

CONGRESSIONAL RECORD APRIL 22, 1977
Legislative History

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123 CONG.REC. S6270
April 22, 1977

AMENDMENTS NOS. 213, 214, AND 215

6270 Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

6270 Mr. HARRY F. BYRD, JR. Mr. President, I am today introducing three amendments to S. 7, the Surface Mining Control and Reclamation Act of 1977.

6270 The purpose of these amendments is simple. It is to prevent the destruction of the surface mining industry in the State of Virginia.

{S6271} } This is not a melodramatic exaggeration. It is a plain statement of fact, documented by evidence which I shall place in the RECORD at the conclusion of my remarks.

S6271 The amendments which I am introducing today have been drawn up in close consultation with the Virginia Department of Conservation and Economic Development. They are designed to permit the continuation of surface mining of coal in Virginia under the same kind of strict and carefully drawn standards as are now imposed by State authorities.

S6271 These standards do not permit the reckless scarring of mountainous landscape which characterized the early days of surface mining and which left a bitter legacy of disfigured lands in so many areas of Appalachia. Virginia's standards today require carefully supervised reclamation, and the resulting land uses - agricultural, residential, recreational, and other similar uses - are uniformly beneficial.

S6271 Under the provisions of S. 7, mining in steep terrain such as we find in southwest Virginia - and in parts of southern West Virginia, eastern Kentucky, and northern Tennessee - is singled out for special restrictions. Among the burdensome requirements imposed upon operators in such

mountainous areas is restoration of mined land to "approximate original contour."

S6271 This is a requirement which sounds fine in theory but which has no basis in experience or fact. No one can say with certainty that restoration of the original contour is the best form of reclamation.

S6271 Indeed, there is evidence that it is not.

S6271 A study commissioned by the Environmental Protection Agency and carried out by Hittman Associates has this to say:

S6271 Slope design should be based on the erodibility of the surface soils as well as stability against landslides. Restoring the approximate original contour may not be desirable in all cases. A reduction in relief and an overall flattening of the topography may be desirable from an erosion and sediment control standpoint. It must be remembered that shorter or flatter slopes are less erodible.

S6271 A similar conclusion was reached in a 1977 study by IFC Inc., performed for EPA and the Council on Environmental Quality.

S6271 These studies commissioned by the Federal Government show forcefully that there is a need for flexibility in establishing rules for surface mining in the mountains. It is flexibility which is missing from S. 7, and it is flexibility which my amendments seek to restore.

S6271 If the rigid requirements of S. 7 are imposed upon southwest Virginia, the economic impact will be disastrous.

S6271 Estimates prepared by the Virginia Department of Conservation and Economic Development show that enactment of S. 7 as originally drawn would result in loss of up to 11.5 million tons of low-sulfur coal - the kind most needed to preserve clean air - and up to 4,320 jobs.

S6271 Such rigid standards as are contained in S. 7 fly in the face of national policies designed to develop domestic energy resources and cut the rate of unemployment. More than that, these rigid standards are not needed to protect the environment.

S6271 I hope I do not need to assure the Senate that I would not condone any damage to the land in Virginia. Nor would the officials of my State, who are four-square in support of the principles behind the amendments I am submitting today.

S6271 All I am asking is that the Senate apply a rule of reason to surface mining in steep terrain.

S6271 I must add that the amendments I am submitting apply to S. 7 as originally drawn. I recognize that changes in the bill have been made by the Committee on Energy and Natural Resources, and that adjustments in wording would be needed to achieve the objectives of my amendments.

S6271 I am sure that the committee will understand the thrust of these amendments - to give the state regulatory agencies sufficient rein to regulate surface mining on steep slopes in such a way as to preserve jobs and extract a needed resource, without sacrifice of environmental values.

S6271 I ask unanimous consent that the text of my amendments to S. 7 be printed at this point in the RECORD.

S6271 Further, I ask unanimous consent that several items supporting the contentions which I have made be printed in the RECORD following the text of my amendments.

S6271 First are two position papers from the Virginia Department of Conservation and Economic Development, entitled "Impact of Returning to Approximate Original Contour in Steep Slopes in Virginia," and "Production and Employment Impact of H.R. 2 on Virginia."

S6271 Parenthetically, I should point out that H.R. 2 is the House version of the surface mining bill. The regulatory provisions are almost identical and the points made in the studies apply to both bills.

