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Congressional Record S. 977 - Montana and the Nation's Energy Crisis

Mike Mansfield 1903-2001

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Statement of Senator Mike Mansfield (D-Mont.)

Montana and the Nation's Energy Crisis

Mr. President, The Nation's so-called "Energy Crisis" has focused attention on the utilization and development of the vast coal deposits in the Upper Missouri Region through strip mining. It is quite apparent that the uncontrolled strip mining of these coal deposits is going to proceed unless some action is taken now by all parties concerned.

These fears have been substantiated by reports linked to energy policy sources within the Administration. A news story in the January 12, 1973 issue of the Washington Evening Star reports that the Administration will call for the conversion of a large segment of the Nation's electric power producing plants from oil-fired to coal generating units. Apparently the Administration feels that the Nation must now rely on the estimated 400 years of known coal reserves as the "only feasible" alternative to oil in the future. These are reserves found in Montana and its neighboring states. I am not convinced that the Nation's Energy Crisis is truly what the phrase indicates. There may be exceptions. I see no reason to panic. An adequate supply of energy for the future is dependent on a coordinated, well planned effort, utilizing all possible sources through environmentally
sound processes in cooperation with Federal, State and private interests. Information available indicates that the current situation might be due in part to mismanagement of our oil supplies and overuse of gasoline and too scant attention being given to the conservation of energy. Need I remind my colleagues that it was a similar situation which developed at the beginning of World War II and we now have Appalachia as an example of what can happen without proper planning and thought.

My most immediate interest of course, is the State of Montana. The situation as it now stands disturbs me greatly. There is far too little information as to what the future will bring. A large utility in Montana in cooperation with outside interests is now in the process of constructing a coal gasification plant in Eastern Montana. There are indications that this is only the first of many to be constructed in the Dakota-Montana-Wyoming area. Large coal companies are beginning to develop deposits by strip mining and plan to ship vast amounts of coal to metropolitan areas in the East. Others are pressing for more lease sales on Federal lands.

Paraphrasing two editorials which appeared in the Billings Gazette, a Montana daily newspaper, the purpose of these developments is not to supply the power needs of Montanans. It is to exploit Montana while supply a stopgap solution to out-of-state concerns. As the Gazette states so strongly, Montana belongs to Montanans--not to the stockholders of large utilities or coal companies.
As a Senator from the State of Montana, I do not want to see the eastern portion of the State permanently scarred and destroyed; nor do I want to see consumers in my State saddled with higher utility bills to finance the corporation's expanded activity. As the situation now stands the only people who will benefit will be the out-of-state interests and I think it is time that we Montanans stand up for Montana. The trend of present thinking in this area is all too controlled by the profit-motive.

Mr. President, Appalachia is a much overused term associated with unregulated development of natural resources. Our friends in West Virginia and the surrounding area have suffered tremendously and they are now only beginning to recover. If the voice of experience is of any value, we Montanans have been placed on notice for some time.

I do not pretend to be an expert in mining reclamation or utilities, but I have several thoughts and recommendations which I hope might be useful in reviewing the present situation.

First of all, I believe that we should not panic. There is plenty of time. My most immediate reaction to the current debate over coal development is to support a complete moratorium on all coal development until such time as we can come up with a more reasonable and orderly plan.

What effect will the coal gasification plants have on the water supply in Montana? The North-Central Power Study prepared by the Bureau of Reclamation in cooperation
with interested utilities and coal companies suggests that over a 25 year period there will be a sufficient number of coal gasification plants in this area to generate some 50,000 megawatts of electrical power. Should a development of this magnitude ever materialize the water flow diversion would cause an 81 percent reduction in the annual flow of the Yellowstone River. Water use of this magnitude in a semi-arid region receiving only 14 inches of annual rainfall will have a tremendous environmental impact. Extreme reduction in river flows and the transfer of water from agricultural to industrial use will drastically alter existing agricultural patterns and rural lifestyles. Water is the most closely guarded treasure we have in our State.

I think the individual landowner is being treated shabbily. Existing law gives the final authority to the holder of the subsurface mineral. During the days of shaft mining this was of little consequence, but strip mining can mean the destruction of a surface which may have provided a livelihood for generations, all to be taken without adequate consideration and compensation.

