1977. A copy of this memorandum is attached. Further, please note that the February document is also a draft, and the analysis is still proceeding.

S3267 Below, we respond to specific points raised in your letter.

S3267 ALLUVIAL VALLEY FLOOR PROVISIONS

S3267 You asked us to explain the difference between the two draft reports in the coal production loss estimates associated with the alluvial valley floor provisions of H.R. 13950.

S3267 The alluvial valley floor production impacts estimated under the low and moderate

production impact scenarios were not changed. Further, the reserve base impacts were not changed. The changes were confined to the "worst case" or "high impact" production estimate.

S3267 The "worst case" estimates for the alluvial valley floor provisions of the January 24 draft were retitled as "high impact" estimates in the February 1 draft. This change was made for two reasons. First, it was argued by some that "worst case" implied that we opposed such an outcome; whereas others might see such an outcome as desirable. In keeping with an apolitical approach, this term was changed to a more neutral "high production impact."

S3267 Second, it was argued by some that our worst case estimate was the most extreme case imaginable - that every mine having alluvial valley floors within the lease area would be impacted. These reviewers were concerned that we were biasing our findings by using such an extreme case. We responded to this argument because it is clear that the joint probability of every such mine being impacted is extremely low. A "high impact" estimate need not include the most extreme case imaginable, but can reflect reasonable probability judgments.

S3267 In the interagency review draft of January 24, the "worst case" production impact was estimated by assuming that all new production capacity from mines having any alluvial valley floor area within the lease tract would be impacted (delayed, revised, or curtailed). This assumption had the effect of impacting about 70 percent of new western production and existing Montana production. Based upon comments generated during the interagency review and a re-examination of our interviews with western coal producers (fully documented in Appendix F), we decided to modify this assumption for the high production impact estimates in the February 1 Draft Final Report.

S3267 Some of the comments from interagency reviewers and the producers noted that many of the new mine sites would not likely encounter permitting problems because the mine a) would be far removed from the valley floor (e.g., where a ridge might separate the mine from the area where the lease tract overlapped an alluvial valley), b) would have negligible impact, and/or c) would affect an alluvial valley floor which was of poor water quality or otherwise unproductive. For reasons such as these, our moderate impact estimates are about 15 percent of planned production from mines having alluvial valley floors in the least tract. Importantly, it is the moderate impact scenario that

reflects (1) what we believe would happen if the bill were interpreted in a manner we believe is consistent with the apparent intent (as reflected in the statutory language or Committee Report), and
(2) our best judgments based upon existing data.

S3267 Accordingly, it was reasonably clear that a high impact estimate should be greater than the moderate impact estimates but less than one hundred percent of production from all mines having alluvial valley floors within the lease tract. However, we had essentially no data to indicate where within these bounds the high estimate should fall. For the February 1 report, we assumed that one-half of such production would be impacted. The effect of this revised assumption was to reduce the high production impact scenario by one-half. In all cases, the data (and lack thereof) and assumptions are fully documented in the report.

S3267 Due to the substantial uncertainties associated with estimating these impacts, we believe that no undue emphasis should be attached to any specific number or set of numbers. This was noted in the second paragraph on page one of our report:

S3267 "In several parts of this analysis, complete and accurate data did not exist. Further, the methodologies developed were often only approximate in the accuracy of the results rendered. Accordingly, the findings of this analysis should be interpreted; no undue weight should be given to any particular number."

S3267 In the case of the alluvial valley floor provisions, the point being made was that there is a wide range of potential impacts (associated with both data uncertainty and varying interpretations of the language of the bill) ranging from zero to some very large numbers. This point did not change at all between the interagency review of January 24 and the Draft Final Report of February 1, 1977.

S3267 REPORT PREPARATION RESPONSIBILITIES

S3267 You asked: "Did any employee of the federal government direct ICF to change the estimates?"

S3267 No. All changes were made by ICF, and all were authorized by myself as Director of the study. Indeed, even if we had received such direction, our professional ethics would have precluded us from following such direction, if it would have meant our reporting an analytic finding that did not represent our best judgment.

