

**Calendar No. 939**106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1950****[Report No. 106-490]**

To amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coalbed methane, natural gas, and oil in the Powder River Basin, Wyoming and Montana, and for other purposes.

---

**IN THE SENATE OF THE UNITED STATES**

NOVEMBER 17, 1999

Mr. ENZI (for himself and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 5 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. MURKOWSKI, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

**A BILL**

To amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coalbed methane, natural gas, and oil in the Powder River Basin, Wyoming and Montana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Powder River Basin  
3 Resource Development Act of 1999”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) **FINDINGS.**—The Congress finds that—

6 (1) The Powder River Basin in Wyoming and  
7 Montana is one of the world’s richest energy re-  
8 source regions, possessing the largest reserves of  
9 coal in the United States and significant deposits of  
10 oil and natural gas, including coalbed methane.

11 (2) The coal is predominantly federally-owned—  
12 either as part of the public lands or reserved from  
13 public lands that were sold under homestead laws  
14 enacted in 1909, 1910, and 1916—and is leased to  
15 coal producers by the Bureau of Land Management,  
16 Department of the Interior, under the Mineral Leas-  
17 ing Act.

18 (3) The gas and oil are owned by the Federal  
19 Government, the States, and private parties.

20 (4) The federally-owned gas and oil, like the  
21 coal, are part of the public lands and leased to oil  
22 and gas lessees by the Bureau of Land Management  
23 under the Mineral Leasing Act.

24 (5) The privately-owned gas and oil were con-  
25 veyed with the public lands purchased under the  
26 three homestead laws and may have been sold or

1 leased to oil and gas producers by the successors to  
2 those original purchasers.

3 (6) Development of these valuable energy re-  
4 sources is of critical importance to the American  
5 public.

6 (7) These energy resources provide fuel to heat  
7 and light our homes and power our industries.

8 (8) Extraction of these energy resources pro-  
9 vides royalties, taxes, and wages that contribute to  
10 national, State, and local treasuries and economies.

11 (9) Development of both the coal and the gas  
12 and oil is occurring in the Powder River Basin.  
13 These resources are frequently extracted sequen-  
14 tially, but for safety and operational reasons typi-  
15 cally cannot be extracted simultaneously, in the  
16 same location. Even if concurrent development may  
17 be possible, disputes often occur.

18 (10) In many locations both the coal and the  
19 gas and oil have been leased or sold to different par-  
20 ties, and disputes have arisen among those parties  
21 concerning plans for, and the course of, development  
22 of those resources.

23 (11) The development of any one of those re-  
24 sources can result in loss of another, either by mak-  
25 ing recovery impossible in the case of coalbed meth-

1       ane or uneconomic in the case of deep natural gas,  
2       oil, or coal.

3           (12) The nature, extent, and value of any loss  
4       or delay in development of the gas, oil, or coal re-  
5       source due to development of another of these re-  
6       sources should be ascertained and fair market value  
7       for the loss or delay provided either by agreement  
8       between the resources' producers or by an expedi-  
9       tious adjudication procedure.

10          (13) The Federal law under which most of the  
11       coal and much of the gas and oil in the Powder  
12       River Basin are made available for development  
13       should be amended to provide a procedure that will  
14       assure the orderly development of the Powder River  
15       Basin's energy resources and fair treatment to the  
16       resources' producers.

17       (b) PURPOSE.—The purpose of this Act is to amend  
18       the Mineral Leasing Act to provide a procedure to resolve  
19       disputes between producers of coal and producers of nat-  
20       ural gas and oil in the Powder River Basin regarding the  
21       sequence of development of those resources in the same  
22       location and to determine fair and just compensation owed  
23       for the postponement, or loss, of the opportunity to de-  
24       velop a resource resulting from implementation of the pro-  
25       cedure.

1 **SEC. 3. AMENDMENT TO THE MINERAL LEASING ACT.**

2 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is  
 3 amended by renumbering section 44 as section 45 and in-  
 4 serting the following new section:

5 **“SEC. 44. DEVELOPMENT OF COAL, NATURAL GAS, AND OIL**  
 6 **IN THE POWDER RIVER BASIN.**

7 **“(a) MULTIPLE USE.—**

8 **“(1) IN GENERAL.—**Insofar as it is operation-  
 9 ally and economically practicable, all operations for  
 10 the development of coal and all operations for the  
 11 production of oil or natural gas, including coalbed  
 12 methane, in the Powder River Basin, as depicted on  
 13 a map entitled ‘MLA Section 44 Powder River  
 14 Basin Area’, dated July 1, 1999, and on file in the  
 15 Wyoming and Montana State Offices of the Bureau  
 16 of Land Management (hereafter referred to in this  
 17 section as the ‘Basin’), shall be conducted under ap-  
 18 plicable Federal and State law so as not to unduly  
 19 interfere with each other and in a manner compat-  
 20 ible with such multiple use.