We must have land reclamation of strip-mined coal areas and consider effects of industrial processes on air and water. Another serious matter, often ignored, is the impact of a vastly expanded population on the human environment and inadequate spacing of industrial plants creates some of the most serious pollution problems.
Again, I wish to stress that I am not convinced that power shortages at the present time are sufficient to permit unregulated development of coal as a major power source. Too little attention is given to pre-planning for environmental protection and reclamation. I am greatly concerned about reports that the Administration will attempt a reduction in emission standards and encourage strip mining without reclamation requirements in an effort to meet the so-called shortage of accessible fuels. We all have a responsibility to prevent the disaster that I foresee—the United States Government, the individual states and the corporate interests.

In my State of Montana I am encouraged by the action being taken within the Montana Legislature. The membership of both the House of Representatives and the Senate indicate a sincere concern. Our new Governor, Tom Judge, has recommended a strong program of control over coal development.

Montana must do several things—first, repeal the Eminent Domain law which permits large corporations holding sub-surface rights to condemn surface ownership. Secondly, the State must regulate power plant placement and adopt a severance tax as a means of financing the necessary regulation and enforcement of reclamation laws.

The Federal Government, through its Congress, has taken significant steps in the field of coal mine reclamation. Strong legislation in this area must be given priority in
the new 93rd Congress. The moratorium on coal mining activity in Montana recommended by the Senate last October is not necessarily binding on the Federal agencies, but it does indicate strong sentiment and places the Federal authorities on notice until such time as the Congress acts. I want to see a strong reclamation bill passed which will provide for the restoration of all surface mine lands to a condition equal to or better than it was at the time the mining was started. In fact, there must be advanced commitments to pre-planned reclamation before any mining proceeds. This is not an unreasonable request. This should include the cooperation of scientific authorities who are prepared to offer plans that can be implemented in a manner appropriate to the area. We must have more than roadside reclamation. And there is a requirement for strong Federal enforcement.

In addition to a strong reclamation law, we should permit an outright ban on strip mining in areas which are considered to be fragile and inappropriate for restoration and reclamation. We have such an area in Montana—the Bull Mountains.

Reclamation requirements should apply to all Federal lands and any private development where the coal resource is shipped into interstate commerce. We want a strong uniform policy. Several bills have been introduced and more will be presented on the broad issue and the specifics. Under the leadership of the able Chairman
of the Senate Interior Committee, Senator Henry Jackson and knowledgable colleagues such as Senators Frank Moss and Lee Metcalf, I am confident that we can give this matter the serious attention it deserves. I think that the Energy Study now underway within the Interior Committee will give us the perspective on the energy crisis that is necessary.

Coal is not necessarily the only source of power available to our Nation at this time. Recognizing that atomic power generation has been somewhat less successful than anticipated, why hasn't the Federal government constructed the large inter-tie system of Federal and private generating systems along with the installation of additional generating capacity at several of our large Federal projects. This would provide for a more economic use of existing resources.

Why doesn't the Federal government and private utilities expand research on improved processes of power generation such as magneto-hydrodynamics. The MHD process for generating electricity from coal provides for better utilization of coal, with a limited need for water and reduced air pollution. Unfortunately, a larger portion of the corporate budget is expended to promote increased electric consumption rather than research. It is my hope that the Congress will pursue these matters with vigor.
Lastly, I feel that the private sector—namely the utilities and the coal companies—are approaching this situation with little compassion and regard for the future of this part of our Nation. There must be a full and free discussion of plans for the future. There is a lot of talk about reclamation but little demonstration of their intent. Just exactly what do these grand plans for on-site power generators mean? How many plants will there be in the transmission system to large urban centers throughout the nation? If the project is as large as some predict, reclamation laws will be of little value, the emission of nitrogen oxide and other particulates in the area will make it impossible for anything green to grow. Despite existing pollution control and emission standards, conditions would be far worse than anything experienced in New York City or Los Angeles. The public good and the future well-being of the West must be given prominent consideration in the planning efforts of the utilities.

Montana is one of fifty states. It is deserving of as much attention as any other. The people of the Big Sky Country are willing to do their share. I believe that the consumers of Chicago, Cleveland, New York and other large metropolitan areas are perfectly willing to give consideration to the people of a state which is making it possible for them to have an adequate electric power supply.

If we cannot have orderly and reasonable development of the vast coal resources in Montana and the West, then
there should be no strip mining of coal. I shall not
retreat from this position, insofar as Montana is
concerned.