S3267 In some cases, reviewers took the trouble to suggest specific language changes. When we agreed with the thrust of the comment, we considered including the specific language. In most cases, we edited the suggestions prior to inclusion in the report. In those instances where we judged that the review comments did not contribute to the substance and/or appeared to be political at the expense of the analytical integrity, such comments were rejected. The final version of the draft report was edited exclusively by ICF and represents our best effort and judgments as of the date of the report.

S3267 Numerous changes were made between the January 24 interagency review version and the February 1 Draft Final Report, in response to what we considered to be valid reviewer comments as well as continuing analysis by ICF. As detailed in the attached memorandum, there were essentially three types of changes made:

{S3268} (1) Text changes, in order to improve readability and clarity, and to impart a more neutral tone to the analysis,

S3268 (2) the alluvial valley floor high production impact scenario, where all data and assumptions are fully documented, and

S3268 (3) the reserve base impacts of the surface owner protection provisions, where all data and assumptions are fully documented.

S3268 It is important to note that throughout our study we have fully documented the data and assumptions underlying the impact estimates. Thus, any changes in impact estimates can be related directly to changes in underlying assumptions, where such changes are based upon what we consider to be analytically sound judgments.

S3268 The Draft Final Report which we submitted on February 1, 1977 represents our best analytical judgments at this time. Still, we must note that it is a draft report, and is subject to further modification as additional reviewer comments are received. Should new evidence be presented which convinces us that further modifications are warranted, further modifications will be made and the assumptions clearly documented. As stated in the Preface to the report,

S3268 "This draft is being distributed for purposes of review and comment. Further work is being conducted. Refinements are underway. Constructive comments are welcomed."

S3268 Again, I appreciate the opportunity to respond to your questions. I would be pleased to answer any further questions you might have.

S3268 Sincerely yours, C. HOFF STAUFFER, Jr., Chairman of the Board of Directors .

S3268 ICF, INC., Washington, D.C. February 10, 1977.

S3268 MEMORANDUM

S3268 To: Barry R. Flamm (CEQ); James Speyer (EPA).

S3268 From: C. Hoff Stauffer, Jr.; Daniel E. Klein.

S3268 Subject: "Energy and Economic Impact of H.R. 13950."

S3268 It has come to our attention that questions have been raised regarding modifications to our report between the Draft Final Report released on February 1, 1977, and the interagency review version of January 24, 1977. Some of the differences have been noted during both the Senate hearings on S. 7 (February 7, 1977) and the House hearings on H.R. 2 (February 8, 1977). On these occasions an inference was made that such changes could have been due to political considerations rather than analytical judgments. In this memorandum we would like to fully resolve any confusion which may have arisen.

S3268 We wish to strongly emphasize that in no instance in our Draft Final Report (or in any preliminary drafts and/or memoranda) was any compromise made to the analytical integrity in order to effect findings which would appear politically desirable. The Draft Final Report of February 1 represents our very best analytical judgments at that point in time, just as any earlier drafts and/or memoranda represented our best judgments at earlier points in time. Hence, changes over time represent what we consider to be improvements in methodology, data, and/or assumptions, and in no way represent analytical compromises made for political convenience.

S3268 Throughout our study we have fully documented the data and assumptions underlying the impact estimates. Thus, any changes in impact estimates can be related directly to changes in underlying assumptions, where such changes are based upon what we consider to be analytically sound judgments and are fully documented. Any textual changes relate directly to efforts to (a) improve clarity, (b) improve readability, or (c) impart a more neutral tone to the document, since our study does not represent an advocacy document but rather an analysis.

S3268 The following sections will expand upon these points and detail the changes in particular impact estimates which have been noted in previous discussions. The first section will be a general discussion of ICF's approach in developing a Draft Final Report. This is followed by a detailed explanation of changes found between the interagency review version of January 24, 1977 and the Draft Final Report released on February 1, 1977.