21 **“(2) PARTIES ENCOURAGED TO ENTER INTO**  
 22 **WRITTEN AGREEMENT.—**On any land in the Basin  
 23 which is both leased under this Act for the develop-  
 24 ment of Federal coal and leased under this Act or  
 25 otherwise made available by the owner thereof for  
 26 the production of Federal, State, or private gas or

1 oil, the Federal coal lessee and the holder of the  
 2 lease for, or the right to develop, the Federal, State,  
 3 or private gas or oil (hereafter referred to in this  
 4 section as the ‘oil and gas lessee’), subject to appli-  
 5 cable Federal and State law, may and are encour-  
 6 aged to enter into a written agreement that details  
 7 operations and assigns or assesses costs for the con-  
 8 current or sequential development of those resources.

9 “(b) **EXPLORATION.**—Unless otherwise provided by  
 10 law, on any land described in subsection (a)(2) where no  
 11 coal, gas, or oil development operations have commenced,  
 12 the Federal coal lessee and the oil and gas lessee shall  
 13 each—

14 “(1) have access to conduct exploration activi-  
 15 ties; and

16 “(2) conduct such activities in a manner that  
 17 will avoid undue interference with the other’s activi-  
 18 ties.

19 “(c) **NEGOTIATIONS CONCERNING DEVELOPMENT**  
 20 **PRIORITY FOR CERTAIN OPERATIONS IN THE BASIN.**—

21 “(1) **OBLIGATION TO PROVIDE WRITTEN NO-**  
 22 **TICE OF CONFLICT.**—Whenever a holder of a lease  
 23 issued under this Act for coal in the Basin or an oil  
 24 and gas lessee of Federal, State, or private gas or  
 25 oil in the Basin (hereafter referred to in this section

1 as the ‘oil and gas property’) determines that the  
2 Federal coal lease or the area to which applies the  
3 Federal or State permit issued to the Federal coal  
4 lessee pursuant to the Surface Mining Control and  
5 Reclamation Act (Public Law 95–87, 91 Stat. 445)  
6 within or including the Federal coal lease, whichever  
7 is larger, and the oil and gas property overlap in  
8 whole or in part (hereafter referred to in this section  
9 as the ‘common area’) and, pursuant to a mining  
10 plan that is approved or proposed (whether or not  
11 submitted for approval) (hereafter referred to in this  
12 section as an ‘approved or proposed mining plan’),  
13 mining operations or facilities in support of mining  
14 for coal on the leasehold or for State or private coal  
15 within a logical mining unit with the lease will be  
16 located within the common area, the Federal coal  
17 lessee or the oil and gas lessee shall provide written  
18 notice of the determination to the other party no  
19 later than 210 days prior to the date on which the  
20 mining operations or construction of the mine sup-  
21 port facilities is expected to commence in the com-  
22 mon area.

23 “(2) OBLIGATION TO NEGOTIATE.—Promptly  
24 after providing the notice referred to in paragraph  
25 (1), the Federal coal lessee or oil or gas lessee shall

1 seek to negotiate a written agreement with the other  
2 party that resolves any conflict between the produc-  
3 tion of gas or oil and development of coal in the  
4 common area.

5 “(d) COMPENSATION PROCEDURES FOR ASSIGNMENT  
6 OF DEVELOPMENT PRIORITY.—

7 “(1) PETITION FOR RELIEF.—

8 “(A) If the Federal coal lessee and the oil  
9 and gas lessee engage in negotiations, but do  
10 not reach agreement, pursuant to subsection  
11 (e)(2), the Federal coal lessee or the oil and gas  
12 lessee may file a petition for relief as described  
13 in subparagraph (C) in the United States dis-  
14 trict court for the district in which the common  
15 area is located on any date which is not more  
16 than one year or less than 150 days prior to the  
17 date on which the mining operations or con-  
18 struction of the mine support facilities is ex-  
19 pected to commence in the common area.