S6271 Second is an excerpt from the testimony of J. Jack Kennedy, Jr., a young miner and college student in southwest Virginia, before the House Interior and Insular Affairs Committee. I found the testimony of this young Virginian particularly cogent and moving.

S6271 Third is a letter from the members of the executive board of the United Mine Workers of America to President Carter, setting forth their opposition to imposition of rigid Federal standards on surface mining of coal.

S6271 Fourth is the testimony of Mr. Daniel W. Gregory, vice president of the First State Bank of Wise, Va., before the House Interior and Insular Affairs Committee. Mr. Gregory's statement shown clearly the horrendous financial consequences that would follow upon adoption of provisions such as those in S. 7.

S6271 Fifth is a resolution of the General Assembly of Virginia approved on February 1, 1977, calling for regulation of surface mining in accordance with standards of the States.

S6271 Sixth, and last, is a letter to me from Chairman Preston C. Shannon of the Virginia State Corporation Commission, which also urges that the States be permitted to handle the regulation of surface mining within their boundaries.

S6271 There being no objection, the material was ordered to be printed in the RECORD. as follows:

S6271 AMENDMENT No. 213

S6271 On page 69, delete all following the color in line 4 through line 21 and insert in lieu thereof the following: "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 the amount of overburden and other spoil and waste materials cannot be economically restored to the approximate original contour, the operator shall backfill, grade, and compact (where advisable) the overburden and other spoil and waste materials to the maximum extent possible in accordance with regulations of the regulatory authority and shall cover all acidforming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region in accordance with the requirements of subsection (c) (1) (B) and that such overburden or spoil shall be shaped and graded in such way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;".

S6271 AMENDMENT No. 214

S6271 On page 78 delete all after line 5 and all through page 81, line 16, and insert in lieu thereof the following:

S6271 (c) (1) Where the mining operation will remove an entire seam or seams running through the upper fraction of a mountain, ridge, or hill 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, the requirements of restoring the mined area to approximate original contour as provided in subsection 415(b) (3) of this section shall not apply where -

S6271 (A) the reclaimed area will be suitable for an agricultural, industrial, commercial, residential or public use (including recreational facilities);

S6271 (B) 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 use of public use, as compared with the premining use and is -

S6271 (i) compatible with adjacent land uses;

S6271 (ii) obtainable according to data regarding expected need and market;

S6271 (iii) assured of investment in necessary public facilities;

S6271 (iv) supported by commitments from public agencies where appropriate;

{S6272} (v) practicable with respect to private financial capability for completion of the proposed development;

S6272 (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;

S6272 (vii) designed by a registered engineer in conformance with professional standards established to assure the stability and configuration necessary for the intended use of the site; and

S6272 (viii) consistent with adjacent land uses, and existing State and local land use plans and programs,

S6272 (C) 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; and

S6272 (D) all other requirements of this Act will be met.

S6272 (2) In granting a permit pursuant to this subsection the regulatory authority shall require that -

S6272 (A) the resulting plateau or rolling contour drains inward from the out slopes except at specified points; and

S6272 (B) all other requirements of this Act will be met.

S6272 (3) The regulatory authority shall promulgate specific regulations to govern the issuance of permits in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

S6272 (4) All permit 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 approved schedule and reclamation plan.

S6272 AMENDMENT No. 215

S6272 On page 82, delete all through pages 83, line 3, inserting in lieu of the deleted text the following, and renumbering succeeding sections accordingly:

S6272 (1) Insure that when surface coal mining is performed 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, except that where necessary soil or spoil material from the initial block cut of earth in a surface coal mining operation can be placed on a limited and specified area of the downslope below the initial cut in accordance with regulations adopted pursuant to the provisions of paragraph 415(b) (3) if the permittee demonstrates that such soil or spoil material will not slide and that the other requirements of this subsection can still be met: Provided, That spoil material regulated under the provisions of paragraph 415(b) (3) or 415(d) (2) or excess spoil from a surface coal mining operation granted a permit under subsection 415(c) may be permanently stored at such offsite spoil storage areas as the regulatory authority shall designate and for the purposes of this Act such areas shall be deemed in all respects to be part of the lands affected by surface coal mining operations. Such offsite spoil storage areas shall be 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.