Mr. President, I ask unanimous consent to have an
editorial from the January 14, 1973 issue of The Washington Post
printed at the conclusion of my remarks in the Congressional
Record. Also, I ask unanimous consent to have a series
of letters from my files on the issue of coal development
printed at this point in the record.
MONTANA AND THE NATION'S ENERGY CRISIS

Mr. MANSFIELD. Mr. President, the Nation's so-called energy crisis has focused attention on the utilization and development of the vast coal deposits in the upper Missouri region through strip mining. It is quite apparent that the uncontrolled strip mining of these coal deposits is going to proceed unless some action is taken now by all parties concerned.

These fears have been substantiated by reports linked to energy policy sources within the administration. A newstory in the January 12, 1973, issue of the Washington Evening Star reports that the administration will call for the conversion of a large segment of the Nation's electric power-producing plants from oil-fired to coal-generating units. Apparently the administration feels that the Nation must now rely on the estimated 400 years of known coal reserves as the "only feasible" alternative to oil in the future. These are reserves found in Montana and its neighboring States. I am not convinced that the Nation's energy crisis is truly what the phrase indicates. There may be exceptions. I see no reason to panic. An adequate supply of energy for the future is dependent on a coordinated, well-planned effort, utilizing all possible sources through environmentally sound processes in cooperation with Federal, State, and private interests. Information available indicates that the current situation might be due in part to mismanagement of our oil supplies and overuse of gasoline and too scant attention being given to the conservation of energy. Need I remind my colleagues that it was a similar situation which developed at the beginning of World War II and we now have Appalachia as an example of what can happen without proper planning and thought.

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If we cannot have orderly and reasonable development of the vast coal resources in Montana and the West, then there should be no strip mining of coal. I shall not retreat from this position, insofar as Montana is concerned.

Mr. President, I ask unanimous consent that an editorial from the January 14, 1973, Washington Post and a series of letters from my files on the issue of coal development printed in the Record, as follows:

**The Artificial Shortage of Fuel Oil**

Schools, factories and churches now stand cold and empty throughout the Middle West, for want of fuel to heat them. It would be excessively charitable to attribute this breakdown of the fuel distribution system to cold weather, or to a shortage of oil. Cold snaps are an accustomed part of winter life in the Midwest and, as for fuel, there is no shortage of the oil supply available to this country and its consumers. The real and critical shortages are the shortage of rational public policy, the shortage of foresight in the federal government, and the manifest shortage of common sense.

The distribution breakdown has two essential causes. To please consumers, the government keeps the interstate prices of natural gas so low that producers are increasingly keeping it out of interstate commerce. To please the oil companies, the government severely limits imports and keeps the price high. Grain is rotting in Iowa for want of natural gas to run the dryers, but there is plenty of gas available in Oklahoma. American oil refiners are currently running substantially below capacity for want of crude oil in this country, but there is plenty of crude oil for sale throughout the world and most of it is cheaper than our domestic production.

Our national stocks of heating oil began to drop significantly last March. The White House and its Office of Emergency Planning knew it. They did nothing about it. Meanwhile the consumption of fuel oil was rising at an accelerating rate. The same officials were aware of this rise. By mid-autumn, when stocks are at their annual peak, the nation had 13 per cent less fuel oil on hand than a year earlier. At the same time consumption by coincidence, was running 13 per cent higher than a year earlier.

Patterns of fuel usage are changing rapidly, and the federal government has been unable to change its regulatory policies fast enough to prevent serious breakdowns in supply. Electric utilities, for example, have been unable to develop nuclear power as soon as they had hoped, and environmental standards have limited their use of coal. As a result the utilities are increasingly using light oil to generate electricity and contributing heavily to the new demand. Local shortages tend to chase each other around through the economy. In the areas that are short on natural gas, some industries have begun to switch over to oil and help to drain distributors' tanks.

The present level of demand was predictable. But even now, with the unfilled demand for fuel oil all too evident, American refineries are still operating about 10 per cent below capacity. Our domestic wells cannot supply them with enough crude oil. Foreign oil is the obvious answer, but the United States stringently limits the importation of foreign oil through a system of rigorous quotas. Abolishing the import quotas is not the whole solution to our future energy require-
ment, obviously. But of all the steps that the White House could take quickly, ending the quota system would be the most effective.