20 “(B) The petitioner shall serve the oil and  
21 gas lessee or the Federal coal lessee, as the case  
22 may be, with a copy of the petition for relief.

23 “(C) The petition for relief shall include  
24 the following:

1           “(i) A description and map of the  
2 Federal coal lease, the oil and gas prop-  
3 erty, and the common area.

4           “(ii) A list containing the names and  
5 addresses of all owners of any non-Federal  
6 interest in the oil and gas property, includ-  
7 ing working interests, mineral interests,  
8 and royalty interests, and all owners of any  
9 non-Federal interest in the Federal coal  
10 lease or logical mining unit. The petitioner  
11 shall list those owners of any non-Federal  
12 interest in the oil and gas property and of  
13 the Federal coal lease or logical mining  
14 unit whom the petitioner is able to ascer-  
15 tain from the properly indexed records of  
16 the county recorder of the county or coun-  
17 ties in which the oil and gas property and  
18 Federal coal lease or logical mining unit  
19 are located, and the respondent shall file  
20 with the court and serve on the petitioner  
21 any corrections or additions to the list  
22 within 10 days of service of the petition for  
23 relief pursuant to subparagraph (A).

24           “(iii) A certified copy of the notice de-  
25 scribed in subsection (c)(1).

1           “(iv) A statement that, pursuant to  
2           subsection (c)(2), the petitioner and the re-  
3           spondent attempted to negotiate a coopera-  
4           tive agreement for development of the coal  
5           and gas or oil resources or an agreement  
6           to compensate the oil and gas lessee and  
7           all other owners of any non-Federal inter-  
8           est in the oil and gas property for any loss  
9           of, or delay in production of, the oil or gas  
10          resource, or the Federal coal lessee and all  
11          other owners of any non-Federal interest  
12          in the Federal coal lease or logical mining  
13          unit for any loss of, or delay in develop-  
14          ment of, the coal resource, resulting from  
15          the conflict between production of gas or  
16          oil and development of coal in the common  
17          area.

18          “(D) The Federal coal lessee shall submit  
19          a copy of the approved or proposed mining plan  
20          for the mining operations or support facilities  
21          that are the subject of the petition for relief—

22                  “(i) with the petition for relief if the  
23          Federal coal lessee is the petitioner; or

1                   “(ii) within 5 days of the date of serv-  
 2                   ice of the petition for relief if the Federal  
 3                   coal lessee is the respondent.

4                   “(2) JOINDER OF PARTIES.—The petitioner  
 5                   shall join in the proceedings the Secretary of the In-  
 6                   terior and the interest owners identified pursuant to  
 7                   paragraph (1)(C)(ii).

8                   “(3) PARTIES’ RESPONSE TO PETITION.—The  
 9                   non-Federal respondent or respondents shall have 30  
 10                  days from the date of service of the petition for re-  
 11                  lief in which to respond to the petition. The Sec-  
 12                  retary of the Interior shall have 60 days from the  
 13                  date of service of the petition for relief in which to  
 14                  respond to the petition.

15                  “(4) COURT’S INITIAL RESPONSE TO PETITION;  
 16                  PUBLIC INTEREST DETERMINATION AND ORDER  
 17                  CONCERNING SEQUENCE OF DEVELOPMENT.—With-  
 18                  in 120 days of the filing of the petition for relief  
 19                  pursuant to paragraph (1)(A), the court shall take  
 20                  the following actions:

21                         “(A) The court shall determine—

22                                 “(i) whether a common area exists;  
 23                                 and —

24                                 “(ii) whether the approved or pro-  
 25                                 posed mining plan provides for the mining

1 operations to intersect, or the mine sup-  
2 port facilities to be constructed in, any  
3 portion of the common area.

4 “(B)(i) If existence of the common area  
5 and intersection of, or construction in, the com-  
6 mon area are determined pursuant to subpara-  
7 graph (A), the court shall determine whether  
8 the public interest is best realized either by sus-  
9 pension or termination of all or any part of the  
10 oil and gas lease or right to develop to accom-  
11 modate coal development, or by suspension of  
12 the Federal coal lease to accommodate gas or  
13 oil production, in any existing or proposed pro-  
14 duction segments of the common area.