S6272 IMPACT OF RETURNING TO APPROXIMATE ORIGINAL CONTOUR IN STEEP SLOPES * IN VIRGINIA

S6272 H.R. 2, Section 515(b) (3) requires that "all surface coal mining operations backfill, compact, . . . and grade in order to restore the approximate original contour of the land with all

highwalls, spoil piles and depressions eliminated . . . " Section 515(d) (1) also states that in steep-slope coal surface mining no spoil material can "be placed on the downslope below the bench or mining cut, except that where necessary spoil or spoil material from the initial block or short linear cut . . . can be placed downslope. . . . "

S6272 * Greater than 20 degrees.

S6272 An analysis by U.S. Geological Survey indicates that 95 percent of Virginia's strippable coal reserves are located in areas with slopes greater than 20 degrees. In 1976, the average degree of slope being surface mined in Virginia was 25 degrees. The following table is a summary of the surrounding states including Virginia, showing the percentage of the strippable reserves that would be affected by Section 515(d) (1).

*2*TABLE 1
*2*Percent of reserves affected

State:
1. Kentucky:
East
75
West
0
2. Ohio
1
3. Pennsylvania
6
4. Tennessee
40
5. Virginia
95
6. West Virginia
43

S6272 Source: Data from "Slope Angle Distribution of Coal Beds with Strippable Reserves" by K. J. England, U.S.G.S.

S6272 Mathtech and Ford, Bacon and Davis Utah, Inc. in the report, Evaluation of Current Surface Coal Mining Overburden Handling Techniques and Reclamation Practices, Phase III Eastern U.S. prepared for the Department of Interior, Bureau of Mines, in 1976 divided the overall area into three regions as follows:

S6272 1. Northern Appalachia: eastern Ohio, western Pennsylvania, northern West Virginia and

Maryland;

S6272 2. Central Appalachia: southern West Virginia, southwestern Virginia, east Kentucky and northern Tennessee;

S6272 3. Southern Appalachia: central and southern Tennessee and northern and central Alabama.

S6272 Members of the House Committee on Interior and Insular Affairs suggest that the impact of Federal legislation will be similar for all Eastern States. However, Mathtech's description of the general topography of the entire area would not support this conclusion:

S6272 "Topography in the Appalachian Coal Region ranges from gently rolling in central Alabama and northeastern Ohio to mountainous in southern West Virginia, southwestern Virginia, and east Kentucky. As a general rule, the steepest slopes and greatest relief occur in Central Appalachia, which is mountainous, followed by Northern Appalachia, best described as rolling-to-hilly, and Southern Appalachia, where gently rolling terrain predominates. Topographic relief for the region ranges from 2,500 feet in southwestern Virginia to 300 feet in parts of Ohio and Alabama.

S6272 "Qualitatively speaking, most mining in Central Appalachia takes place on steep slopes, defined here as natural ground slope angles greater than 17 degrees. Natural ground slope angles as high as 35 degrees were observed at some active mines in southern West Virginia. Slope angles in Northern Appalachia are more gradual, with angles of 10-18 degrees being the rule at active mines visited during the field survey. It should be noted that there are some very steep slope areas in the Northern Appalachia coal region, but available data suggests that most of the surface mining activity takes place in rolling and hilly terrain. Topography at mines visited in south-central Tennessee and central Alabama is best described as gently rolling with natural ground slope angles less than ten degrees being the general rule."

S6272 The latest published information regarding the price for strip and auger mined coal for these States is set forth in the following table:

*2*TABLE 2
*2*Average value in dollar/per ton FOB
Mines

State:	
1. Kentucky - East	\$15.46
West	12.00
2. Ohio	13.43
3. Pennsylvania	19.21
4. Tennessee	17.63
5. Virginia	20.70
6. West Virginia	17.75

S6272 Source: Data From "Coal-Bituminous and Lignite in 1975." Division of Fuels Data and Division of Coal.U.S. Department of Interior, February 10, 1977.

S6272 To determine the increased mining cost as a result of the requirement to return to approximate original contour and the provision which allows no spoil to be placed downslope is a difficult process in view of the complex combination of physical, economic and management characteristics affecting various operations. However, it has been estimated that the increased cost for backfilling without completely eliminating the highwall in contour mining versus area mining is as follows:

*2*TABLE 3	
Description Total increase in reclamation cost per ton	
Contour/backfill	\$2.70-4.74
Area	1.02-2.34

S6272 Source: Data from Bureau of Mines Information Circular, IC 8695.