Instead, the White House took the curious step last Monday of hugely increasing the quota of refined fuel oil that can enter the continental United States from the Virgin Islands. There is only one refinery in the Virgin Islands, and it is owned by the Hess Company. This example of gross favoritism, in a matter of great national concern, will hardly strengthen public confidence in the administration’s ability to develop a rational and disinterested energy policy. The proper course, in contrast, would have been to expand imports of crude oil as well as refined fuel, without any limitation of source.

For the past 17 months the price of fuel oil has been held constant by the controls. With the removal of the controls, there are now two possibilities. Either the federal authorities will increase supplies through imports, or the price will go up. A sharp rise in fuel oil prices would be a substantial addition to the inflation that, the administration hopes, is diminishing.

Even if import quotas were lifted tomorrow, the distress in the Midwest would continue for some time. Cold weather and logistical bottlenecks would make it difficult to move supplies quickly to the parts of the country that need them most. Because the White House was inattentive to its responsibilities over the past spring, summer and fall, citizens throughout a wide part of this country are suffering severe disruption in their businesses and discomfort in their private lives this winter. If the White House does not move quickly to expand oil imports, this distress can only spread.

October 20, 1972.

Mr. John J. McGuire,
Chief, U.S. Forest Service, Department of Agriculture, Washington, D.C.

Dear Mr. McGuire: On October 12th, 1972, the Senate considered and agreed to the provisions of Senate Resolution No. 377, indicating the sense of the Senate that an immediate temporary moratorium on Federal coal leasing be enacted within the confines of the State of Montana, for other purposes.

As a Senator from Montana and as Majority Leader, I wish to take this means of impressing upon you, my firm resolve and that of my colleague, Senator Metcalf, that the executive branch move expeditiously to comply with the intent of Senate Resolution No. 377. It is our intention to closely monitor mineral activities in Montana, to assure that uncontrolled destruction of Montana’s land does not take place.

Your close personal attention to this matter would be appreciated.

With best personal wishes, I am,

Sincerely yours,

Mike Mansfield.

U.S. DEPARTMENT OF AGRICULTURE,

Hon. Mike Mansfield,
U.S. Senate,

Dear Senator Mansfield: This is in reply to your letter of October 20 concerning an immediate temporary moratorium on Federal coal leasing in Montana as provided in Senate Resolution No. 377.

At present there is only one coal lease in existence on National Forest System lands in Montana. It lies within the Beaverhead National Forest. The Custer National Forest has a pending application for a coal prospecting permit. For some time, our Northern Region has refused to act upon new coal prospecting permits and leases on the basis that there are already large areas of Montana subject to Federal, State, and private coal leases. Further, they feel that a prerequisite to further leasing should be a plan for coordinated development consistent with adequate environmental protection and the public interest. The above are primarily public domain lands reserved for National Forests. In these areas, the Secretary of the Interior has the final authority to determine whether coal leasing shall be allowed. We are informed that the Bureau of Land Management’s State Director for Montana recently rejected 119 applications for coal prospecting permits in Montana and North Dakota. The basis for the rejections was that there were large areas already under lease, but not in production, and therefore no compelling need exists for further prospecting.

We view Senate Resolution No. 377 as supportive of the determination of the Regional Forester and the Montana State Director not to permit damage to Federal lands in Montana by uncontrolled surface mining for coal.

Sincerely,

John R. McGuire, Chief.

October 20, 1972.

Mr. Burton W. Silcock,
Director, Bureau of Land Management, Department of the Interior, Washington, D.C.

Dear Mr. Silcock: On October 12th, 1972, the Senate considered and agreed to the provisions of Senate Resolution #377, indicating the sense of the Senate that an immediate temporary moratorium on Federal coal leasing be enacted within the confines of the State of Montana, and for other purposes.

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Your personal attention to this matter would be appreciated.

With best personal wishes, I am

Sincerely yours,

MIKE MANSFIELD.

U.S. DEPARTMENT OF THE INTERIOR,

Hon. Mike Mansfield,
U.S. Senate, Washington, D.C.

Dear Senator Mansfield: In reply to your letter of October 20, 1972, we wish to assure you that the Bureau of Land Management will exercise its full authority and expertise to prevent any uncontrolled destruction of land in Montana, or elsewhere. The BLM long ago adopted the goal of striving for a blending of resource uses which provide the maximum benefit to the public. To this end also, the Department of the Interior has initiated the Northern Great Plains Resource Program. This undertaking will marshal the expertise of many Federal agencies, as well as five states, in an effort to assure intelligent management of the valuable resources in this area, with full regard to all environmental and social factors.