15 “(ii) Notwithstanding the obligations of  
16 Federal and State officials to maximize the eco-  
17 nomic benefit to be received from mineral re-  
18 sources, the public interest determination de-  
19 scribed in clause (i) shall be made solely by the  
20 calculation of the greater economic benefit to be  
21 realized by comparison, on a net present value  
22 basis, of the Federal and State revenues from  
23 royalties and severance taxes likely to be gen-  
24 erated from each mineral underlying the com-

1           mon area to which the petition for relief ap-  
2           plies.

3           “(C)(i) If the determination made pursu-  
4           ant to subparagraph (B) is that the public in-  
5           terest is best realized by suspension of all or  
6           part of the oil and gas lease or right to develop,  
7           the court shall issue an order fixing the date  
8           upon which the Federal coal lessee may com-  
9           mence mining operations or construction of  
10          support facilities in the common area.

11          “(ii) The date fixed by the court pursuant  
12          to clause (i) may not be later than the com-  
13          mencement date referred to in subsection (c)(1)  
14          and provided in the notice submitted pursuant  
15          to paragraph (1)(C)(iii), except for good cause  
16          shown.

17          “(D)(i) If the determination made pursu-  
18          ant to subparagraph (B) is that the public in-  
19          terest is best realized by requiring suspension of  
20          the Federal coal lease, the court shall issue an  
21          order prohibiting the mining operations from  
22          intersecting, or the support facilities from being  
23          constructed in, the common area.

1           “(ii) The order issued pursuant to clause  
2           (i) shall expire upon the issuance of an order  
3           pursuant to paragraph (11)(C).

4           “~~(5) CONDITIONS IN WHICH COURT MAY RE-~~  
5           ~~FRAIN FROM ISSUING ORDER.—~~

6           “(A) The court may receive such briefs  
7           and/or testimony as it deems appropriate within  
8           90 days of the filing of the petition for relief  
9           pursuant to paragraph (1)(A), but may refrain  
10          from issuing the order required by paragraph  
11          (4)(C) or paragraph (4)(D) only if the court de-  
12          termines, pursuant to paragraph (4)(A), that—

13                   “(i) no common area exists; or

14                   “(ii) the approved or proposed mining  
15                   plan does not provide for the mining oper-  
16                   ations to intersect, or the support facilities  
17                   to be constructed in, the common area.

18           “(B) If the court makes either determina-  
19           tion described in subparagraph (A), the court  
20           shall issue an order terminating the proceeding.

21           “~~(6) VALUATION PROCEDURE: APPOINTMENT~~  
22           ~~OF EXPERTS.—~~

23           “(A) Within 30 days of the issuance of an  
24           order pursuant to paragraph (4)(C) or para-  
25           graph (4)(D), the petitioner, the respondent,

1 and the Secretary of the Interior shall each ap-  
2 point an expert in appraising the value of, and  
3 right to develop, gas or oil if the order is issued  
4 under paragraph (4)(C), or coal if the order is  
5 issued under paragraph (4)(D), to assist the  
6 court in making the determinations required by  
7 paragraph (10) or paragraph (11).

8 “(B) The petitioner shall be responsible for  
9 compensation of the expert appointed by it and  
10 reimbursement of the Secretary for the reason-  
11 able and customary costs of the expert ap-  
12 pointed by the Secretary. The respondent shall  
13 be responsible for compensation of the expert  
14 appointed by it.

15 “(7) SUBMISSION OF BRIEFS.—Within 30 days  
16 of the appointment of the panel of experts pursuant  
17 to paragraph (6), the petitioner and the respondents  
18 may submit briefs concerning the determinations to  
19 be made pursuant to paragraph (10) or paragraph  
20 (11).

21 “(8) HEARING.—Within 45 days of the ap-  
22 pointment of the panel of experts pursuant to para-  
23 graph (6), the panel may, or if requested by the pe-  
24 titioner or a respondent shall, receive testimony from  
25 petitioners and respondents concerning the deter-

1       minations to be made pursuant to ~~paragraph (10)~~  
2       or paragraph (11).

3           ~~“(9) EXPERTS’ REPORT.—~~Within 90 days of  
4       the appointment of the panel of experts pursuant to  
5       paragraph (6), the panel shall submit a written re-  
6       port to the court providing in detail the panel’s rec-  
7       ommendations on the determinations to be made  
8       pursuant to paragraph (10) or paragraph (11).