S6272 The difference in reclamation cost between area and contour mining methods is the result of being able to use large-scale overburden handling equipment in conjunction with the efficiencies of being able to place overburden in the previously mined cut in area mining operations. Another factor which influences the cost of coal production in Virginia is that in 1976 there were only two mines that produced more than 250,000 tons. According to the U.S. Bureau of Mines, mining operations of less than 500,000 tons per year have an increase in cost of \$0.42 per ton more than those operations mining more than 500,000 tons a year.

S6272 A report entitled "Energy and Economic Impact of HR 13950," dated February 1, 1977 was prepared for the Council of Environmental Quality and Environmental Protection Agency by

IFC Incorporated. This report discusses surface mining cost as follows: "In Appalachia, cost increases are generally between \$0.50 and \$2 .00 per ton except in Alabama and Virginia where costs for some mine types could increase by over \$4 .00 per ton." One of the assumptions upon which the above conclusion is drawn by ICF is that equipment performance standards for operational efficiency in past studies * are incorrect. Therefore, ICF utilized performance standards from manufacturers representatives and not actual field experience which was utilized in the Oak Ridge Study. If more realistic performance standards reflecting actual field experience as contained in the Oak Ridge study were factored into the ICF study, the increase in cost to return to approximate original contour would be greater than \$5 .00 per ton for all surface mine operations in Virginia on slopes greater than 20 degrees. Also, the increase of \$5 .00 ton does not take into account other incremental requirements of HR 2 or S 7. Other assumptions in the ICF study indicate a possible understated increase of costs associated with the Federal legislative proposals.

S6272 * "Costs of Coal Surface Mining and Reclamation in Appalachia," E. A. Nephew and R. L. Spore, Oak Ridge Laboratory, January 1976. NTIS No. ORNL-NSF-EP-86.

{S6273} CONCLUSION

S6273 An analysis of the impact of returning to the approximate original contour in steep slope regions of Virginia would indicate that the increase in production cost per ton of coal will be significant. With 95% of Virginia's strippable reserves in slopes greater than 20 degrees, the provisions of HR 2 could increase the production cost of a ton of coal in Virginia by more than \$5 .10 per ton. This conclusion is based on the provisions in HR 2 not generating permit delays through additional hearings, etc; the operator not having to operate under different economic and environmental requirements than these currently imposed except for the provision to return to the approximate original contour, but not completely eliminating the highwall. If the highwall must be completely covered, this increase in cost will be higher.

S6273 The approximate original contour requirement and the provision not to allow spoil downslope will impose a financial burden on Virginia's coal surface mine operators which they cannot meet. The requirement to cover the highwall completely is physically impossible and in fact, environmentally unsound in many instances. These provisions will require additional off-road haul

vehicles and long-term capital investment, neither of which are currently available. The small mines in Virginia average less than 60 acres and produce less than 50,000 tons per year. Because of the lack of long-term contracts and available reserves, investment institutions will not make the long-term financial obligations necessary to purchase the equipment. As a result, a majority of operators will probably discontinue to mine coal because most cannot meet the additional capital costs and other front-end expenses, and therefore, will be out of business.

S6273 Another aspect of the impact of HR 2 is that more than 50 percent of Virginia's coal, both deep and surface mined, is utilized by electric utilities because Virginia's surface mined coal is low sulfur steam coal. The impact of HR 2 will make this coal economically and physically impossible to produce.

S6273 PRODUCTION AND EMPLOYMENT IMPACT OF H.R. 2 ON VIRGINIA

S6273 The estimates of the adverse impact on production and employment that HR 2 will have in Virginia is reflected in the analysis of various state agencies utilizing data generated from in-house studies and from reviews of available literature.

S6273 Factors that will influence the estimates of the impact of HR 2 will be interpretations of specific sections of the legislation by the regulatory authority or judicial branch. A low range of estimates will be given that will reflect a less restrictive interpretation. A high range of estimates will be given to indicate the consequences of a strict interpretation of the bill with strong enforcement action by both the administrative and judicial branch.

S6273 IMPACT

S6273 1. Loss of Coal production (in millions of tons) 7-11.5.

S6273 2. Job Losses- (assumes 0.8 additional non-mining jobs lost per mining job loss).