The BLM has issued almost no coal leases or permits on public or acquired lands in the last 22 months, and we will continue to proceed cautiously. However, the BLM cannot support any resolution aimed at arbitrarily withdrawing any Federal lands from coal mining. Such a withdrawal would prevent leasing in areas where coal is needed for existing production, thereby forcing a shutdown of operating mines or shifting operations to lands not subject to Federal regulations. In addition, much of this low-sulfur coal is presently consumed in electric-utility markets. We do not wish to jeopardize this supply.

The BLM will continue to issue coal leases where (1) no serious adverse environmental impacts will occur, and where either (2) the coal is needed to maintain an existing mining operation, or (3) the coal is needed as a reserve for production in the short term.

Senate Resolution 377 seems to be based upon the premise that existing surface protection regulations and lease stipulations are not adequate to insure proper reclamation after mining. We feel that existing regulations found at 43 CFR 23, 25 CFR 177, 30 CFR 211.19, and terms within the lease itself, provide the necessary tools for assuring proper reclamation and protection of the other natural resources on Federal lands.

Also, the Bureau of Land Management programs strive for compliance with the spirit as well as the letter of the National Environmental Policy Act of 1969. We have developed extensive procedures for analyzing the environmental impacts of BLM actions and are in the process of preparing programmatic environmental impact statements under the terms of the National Environmental Policy Act.

We are convinced that what we need most in today's quest to improve our quality of life is a commitment to cooperate in reaching our common goals. Only with such a commitment can we hope to develop the climate in which conflicting views can be reconciled, and to identify the common ground on which issues can be resolved.

Sincerely yours,

Burt Silcock, Director.

October 20, 1972.

Hon. Rogers C. B. Morton,
Secretary, Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: On October 12th, 1972, the Senate considered and agreed to the provisions of Senate Resolution No. 377, indicating the sense of the Senate that an immediate temporary moratorium on Federal coal leasing be enacted within the confines of the State of Montana, and for other purposes.

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Your close personal attention to this matter would be appreciated.

With best personal wishes, I am

Sincerely yours,

MIKE MANSFIELD.

U.S. DEPARTMENT OF THE INTERIOR,

Hon. Mike Mansfield,
U.S. Senate, Washington, D.C.

Dear Senator Mansfield: Thank you for your letter of October 20, 1972, relative to Senate Resolution 377.

This Department is committed to managing the public land resource in the public interest. This objective prompted the Department to initiate the Northern Great Plains Resource study. This undertaking will marshal the expertise of appropriate Federal agencies, as well as the five states involved, and will establish proper information exchange with the industrial, academic and public sectors to insure that all pertinent factors are taken into account. We are confident that the effort will produce a base of information suitable for use by decision-makers who must manage the region.

Although the Department has issued no coal leases or permits on the public and acquired lands during the last year and a half, it would be unwise to declare a moratorium on all leasing when there is continuing need for coal, and such a constraint would simply shift operation to private lands which are not subject to Federal regulations. This is a particularly pertinent consideration because of the increasing importance of low-sulfur coal in supplying clean energy. In
my view, a better alternative is to proceed cautiously on a case-by-case basis, and this is the course we are presently following. Senate Resolution 377, referred to in your letter, apparently is based on the premise that existing regulations for mined land reclamation are inadequate to insure acceptable environmental protection. I believe that the regulations incorporated in 43 CFR 23, 25 CFR 177 and 30 CFR 211.19, when extended by the kinds of stipulations we are now including in our lease terms, provide the necessary tools for doing a proper job on the Federal and Indian lands. These, plus the extensive procedures the Department has developed for analyzing environmental impacts and insuring compliance with the spirit as well as the letter of the National Environmental Policy Act of 1969, should guarantee environmentally acceptable minines, where mining is required to meet real energy needs.

I am convinced that what we need most in today's quest for high quality of living is a commitment by all to cooperate in reaching that goal. Only with such a commitment can we hope to develop a climate in which conflicting views can be reconciled and proper trade-offs made. You can be assured that we will continue developing the information necessary for proper management of the Northern Great Plains.

Yours sincerely,

ROG MORTON,
Secretary of the Interior.

MAY 19, 1972.

To: Mining Supervisors, Branch of Mining Operations. Through: Chief, Branch of Mining Operations.

From: Chief, Conservation Division.

Subject: Guidelines for reclamation requirements under Section 5 of Federal Coal Leases.