9           ~~“(10) COURT’S FINAL RESPONSE TO PETITION:~~  
10       ~~VALUATION CONCERNING OIL OR GAS RESERVES~~  
11       ~~LOST OR DELAYED, SUSPENSION OR TERMINATION~~  
12       ~~AND PAYMENT ORDER.—~~Within 180 days of the  
13       issuance of an order pursuant to paragraph (4)(C),  
14       the court shall take the following actions:

15           ~~“(A) The court shall determine whether, as~~  
16       a result of the rder issued pursuant to para-  
17       graph (4)(C), all or any part of the oil and gas  
18       lease or right to develop should be terminated  
19       at the end of the court’s proceeding or sus-  
20       pended during the period in which the mining  
21       operations or support facilities occupy the com-  
22       mon area.

23           ~~“(B)(i) If the court makes a determination~~  
24       to suspend pursuant to subparagraph (A), the  
25       court shall determine the ~~amount of any net in-~~

1           come that will not be realized due to loss or  
2           delay in production of economically recoverable  
3           reserves of oil or gas from the area underlying  
4           the proposed — mining operations or support  
5           facilities within the common area, and any un-  
6           avoidable fixed expenses (including, but not lim-  
7           ited to, the expenses of shutting in production,  
8           maintenance, testing, redrilling or reconnecting  
9           an existing well, relaying pipeline, all other ex-  
10          penses reasonably related to reestablishing any  
11          existing oil or gas production, and any royalties  
12          on oil or gas not produced) that will be in-  
13          curred, by the oil and gas lessee as a con-  
14          sequence of the suspension.

15                 “(ii) If the court makes a determination to  
16          terminate pursuant to subparagraph (A), the  
17          court shall determine the amount of any net in-  
18          come that will not be realized due to loss of eco-  
19          nomically recoverable reserves of oil or gas from  
20          the area described in clause (i) as a con-  
21          sequence of the termination.

22                 “(C) The court shall issue an order that—

23                         “(i) either suspends or terminates all  
24                         or part of the oil and gas lease or right to  
25                         develop, including any payment or produc-

1           tion obligations on the oil and gas lease or  
 2           right to develop for the period in which the  
 3           mining operations or mine support facili-  
 4           ties are expected to occupy the common  
 5           area in accordance with the approved or  
 6           proposed mining plan; and

7           “(ii) awards to the oil and gas lessee  
 8           and all other owners of any interest in the  
 9           oil and gas property, as their interests may  
 10          appear, a sum of money from the Federal  
 11          coal lessee equal to the net income amount  
 12          and unavoidable fixed expenses determined  
 13          pursuant to subparagraph (B)(i) or sub-  
 14          paragraph (B)(ii).

15          “(11) COURT’S FINAL RESPONSE TO PETITION:  
 16          VALUATION CONCERNING COAL RESERVES LOST OR  
 17          DELAYED; SUSPENSION OR TERMINATION AND PAY-  
 18          MENT ORDER.—Within 180 days of the issuance of  
 19          an order pursuant to paragraph (4)(D), the court—

20               “(A) shall determine whether the Federal  
 21               coal lease shall be —suspended to accommodate  
 22               oil or gas production in the common area; and

23               “(B) shall determine the amount of any  
 24               net income that will not be realized from the  
 25               loss or postponement of development of eco-

1           nominally recoverable reserves of coal, and the  
2           unavoidable fixed expenses (including, but not  
3           limited to, additional expenses—associated with  
4           reclamation, expenses associated with stranded  
5           costs of mining equipment and facilities, a pro-  
6           portionate refund of the lease bonus, and any  
7           royalties on coal not produced) that will be in-  
8           curred, by the Federal coal lessee as a con-  
9           sequence of the —suspension; and

10           “(C) shall issue an order that—

11           (i) suspends the Federal coal lease, in-  
12           cluding any payment or production obliga-  
13           tions on the lease or logical mining unit,  
14           for the period necessary for expeditious  
15           production in the common area of the gas  
16           or oil that is the subject of the petition for  
17           relief as demonstrated to the court in a  
18           production plan submitted by the oil and  
19           gas lessee; and

20           “(ii) awards to the Federal coal lessee  
21           and all other owners of any interest in the  
22           Federal coal lease or logical mining unit,  
23           as their interests may appear, a sum of  
24           money equal to the net income amount and

1            ~~unavoidable~~ fixed expenses determined  
2            pursuant to subparagraph (B).