S6273 Direct job losses, 1,140-2,400.

S6273 Indirect job losses, 912-1,920.

S6273 Total, 2,052-4,320.

S6273 3. Fee for reclamation per year

S6273 Strip, \$2.66 million.

S6273 Deep, \$3.36 million.

S6273 Total Fund, \$6.02 million.

S6273 Also additional costs will stem from public notices, suits and other provisions of HR 2.

S6273 ASSUMPTIONS

S6273 The small surface mines of Virginia produce the majority of the surface mine coal. These small mines cannot comply with the provisions of HR 2 relating to bonding and permit application requirements. Specifically, the requirement for collection of extensive hydrologic data, for preparing detailed underground maps, for strata cross sections and various other environmental requirements are beyond the capability of the small operator.

S6273 The steep slope requirements could not be met by at least 75% of the operators in southwest Virginia because of the lack of necessary equipment, undercapitalization and the thin seams of coal currently being mined. The siltation structures required by the legislation would result in a loss in production because of operator's inability to construct the necessary diversion ditches and sediments ponds in the steep slope regions of Virginia.

S6273 The estimates of loss which could result are from 50% to 85% of the current production of the surface coal in Virginia.

S6273 TESTIMONY OF J. JACK KENNEDY, JR.

S6273 Mr. Chairman and members of the committee, my name is J. Jack Kennedy, Jr. I am a resident of Wise County, Virginia. Wise County is located in the southwestern section of the Commonwealth of Virginia, the heart of the Virginia coalfields. I am twenty years old and a life long resident of Wise County. I am presently a fourth year student at Clinch Valley College of the University of Virginia in Wise, Virginia. My father is a coal miner in Virginia. My grandfather was a coal miner in West Virginia and Virginia. Personally, I have held summer jobs on mining sites. I am knowledgeable about surface mining operations in Virginia.

S6273 I requested the time to come before the Committee today to state my major objections to H.R. 2 from the prospective of a young man interested in the future development of the central Appalachian mountain region. I am interested in the future job opportunities for thousands of young people in Appalachia. Furthermore, I am interested in a sound and solid economy in the Appalachian region. The future of the coal industry is the key to the job opportunities and the economy. Coal is

the root of our economy in southwestern Virginia. I hope that this Committee will give serious consideration to the amendments being suggested by interested people from Virginia today.

S6273 In the present form, H.R. 2 requires that the land be returned to the "Approximate original contour" of the land after surface mining by backfilling, compacting and grading of the land with all highwalls, spoil piles and depressions eliminated.

S6273 It is my most honest opinion that this section of H.R. 2 may be completely unnecessary for putting mined land back in a responsible condition after surface mining. Currently many areas are being developed with residential housing projects, mobile home parks, hospitals, cattle grazing lands and many, many other commercial and industrial use after surface mining. In many cases the land is more valuable for development after surface mining than before the mining.

S6273 Furthermore, to return the land to the "approximate original contour" after surface mining in southwestern Virginia would be very costly, Hundreds of small coal companies could simply not afford the new equipment and labor costs to return the land to the "approximate original contour". And if the small coal companies put the land back to the "approximate original contour" the cost of doing so would be so great that the coal could not be mined profitably thus forcing the company to fold.

S6273 The "approximate original contour" section of H.R. 2 should be amended by this Committee to recognize that post-mining use of the land may not be best served by rigid requirements for restoration of the "approximate original contour."

S6273 UNITED MINE WORKERS OF AMERICA, Washington, D.C. February 11, 1977

S6273 THE PRESIDENT, The White House, Washington, D.C.

S6273 DEAR PRESIDENT CARTER: Certainly one of the most troublesome problems facing our country today is that of our diminishing energy supply. As elected executive board members of the union which produces the bulk of our nation's coal supply, we watched and listened very closely to your campaign pledges related to the increased reliance on coal as a solution to our energy crisis. We were sufficiently impressed, and as you will recall, our union enthusiastically endorsed your candidacy.

{6274} With these events behind us, we are now entering into a different period. It is our sincere

hope that in the months to come our organization can develop a smooth working relationship with your administration on matters concerning the welfare of the citizens of this country in general and those of coal miners in particular.