You are all aware of the recent study made of our operations by the General Accounting Office at the request of Senator Metcalf. The study found that our supervision and enforcement of Section 5 of the standard coal lease form was lax in some respects.

One recommendation in the report was that we should issue procedural guidelines for the Mining Supervisors to follow in enforcing the reclamation and environmental requirements of this section of the lease terms.

Even though this subject has been discussed regularly in our periodic supervisor conferences and with most of you individually on numerous occasions over past years, no formal guidelines, as such, have ever been issued. Heretofore, we have considered each case on its own merits and have relied on your individual judgments, due to local and regional topographic, climatic and vegetation differences. Much of the reclamation work done was on a voluntary basis by the lessees, or, in some cases, in compliance with requirements of a State. A much smaller amount was carried out at the insistence of the Supervisors in discharging their responsibilities.

Most coal leases now in force contain restoration and surface protection clauses similar to Section 5 which essentially reads as follows:

"Protection of the surface, natural resources and improvements. The lessee agrees to take such reasonable steps as may be needed to prevent and stop any unnecessarily: (1) causing or contributing to soil erosion or damaging any forage and timber growth thereon; (2) polluting the waters of springs, streams, wells, or reservoirs; (3) damaging crops, including forage, timber, or improvements of a surface owner; or (4) damaging range improvements whether owned by the United States or by its grazing permittees or lessees; and upon any partial or total relinquishment or the cancellation or expiration of this lease, or at any other time prior thereto when required by the lessor and to the extent deemed necessary by the lessor, to fill any sump holes, ditches and other excavations, remove or cover all debris, and, so far as reasonably possible, restore the surface of the leased land to its former condition, including the removal of structures as and if required. The lessor may prescribe the steps to be taken and restoration to be made with respect to lands of the United States and improvements thereon."

The language of Section 5 clearly gives us the authority to require lessees to reclaim or restore land disturbed by either strip or underground mining operations to its former condition, so far as reasonably possible. This includes contouring spoil and waste piles, revegetating the land, sloping the highwall; cleaning up debris, removing surface structures, properly sealing portals, preventing water pollution, and protecting other natural resources. In short, we feel that Section 5 covers all contingencies that may arise in this area of our responsibility, which in some instances you have been complying with by demanding restoration plans from lessees.

Although 43 CFR 23, issued January 18, 1969, is not applicable to some of our coal leases, to underground mines, or to surface mining where the surface is not owned by the U.S. Government, we have sufficient authority under Section 5 of the lease terms to require all lessees who are operating, or planning to operate, to submit surface protection plans similar to those required by these surface mining regulations. The plans should be in a narrative form supplemented by adequate maps and should cover at least the following points:

1. Topographical maps showing roads, the areas to be mined, mine projections, waste disposal areas, and spoil piles.
2. Steps to be taken to prevent water and air pollution, to prevent land erosion, and to protect other natural resources.
3. How the lands will be reclaimed, including grading, contouring, and revegetation of spoil piles and highwalls to prevent public hazards, and for aesthetic purposes.
4. Type of revegetation proposed, and how it will be protected until it can become well
5. How the property will be abandoned, including the sealing of portals, removing surface structures and cleaning up the area. Land and spoil dumps will be reclaimed to prevent potential public hazards and degradation of the lands and waters.

Before approving a reclamation plan under Section 5, you should consult with the land management agencies involved (i.e. BLM, Forest Service, DIA or Tribal Officials) on the adequacy of the surface protection proposals. You should also consult with State agencies where necessary.

Among other things, each of you should instruct coal lessees of their obligations under both Section 5 of the coal lease as well as other appropriate regulations. You should also advise lessees of the type and scope of the plan which must be submitted and approved, prior to commencing any earth disturbing operations. It should also be stressed that reclamation work must be performed as concurrently as possible with mining operations. Furthermore, where an approved reclamation plan is plainly out of date, you should require such a plan to be updated according to the guidelines and suggestions mentioned in this memorandum.

Before the abandonment of leases is approved, onsite inspections must be made to determine whether the land is in a suitable condition for abandonment in accordance with the lease terms and regulations. Where operations have been temporarily suspended, portals should be closed by gates or other suitable barricades to prevent entry into underground mines. From time to time, onsite inspections should be made by Survey engineers as well as the lessees, to determine that no pollution, erosion, fires, or other hazards have developed on the property while operations are temporarily suspended.