S3268 GENERAL COMMENTS

S3268 Since ICF began its analysis of H.R. 13950, our approach has been one which has stressed cooperation with numerous and diverse interest groups, both in and out of government. This analysis has proven to be quite complex; since our own resources are limited, we have welcomed valid inputs from all who were willing to contribute. The primary vehicle for the solicitation of advice has been the use of draft reports and memoranda. These reflected our best judgments and knowledge at the time. By virtue of the extensive cooperation and thoughtful comments we received from others, we were often able to make what we considered analytical improvements in subsequent drafts. In those instances where we felt that the review comments did not contribute to the substance and/or appeared to be political at the expense of the analytical integrity, such comments were rejected.

S3268 In keeping with this approach, we prepared preliminary copies dated January 24, 1977 for the purpose of interagency review. This was done for the purpose of allowing several agencies (CEQ, EPA, FEA, BOM, DOI, OMB, TVA) to review and comment prior to the release of our Draft Final Report of February 1, 1977. It was never intended that the interagency review version of January 24 be the version submitted as our Draft Final Report under the terms of our contract. In fact, we at ICF were making several minor changes concurrent with the interagency review. Due to the high level of cooperation from these agencies, we were able to make what we consider to be analytically sound modifications and editorial improvements. Any suggestions which would have compromised the analytical integrity to achieve politically desirable findings were rejected, as were any other suggestions we judged to be unsound.

S3268 Accordingly, the Draft Final Report which we submitted on February 1, 1977 represents our best analytical judgments at this time. Still, we must note that it is a draft report, and is subject

to further modification as additional reviewer comments are received. As stated in the Preface to the report,

S3268 "This draft is being distributed for purposes of review and comment. Further work is being conducted. Refinements are underway. Constructive comments are welcomed."

S3268 CHANGES IN TEXT

S3268 Some questions have arisen regarding textual changes which have occurred between versions leading up to the Draft Final Report of February 1, 1977. The concern was that these changes were made in an effort to distort or conceal substantive points developed in earlier versions. These concerns are unfounded.

S3268 Before describing the changes, it is useful to note types of changes which were not made. No changes were made which would distort or conceal substantive points. No omissions of previously-analyzed issues were made. No changes were made which would impart a partisan tone (either for or against) to the discussion.

S3268 The text changes which have been made in the Draft Final Report can be categorized in three basic types:

S3268 (1) Readability. Several minor changes were made throughout the report to rephrase sentences and paragraphs in an effort to improve readability and facilitate understanding of some of the more difficult points.

S3268 (2) Clarity. Several additions were made in the Draft Final Report to expand upon the assumptions, methodologies, and findings. Most of these additions were made in response to questions raised during the review process, and include footnotes, supplementary descriptors, and additional caveats where necessary.

S3268 (3) Tone. Throughout this study we have attempted to present an impartial and factual analysis. This is in keeping with our instructions to develop impact estimates and not an advocacy document. We have refrained from expressing judgments as to the merits of the legislation or to what preferred legislation might read, and have limited our analysis to the impacts of H.R. 13950 as reported August 31, 1976. Although we have tried to present our analysis in neutral terms, we have been made aware of several instances in which the phrasing could possibly suggest a bias either for or

against the bill. To avoid the appearance of having taken any advocacy position, alternative wordings were sought which would not suggest a bias while still retaining the substantive value. We did not make such tonal changes when the result would have been a diminution of the analytical finding.

S3268 Examples of such text changes which are particularly noteworthy are the first two major conclusions in the Executive Summary of the Draft Final Report. These paragraphs do not add any new material to the section, but seek to highlight the major conclusions which follow. In the interagency review version of January 24, these two paragraphs were combined. While the first part (relating to impacts which were not great) remained the same, the second part (relating to non-cost impacts and varying interpretations) was made less specific in the Draft Final Report. During the interagency review, it was suggested that this paragraph was combining general findings with specific points, and that insufficient detail had yet been presented which would make these specific points meaningful. Further, it was suggested that the original wording implied that these were the only impacts, where in fact there were several more. In response to what we considered to be valid criticism, we reworded this to read as two general conclusions. We note that all of the specific issues raised are still raised in detail in the Summary, and all are analyzed in full in the body of the report.