6274 One item which is quickly becoming a significant issue to many Americans is strip mining legislation which has already been introduced in both the Senate and the House of Representatives. Inasmuch as it is somewhat of an emotional issue, pitting environmentalists concerned with the aesthetics of landscape in areas which coal is mined versus those who fear that enactment of such legislation will bring about a curtailment of much needed coal production, we fully understand that it presents your administration with a difficult problem.

6274 As far as the United Mine Workers of America is concerned, however, we feel we can safely advise you that we are generally against such legislation. While there has been considerable confusion on this issue in the past, our most recent Constitutional Convention held in Cincinnati, Ohio in September, 1976, at which we had the pleasure of hearing from then Vice President elect Mondale, went overwhelmingly on record in opposition to strip mine legislation. In spite of the clear intent of the delegates at the Convention, we are aware that other elected officials are undermining this mandate. These individuals represent a small minority opinion within our union and are technically in violation of our union's Constitution.

6274 So that this matter can be resolved to the satisfaction of all concerned, we would appreciate the opportunity to meet with you or one of your appropriate subordinates to thoroughly discuss the issue in question. Your prompt attention to this request would be deeply appreciated.

6274 With warm regards, we are

6274 Sincerely yours,

6274 Mike Trbovich, Vice President; Nick DeVince, Floyd Lamb, Robert Edney, Eugene Mitchell, Robert Long, Nick Halamandaris, Lonnie Brown, Franklin Clements, Donald Lawley, Lee Roy Patterson, Arvil Sykes, Francis Martin, J. B. Trout, Andrew Morris, UMWA International Executive Board Members.

6274 STATEMENT OF DANIEL W. GREGORY, VICE PRESIDENT OF THE FIRST STATE BANK OF WISK

6274 Mr. Chairman, Members of the Committee: May I express my sincere appreciation for the opportunity to appear before you today.

6274 I am Daniel W. Gregory, Vice President of the First State Bank of Wise, located in the far Southwestern Virginia County and Town of Wise.

6274 I represent the Board of Directors and the Chief Executive officer of the First State Bank of Wise and the majority of the banking institutions in Lee and Wise Counties Virginia. Our position on S. 7 in its current form is supported by our larger banking correspondents in Virginia and our neighboring states, particularly those in a position to lose hundreds of thousands of dollars in outstanding loans as a result of the impending decline of our surface mining industry. In fact, I have not talked to a single financial institution or banking association representative that does not fear the adverse economic impact of S. 7.

6274 The economic health of the coal mining industry directly affects the economies of our Southwestern Virginia Counties. Any adversity falling upon that industry is felt sharply here, across Virginia and into neighboring states. When a legislative proposal as far reaching as S. 7 is presented, it is incumbent upon us as bankers to make an objective assessment of its probable economic impact upon our banks and the respective communities they serve. That assessment was made independently by our area banks utilizing their knowledge of the mining industry gained over, the past several years and their insight into communities they serve, giving due consideration to the requirements of S. 7. Their conclusions are outlined briefly below and very frankly, they are frightening.

6274 Approximately 95% of our recoverable surface coal reserves lie in areas having surface slope angles greater than 20 degrees. Thus the majority of our surface mine operators will be required to meet that part of S. 7 relating to steep-slope surface mining in addition to the other standards imposed. It is our opinion as area bankers that the costs of additional equipment to handle spoil placement, of providing for high-wall and bench covering and of securing the necessary engineering and geological services would be more than the smaller operators could bear. This is even more evident when the extensive data collection, surveying, bonding, public hearing delays and other permitting plans and requirements are considered. It must be remembered that our surface

mine operators are at this time only beginning to recover from a recessionary lack of market demand and extremely low prices during 1975 and 1976. This adverse market condition was immediately followed by sub-zero weather conditions in early 1977 that completely precluded production.

6274 We conservatively estimate that from 80 to 95% of the surface coal mines in Southwest Virginia will be forced to close if S. 7 becomes law in its present form. The majority of our surface mines are small operations producing on the average, 25-35 thousand tons per annum, employing an average of 5-7 production workers and 2-3 office workers per mine.

6274 If only 80% of our surface mines close, the minimum annual loss of high quality strip and auger coal from Southwestern Virginia would be over 9,800,000 tons. Valued at a conservative \$1 2.00 per ton the annual revenue lost to our area and to the Commonwealth of Virginia would be \$117,600,000.00.