3            ~~“(12) REVIEW OF EXPERTS’ REPORT.—~~

4            ~~“(A) The court shall make the determina-~~  
5            ~~tions required by ~~paragraph (10) or paragraph~~~~  
6            ~~(11) after reviewing the report of the panel of~~  
7            ~~experts submitted pursuant to paragraph (9)~~  
8            ~~and the hearing required by subparagraph (B).~~

9            ~~“(B) After submission of the report of the~~  
10           ~~panel of experts pursuant to paragraph (9) and~~  
11           ~~prior to making the determinations required by~~  
12           ~~paragraph (10) or paragraph (11), the court~~  
13           ~~shall hold a hearing in which the panel of ex-~~  
14           ~~perts shall present their report and the peti-~~  
15           ~~tioner and respondents shall have the oppor-~~  
16           ~~tunity to pose questions to the panel and pro-~~  
17           ~~vide to the court any evidence or arguments~~  
18           ~~they may have to support or contravene the rec-~~  
19           ~~ommendations of the report.~~

20           ~~“(13) DISBURSEMENT OF PAYMENTS.—~~

21           ~~“(A)(i) The sum of money awarded by the~~  
22           ~~court pursuant to paragraph (10)(C) shall be~~  
23           ~~divided into the number of tons of recoverable~~  
24           ~~coal in the common area and shall be paid in~~  
25           ~~per ton increments as the coal is mined.~~

1           “(ii) The Federal coal lessee shall make  
2           the payments required by clause (i) on a quar-  
3           terly basis in advance based on the Federal coal  
4           lessee’s estimate of the number of tons of coal  
5           to be mined in the common area during the fol-  
6           lowing quarter, ~~and shall add or subtract an~~  
7           amount to or from the advance payment for the  
8           next quarter to reflect the coal actually sold or  
9           transferred.

10           “(B)(i) The sum of money awarded by the  
11           court pursuant to paragraph (11)(C) shall be  
12           divided into the number of barrels of recover-  
13           able oil or cubic feet of recoverable gas in the  
14           common area and shall be paid in per —barrel  
15           or cubic feet increments as the oil or gas is pro-  
16           duced.

17           “(ii) The oil and gas lessee shall make the  
18           payments required by clause (i) on a quarterly  
19           basis in advance based on the oil and gas les-  
20           see’s estimate of the number of barrels of oil or  
21           cubic feet of gas to be produced in the common  
22           area during the following quarter, and shall add  
23           or subtract an amount to or from the advance  
24           ~~payment~~ for the next quarter to reflect the oil  
25           or gas actually produced.

1           “(C) If the mining or production necessary  
2           to make full payment of the sum of money  
3           awarded by the court does not occur within 5  
4           years of the date of issuance of the court order  
5           pursuant to paragraph (10)(C) or paragraph  
6           (11)(C), the unpaid balance shall be paid within  
7           60 days thereafter.

8           “(14) TERMINATION OF OIL AND GAS LEASE  
9           SUSPENSION.—

10           “(A) If the court issues an order to sus-  
11           pend all or any part of the oil and gas lease or  
12           right to develop pursuant to paragraph  
13           (10)(C)—

14           “(i) the Federal coal lessee shall no-  
15           tify the court and the oil and gas lessee  
16           when the portion of the common area sub-  
17           ject to the order issued pursuant to para-  
18           graph (10)(C) is no longer required for  
19           mining operations or support facilities; and

20           (ii) within 120 days of the date of re-  
21           ceipt by the court of the notification pursu-  
22           ant to clause (i) or within 60 days prior to  
23           the date on which the period established by  
24           the court in the order issued pursuant to  
25           paragraph (10)(C) concludes; the oil and

1 gas lessee may petition the court for an  
2 order that terminates the suspension and  
3 fixes the date and terms on which the oil  
4 and gas lessee may resume operations  
5 within the portion of the common area  
6 subject to the order issued pursuant to  
7 paragraph (10)(C).

8 “(B) The court shall issue the order  
9 sought under subparagraph (A)(ii) within 30  
10 days of receipt of the petition pursuant to sub-  
11 paragraph (A)(ii).

12 “(C)(i) If the oil and gas lessee determines  
13 that, as a consequence of the orders of the  
14 court issued pursuant to paragraph (4)(C) and  
15 paragraph (10)(C), further development of the  
16 portion of the common area subject to the order  
17 issued pursuant to paragraph (10)(C) is im-  
18 practicable, the oil and gas lessee may petition  
19 the court to terminate in whole or in part the  
20 oil and gas lease or right to develop.