S3268 ALLUVIAL VALLEY FLOORS - HIGH PRODUCTION IMPACT SCENARIO

S3268 Between the interagency review version of January 24 and the February 1 Draft Final Report, the assumptions used to develop the high production impact scenario for alluvial valley floors were modified. Whereas in the interagency review version the assumption was made that any lease area containing alluvial valley floors would be impacted, the Draft Final Report took account of the fact that not all of these sites would be impacted under a reasonable high impact scenario. The effect of this change in assumptions was to reduce the high production impact estimates to approximately one-half of those estimated in the interagency review version.

S3268 The assumptions used in developing these estimates are fully documented in the analysis, and are summarized in the Executive Summary. The scenario specification used in the interagency review version of January 24 is as follows (underlining added):

S3268 "A worst-case production impact is based upon very stringent interpretations of imprecise

terms. Lands are not assumed to be undeveloped range land if there is any potential for hay production. Very small changes in water quantity or quality are assumed to be adverse effects. Finally, it is assumed that the grandfather clause is applicable only to presently permitted acreage; unpermitted parts of the long-range mining plan are not included. In states such as Montana, all mines become potentially impacted, since only one year's acreage is permitted at a time.

{S3269} Under these interpretations, the impact upon production can be quite high. To estimate the magnitude of this impact, the percent of lease tracts containing alluvial valley floors (Table 2) is used as an estimate of the percentage of new mines which could be impacted. In Arizona, New Mexico, and Washington, it is assumed that new mines will not affect alluvial valley floors, since they are not characteristic of these areas. Thus, the percent of new surface mine production which could be impacted is assumed to be as follows:

	Percent impacted
Colorado	71
Montana	65
North Dakota	91
Wyoming	81

S3269 Further, it is assumed that existing Montana production could be impacted in the same proportion, since only one year's acreage is permitted at a time. Using these assumptions in conjunction with the surface production forecast developed in Chapter III, the worst-case impacts are developed as follows:

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Year	Colorado	Montana	North Dakota	Wyoming
Total				
1977	0.7	21.4	3.3	9.8
35.2				

1978	1.3	22.3	4.5	22.8
50.9				
1979	2.4	24.0	5.0	39.3
70.7				
1980	3.7	27.1	6.3	57.9
95.0				
1981	4.7	29.6	6.8	65.5
106.6				
1982	6.1	32.6	7.3	91.7
137.7				
1983	7.4	35.9	7.7	101.0
152.0				
1984	9.0	39.5	8.2	128.3
185.0				
1985	10.6	43.4	8.6	148.4
211.0				

S3269 Note: Although it is unlikely that this production will all be shut down, the potential for extensive litigation is quite high, which could in turn lead to substantial short-term production delays.

S3269 Source: Interagency Review version of Jan. 24, 1977, pp. F-34, 35.

S3269 In the Draft Final Report of February 1, 1977, we chose (properly, we think) to modify these assumptions to account for the fact that lease areas are often much larger than the mine site itself, and in many cases the mining plan would be far removed from and/or would have negligible impact upon the alluvial valley floor located elsewhere within the lease tract. The scenario specifications are likewise fully documented in the analysis, and are summarized in the Executive Summary. These specifications are as follows

S3269 "A high production impact is based upon very stringent interpretations of the provisions. Lands are not assumed to be undeveloped range land if there is any potential for hay production. Very small changes in water quantity or quality are assumed to be adverse effects. Finally, it is assumed that the grandfather clause is applicable only to presently permitted acreage; unpermitted parts of the long-range mining plan are not included. In states such as Montana, all mines become potentially impacted, since only one year's acreage is permitted at a time.