6274 We expect over 2,000 surface mine production and clerical jobs to be lost and the resulting decline in annual payrolls to exceed \$3 ,,0000000.00. I wish to stress that neither the unemployment figure nor the payroll dollar loss includes another 5,000-6,000 persons in this area employed in providing goods and services directly to the mining industry.

6274 There is no doubt that the expected losses of revenue, jobs and payroll dollars, or even half those amounts would result in economic chaos in Southwest Virginia and its neighboring states. It would surely turn the clock back twenty-five years bringing us again to the brink of economic disaster experienced in the late 1940's and early 1950's. Please remember that the production and sale of coal was and still is the most important factor in the economic health of our area.

6274 Area banks and their correspondents have in good faith made substantial investments in the future of the surface mining industry. We have financed much of the equipment used for extraction, for transportation and for processing of coal. We have extended loans to individuals directly and indirectly employed by the surface mining industry those loans being for the most part to purchase homes, automobiles, furniture and other needs. We have participated out large commercial mining loans to our Virginia and Tennessee correspondent banks; still other large banks have purchased substantial amounts of mortgage paper from area banks and have otherwise assisted in serving the needs of our people.

6274 The expected closure of the majority of our surface mines after enactment of S. 7 will have a devastating impact upon our banking system. In addition to a heavy runoff of deposits from all sources it is expected that a substantial number of individuals and organizations will be unable to repay their borrowings after the effects of increased unemployment and area revenue are felt. If the results of the previous months establish any sort of guideline, the banks face a major catastrophe.

6274 Upon debtor default with no hope for future repayment, the lending banks will have no alternative to securing all supporting collateral and disposing of it at less than average market conditions. Substantial loan losses are inevitable under these circumstances.

6274 Of course, some banks will be unable to meet this sudden and unusual economic strain caused by S. 7, and will be forced to look to the Federal Deposit Insurance Corporation to absorb the excess losses. Those area banks that may remain would take many years to recover, if ever.

6274 In fact, our outside auditors have now requested a statement on the probable effects of S. 7 to go in our annual report to the stockholders.

6274 In addition to debtor default, we are concerned that S. 7 is unclear with respect to "unreclaimed" or "abandoned" surface mines. We understand the definition of "unreclaimed" or "abandoned" to include any mine that has not had a high-wall removed or has benches remaining. Our banks hold first mortgages on several such properties on which homes, business structures and other improvements have been located. Reclaiming of such properties by the regulatory authorities and the subsequent filing of liens for reclamation expenses would seriously and unjustly deteriorate the collateral position of our banks and of our correspondents purchasing our mortgage paper.

{6275} Federal Deposit Insurance Corporation examining personnel have stated that our largest probable loss would in fact be in residential properties.

6275 In the short time allotted I have presented a rather bleak economic picture for our area and State if S. 7 is implemented, but we truly believe it to be most accurate. We know that we do and must have environmental protection, but that must be balanced with economic protection as well. With the jobs and lives of thousands of Virginians at stake in this legislation, we implore you to

restudy this bill giving due consideration to the human rights of our people to be employed in an area of their choosing and to our economic health. We would seriously urge you to give consideration to amendments that would compensate our operators, our communities and our banks for losses suffered as a result of enactment of S. 7. Whatever amendments are needed to allow us to survive should be seriously considered.

6275 We are not the economic moguls or powerful and reactionary corporate interest as has been suggested. Rather we are simply common people trying to make a decent living for ourselves and our children, and to provide those children with a better standard of living than most of us had. Most of our operators are local people having their life savings tied up in their mines and equipment; if S. 7 is enacted it will all be lost.

6275 We have recently learned in a most dramatic way the adverse effect upon our communities of stopping the surface mining industry for one month. We simply cannot survive this on a permanent basis.