As to abandonment of portals, the enclosed drawings developed by Moffitt should be used as a guideline.

RUSSELL G. WAYLAND,

Hon. ROGERS C. B. MORTON,
Secretary Department of the Interior, Washington, D.C.

Dear Mr. Secretary: In testimony before the Senate Interior Committee in May of 1972, the Assistant Secretary for Public Land Management stated that the position of the Department of the Interior at that time was to proceed cautiously on the issuance of further coal leases and permits pending an analysis of quantity and quality of coal already under lease and the demand and need for additional coal. In June 1972, as a hearing on Federal Leasing policies, the same Assistant Secretary stated that no exploration permits for coal had been approved and no coal sales had been held for 18 months.

In view of these statements and the present posture of the Department indicated by your letter of 16 November 1972 to the undersigned to proceed with leasing and in order for us to make an analysis of the situation, you are requested to provide us with a list of the outstanding coal leases and permits in the area of the land covered by the Northern Great Plains resource study, showing name of the lessee or permittee and the number of acres chargeable to such lessee or permittee, including acreage under option in each state.

Information is also requested as to the number of pending applications for coal prospecting permits and/or leases in the area of land covered by the Northern Great Plains resource study, including the name of the applicant and the number of acres of land covered by the application.

Very truly yours,

MIKE MANSFIELD,
U.S. Senate.

LEE METCALF,
U.S. Senate.

U.S. DEPARTMENT OF THE INTERIOR,

Hon. MIKE MANSFIELD,
U.S. Senate, Washington, D.C.

DEAR SENATOR MANSFIELD: Your letter of December 4, jointly signed by Senators Metcalf and Moss, suggests the need for a full, frank discussion of issues and actions related to development of coal in the Northern Great Plains. I have asked John W. Larson, Assistant Secretary for Program Policy, to arrange for such a meeting with your staffs.

I know this matter is of great importance to you. I will be glad to discuss it in more detail at your convenience and to offer whatever assistance we can in developing the kind of legislation required for better mining in the future.

Yours sincerely,

ROG.

Secretary of the Interior.


Hon. THOMAS JUDGE,

DEAR GOVERNOR JUDGE: The decision handed down in the U.S. District Court of Montana that the Burlington Northern Sarpy Creek line was a spur or branch and therefore classified as industrial has revealed that there is a hiatus in jurisdiction that creates a difficult and serious situation in need of immediate action on the part of both State and Federal legislative bodies. It is apparent there are not sufficient laws or regulations and enforcement to prohibit unnecessary or unwanted development of coal deposits and related support facilities in Eastern Montana, and give either State or Federal agencies adequate regulatory jurisdiction.

The Montana court determined that Interstate Commerce Commission did not have jurisdiction. We believe that clarification of the definition of an industrial line which
of a Resource Indemnity Fund to ensure something remains in the state after the non-renewable resources are shipped out.

In addition, I am fully aware of the problems associated with the broadness of Montana's eminent domain statutes and the federal laws relating to the leasing of subsurface mining rights.

Both need modification if we are to ensure some protection for the holders of surface rights, even though the exact nature of the modification raises complex questions.

It was with this in mind that I, some time ago, asked my staff to study Montana's eminent domain provisions and develop alternatives. We hope to have this task accomplished in the near future.

I am, of course, pleased to see action along the same lines being taken at the federal level.

However, I should point out that even with the above changes, the burden of protecting Montana from development, which may be deleterious to our way of life, cannot be borne by Montanans alone. We need resources to enforce whatever laws may be passed to accomplish the research essential to provide guidelines for wise resource decisions. With regard to the latter, Former Governor Anderson has repeatedly asked the Nixon Administration for funds to begin this research. As of yet, nothing of substance has been forthcoming, although the need to get moving becomes more critical each day.

The Northern Great Plains Resource Program has been announced, but apparently no additional funds will be available for new research.

The State Coal Task Force has already developed some research programs with the needs of Montana in mind. In the near future grant applications to fund these programs will be submitted to the appropriate federal agencies. Anything you can do to secure approval for the needed funds will certainly be appreciated.

The problems before us are, I believe, large enough that a concerted effort by government at all levels will be necessary if we are to prevent the "bleak future" you spoke of. You have my assurance that my administration is prepared to make that effort by continuing the leadership role I believe has already been initiated.

Sincerely,

THOMAS L. JUDGE, Governor.