S3269 Under these interpretations, the impact upon production can be quite high. To estimate the magnitude of this impact, the percent of lease tracts containing alluvial valley floors (Table 2) is used as an initial basis of the percentage of new mines which could be impacted. At this starting

point, this percentage is used as a surrogate measure to indicate those mines which need to be concerned with potential alluvial valley floor impacts. However, even under a reasonable high impact scenario, many of these sites will not likely have permitting problems with respect to alluvial valley floor provisions. Some will be near alluvial valley floors which contain poor quality water or are clearly not productive. Others will be located at a considerable distance from the alluvial valley floor or have the mining area separated from the valley floors by ridges. Under the high impact scenario, it is assumed that one-half of the mine sites having alluvial valley floors within the lease boundaries will have no permitting problems, and that the remaining one-half could be subjected to impacts (delays, mining plan revisions, production cutbacks, etc.). In Arizona, New Mexico, and Washington, it is assumed that new mines will not affect alluvial valley floors, since they are not characteristics of these areas. Thus, the percent of new surface mine production which could be impacted is assumed to be as follows:

3[In percent]	Near alluvial valley	Assumed affected by
H.R.	floors	13950
Colorado	71	35
Montana	65	32
North Dakota	91	45
Wyoming	81	40

S3269 Further, it is assumed that existing Montana production could be impacted in the same proportion, since only one year's acreage is permitted at a time. Using these assumptions in conjunction with the surface production forecast developed in Chapter III, the worst-case impacts are developed as follows:

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tons] Year	Colorado	Montana	North Dakota	Wyoming
Total				
1977	0.4	10.6	1.6	4.8
17.4				
1978	.6	11.0	2.2	11.3
25.1				
1979	1.2	11.8	2.5	19.4
34.9				
1980	1.8	13.4	3.1	28.6
46.9				
1981	2.3	14.6	3.4	32.4
52.7				
1982	3.0	16.1	3.6	45.3
68.0				
1983	3.7	17.7	3.8	49.9
75.1				
1984	4.4	19.4	4.0	63.4
91.2				
1985	5.2	21.3	4.3	73.0
103.8				

S3269 Note: Although it is unlikely that this production will all be shut down, the potential for delays are quite high, which could in turn lead to significant short-term production losses.

S3269 Source: Draft Final Report, Feb. 1, 1977, p. 36-37.

S3269 Several points are worthy of note:

S3269 The production impacts estimated for the low and moderate production impact scenarios remained the same in the interagency review version and the Draft Final Report of February 1. Further, the reserve base impacts remained the same under all scenarios. Importantly, it is the moderate impact scenario that reflects (1) what we believe would happen if the bill was interpreted consistent with the apparent intent (as reflected in the statutory language or Committee Report), and (2) our best judgments based upon existing data.

S3269 In estimating production impacts due to the alluvial valley floor provisions, the term "production impact" should not be equated with the term "production losses". As clearly noted in the summary tables:

S3269 "Production impacts, as used here, do not necessarily mean production losses; delays and/or mining plan revisions are alternative impacts."

S3269 The term "worst-case production impact" was changed to "high production impact" in the

Draft Final Report of February 1, 1977, This change was made for two reasons. First, it was claimed by some that "worst-case" implied that we opposed such an outcome, whereas others might see such an outcome as desirable. In keeping with an apolitical approach, this term was changed to a more neutral "high production impact." Second, a worst-case estimate calls for the most extreme case imaginable; in this case, the joint probability every mine having alluvial valley floors within the lease area being impacted. The joint probability of such an event is extremely small. A high impact estimate, on the other hand, need not include the most extreme case imaginable, but can be tempered with judgment concerning the low probability that every mine having alluvial valley floors within the lease area might be impacted. This judgment is clearly stated in our report.

S3269 The change in assumptions made in the Draft Final Report was based upon our professional judgment that our original assumptions were overly strict. Through discussions generated during the interagency review process, coupled with a re-examination of the interviews with the western mine operators (fully documented in Appendix F), we concluded that alternative assumptions were necessary in order to ensure that the analysis presented our best analytical judgments at that point in time.

S3269 The February 1, 1977 report is still a draft report. All assumptions have been documented. Reviewer comments are still welcome. Should new evidence be presented which convinces us that further modifications are warranted, further modifications will be made and the assumptions clearly documented.