6275 Thank you for your time and should you have any questions I would be most happy to entertain them.

6275 HOUSE JOINT RESOLUTION NO. 270

6275 Memorializing Congress to allow regulation of surface mining of coal to remain in the hands of the States

6275 Whereas, coal is our nation's most abundant fossil fuel; and

6275 Whereas, our nation faces an energy crisis of potentially devastating proportions, with coal being the only reliable and proven energy source available to meet our needs for the foreseeable future, and

6275 Whereas, over one-half of our total coal production now comes from surface mines; and

6275 Whereas, recognizing the necessity to properly control mining and reclamation operations, Virginia and thirty-seven other states, including all major coal-producing states, now have surface mining laws; and

6275 Whereas, these laws are based on the desires and judgments of the citizens of the respective states, taking into account differences in climate, terrain, coal quality and quantity, transportation

facilities, and other unique considerations; and

6275 Whereas, there is overwhelming evidence that House Resolution 2 and similar bills before the Congress would result in reduced coal production, greater dependence upon foreign oil, increased unemployment in the coal-producing counties of Virginia and other states, and unnecessary economic disruptions throughout our nation; and

6275 Whereas, the United Mine Workers of America voted overwhelmingly on September twenty-nine, nineteen hundred seventysix, at their Cinn Cincinnati, Ohio, convention to withdraw their previous support of federal coal and surface mining legislation; now therefore, be it

6275 Resolved, by the House of Delegates, the Senate concurring, That regulation of coal surface mining and reclamation should remain the exclusive responsibility of the several states, and that Congress should refrain from forcing federal intrusion into this area which is, and ought to remain, a matter properly under the control of those citizens directly affected; and, be it

6275 Resolved further, That the Clerk of the House of Delegates is hereby instructed to send copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of the Interior, and the members of the Virginia delegation to the United States Congress as an expression of the sense of this body.

6275 STATE CORPORATION COMMISSION.

6275 Richmond, Virginia, March 10, 1977.

6275 Hon. HARRY F. BYRD, JR., U.S. Senate, Washington, D.C.

6275 DEAR SENATOR BYRD: The Virginia State Corporation Commission is greatly concerned about the provisions contained in H.R. 2 and S. 7. After careful review of these legislative proposals, we have determined that the goal of reclamation of land disturbed by surface mining is good but the approach taken by these bills is extreme and will severely curtail the supply of coal.

6275 Virginia has an excellent land reclamation law drawn to address the particular soil composition, topography, climate and vegetation conditions in our State. The continued strengthening of these laws as needed is much more effective and responsible than complex Federal

legislation drawn to meet the conditions in all coal producing areas throughout the nation. It is our understanding that nearly forty states already have strong land reclamation statutes that are rigidly enforced and drafted to meet the needs of their states.

6275 The State Corporation Commission is committed to the ultimate goal of energy independence for our nation. Remote as this goal may be, striving toward anything short of it is contrary to the best interest of the future of the United States. Energy independence can only be achieved through conservation of scarce energy resources and increased dependence on coal and nuclear energy. Every effort must be made to increase production of coal on a substantial scale by surface and underground methods. An estimated onethird of our proven coal reserves can be extracted only by surface mining. At the present time surface mining produces 55 percent of the nation's coal, and 65 percent of the electric utilities' coal supply comes from surface mines.

6275 The State Corporation Commission is responsible for the regulation of financial institutions and utilities. We are convinced that the enactment of H.R. 2 or S. 7 will have a drastic adverse economic impact on both of these entities and their customers.

6275 The vast majority of Virginia surface mining operations are small businesses which are just now recovering from the coal industry's economic disaster of the late 1940's and early 1950's. The coal industry is the backbone of Southwest Virginia's economy, and financial institutions in that area have made substantial investments through financing the needs of surface mining operations. Also, loans have been extended to individuals who are dependent on the soundness of the coal industry. If a fraction of the surface mining operators who say they will have to go out of business because of the enactment of H.R. 2 or S. 7, do in fact go out of business, the banking system in Southwest Virginia and their correspondents may face a major catastrophe of a heavy run-off of deposits and debtor default.

6275 Electric utilities will face major expense if H.R. 2 or S. 7, as presently drafted, become law. This legislation will require an increase in usage of coal from the Midwestern United States and the decrease in the usage of coal from the Eastern United States which would result in significantly higher transportation costs, use of fuel with a higher sulfur content and use of fuel with a lower BTU capability. In other words, utilities will have to use coal which would be more expensive, harmful to

the environment and less efficient. Of course, all of this directly relates to Virginia ratepayers who are already paying rates that are much higher than we would like for them to be.

6275 We respectfully urge you to oppose H.R. 2 and S. 7 because they are an encroachment into an area that is being handled well by state governments and it could adversely affect the lives of every Virginian.

6275 Sincerely,

6275 PERSTON C. SHANNON, Chairman.