S3269 Due to the substantial uncertainties associated with estimating these impacts, we believe (as clearly stated in our report) that no undue emphasis should be attached to any specific number or set of numbers. In the case of the alluvial valley floor provisions, the point being made was that there is a wide range of potential impacts (associated with both data uncertainty and varying interpretations of the language of the bill) ranging from zero to some very large numbers. We note that this point did not change at all between the interagency review version of January 24 and the Draft Final Report of February 1, 1977.

S3269 SURFACE OWNER PROVISIONS - RESERVE BASE IMPACTS

S3269 Between the interagency review version of January 24 and the February 1 Draft Final

Report, the assumptions used to develop the reserve base impacts of the surface owner protection provisions were changed. The methodology used to develop these estimates is the same in both versions - beginning with estimates of the quantity of federal strippable coal beneath non-federal surface, adjustments are made to account for (1) the percent of this land owned by a qualified surface owner, (2) the percent of qualified surface owners who might be unwilling to consent to having the coal reserves leased, and (3) the nearby reserves which would be excluded. The changes in impacts relate directly to changes in these adjustment factors, and in total reduce the impacts by about one-half.

S3269 The description of the methodology is identical in both the interagency review version of January 24 and the Draft Final Report of February 1, and reads:

S3269 "We know of no data, on either a raw or aggregate basis, which would indicate the proportion of non-federal lands which are owner-occupied. Even county courthouse records which would indicate surface ownership would not indicate the residency or income information needed to resolve Section 714's criteria. Further, it is also a matter of conjecture as to how those private surface owners who do fall under the provisions of Section 714 would respond.

{3270} Accordingly, the amount of reserves which may actually be excluded under Section 714 is likely to be significantly less than the federal coal beneath non-federal surface. Since there is no data which would indicate the portion owned by qualified surface owners or their willingness to allow leasing, only a subjective estimate of excluded reserves can be made. In this analysis, three estimates are made, covering a range of qualified ownership percentages and willingness to allow leasing."

{S3270} In the interagency review version of January 24, the reserve base impacts were developed as follows (page V-10):

	Scenario		
	Low impact	Moderate impact	High impact
Federal coal beneath non-Federal surface (million tons)	9,126	12,120	13,071
Times qualified surface owner (percent)	33	50	67

Times percent unwilling to allow leasing	25	50	75
Plus nearby reserves effectively excluded (percent)	10	20	30
Equals reserves impacted (million tons, rounded)	800	3,600	8,500

S3270 In the Draft Final Report of February 1, 1977, the reserve base impacts were developed as follows (page V-11):

	Low impact	Scenario Moderate impact	High impact
Federal coal beneath non-Federal surface (million tons)	9,126	12,120	13,071
Times qualified surface owner (percent)	25	35	50
Times percent unwilling to allow leasing	15	30	50
Plus nearby reserves effectively excluded (percent)	10	20	30
Equal reserves impacted (million tons, rounded)	400	1,500	4,200

S3270 The following points are worthy of note:

S3270 In both versions the estimates of federal strippable coal beneath non-federal surface are the same. Reserve base impact estimates differ only because of changes in the subjective estimates of (1) the percent of this land owned by qualified surface owners, and (2) the percent of qualified surface owners who might be unwilling to consent to having the coal reserves leased.

S3270 The factors which changed were and still are subjective estimates, based upon a paucity of meaningful data. Our subjective estimates were revised based upon reviewed comments relating to the success that energy companies have been having in acquiring surface rights in the West. These comments led us to believe that our earlier estimates had been too high.

S3270 The February 1, 1977 report is still a draft report. All assumptions have been documented. Reviewer comments are still welcome. Should new evidence be presented which convinces us that further modifications are warranted, further modifications will be made and the assumptions clearly documented.

S3270 We are uneasy about these estimates because there are very few data upon which assumptions can be based. We considered making no estimates at all, but judged this would not be a positive contribution toward helping others understand the potential impacts of the bill. Hence, we decided to estimate a range of potential impacts, making clear our methodology and assumptions. This gives the reader the opportunity to test the effects of alternative assumptions on the estimates.