21 “(ii) The petition referred to in clause (i)  
22 may be filed any time after issuance of the  
23 order of the court pursuant to paragraph  
24 (10)(C) but not later than 120 days after the

1 date of receipt by the court of the notification  
2 pursuant to subparagraph (A)(i).

3 “(iii) Upon receipt of a petition pursuant  
4 to clause (i), the court shall make a determina-  
5 tion whether to issue an order to terminate in  
6 whole or in part the oil and gas lease or right  
7 to develop and award an additional amount  
8 from the Federal coal lessee to the oil or gas  
9 lessee and all other owners of any non-Federal  
10 interest in the oil and gas property, as their in-  
11 terests may appear, in accordance with the pro-  
12 cedures and deadlines established in paragraphs  
13 (6) through (13).

14 “(15) TERMINATION OF COAL LEASE SUSPEN-  
15 SION.—

16 “(A) If the court issues an order requiring  
17 suspension of the Federal coal lease pursuant to  
18 paragraph (11)(C)—

19 “(i) the oil and gas lessee shall notify  
20 the court and the Federal coal lessee when  
21 the portion of the common area subject to  
22 the order issued pursuant to paragraph  
23 (11)(C) is no longer required for gas or oil  
24 production from such portion; and

1           “(ii) within 120 days of the receipt by  
2           the court of the notification pursuant to  
3           clause (i) or within 60 days prior to the  
4           date on which the period established by the  
5           court in the order issued pursuant to para-  
6           graph (11)(C) concludes, the Federal coal  
7           lessee may petition the court for an order  
8           that fixes the date and terms on which the  
9           Federal coal lessee may commence mining  
10          operations or construction of support facili-  
11          ties in the portion of the common area  
12          subject to the order issued pursuant to  
13          paragraph (11)(C) and, if the Federal coal  
14          lease is suspended, terminates the suspen-  
15          sion.

16          “(B) The court shall issue the order  
17          sought under subparagraph (A)(ii) within 30  
18          days of receipt of the petition pursuant to sub-  
19          paragraph (A)(ii).

20          “(C)(i) If the Federal coal lessee deter-  
21          mines that, as a consequence of the orders of  
22          the court issued pursuant to paragraph (4)(D)  
23          and paragraph (11)(C), further development of  
24          all or any part of the Federal coal lease is im-  
25          practicable, the Federal coal lessee may petition

1 the court to terminate all or any part of the  
2 Federal coal lease.

3 “(ii) The petition referred to in clause (i)  
4 may be filed any time after issuance of the  
5 order of the court pursuant to paragraph  
6 (11)(C) but not later than 120 days after the  
7 date of receipt by the court of the notification  
8 pursuant to subparagraph (A)(i).

9 “(iii) Upon receipt of a petition pursuant  
10 to clause (i), the court shall make a determina-  
11 tion whether to issue an order to terminate all  
12 or any part of the Federal coal lease and award  
13 an additional amount from the oil and gas les-  
14 see to the Federal coal lessee and all other own-  
15 ers of any interest in the Federal coal lease or  
16 logical mining unit, as their interests may ap-  
17 pear, in accordance with the procedures and  
18 deadlines established in paragraphs (6) through  
19 (13).

20 “(16) SUPPLEMENTAL PETITION FOR RE-  
21 LIEF.—

22 “(A) If, at any time after the issuance of  
23 an order pursuant to paragraph (10)(C) or  
24 paragraph (11)(C), the mining plan that is the  
25 basis of the order is altered in a manner that

1 may warrant suspension or termination of an  
2 additional part or all of the oil and gas lease or  
3 right to develop or suspension or termination of  
4 the Federal coal lease and/or an increase in the  
5 sum of money that was awarded under the  
6 order, either the Federal coal lessee or the oil  
7 and gas lessee may file a supplemental petition  
8 for relief with the court to amend the order.

9 “(B) The petitioner shall take such steps  
10 as are required by subparagraphs (B) and (C)  
11 of paragraph (1) and the supplemental petition  
12 for relief shall contain any information required  
13 by subparagraph (C) of paragraph (1) that was  
14 not submitted with the petition for relief filed  
15 with the court prior to the issuance of the order  
16 pursuant to paragraph (10)(C) or paragraph  
17 (11)(C).

18 “(C)(i) If any respondent disputes any in-  
19 formation contained in the supplemental peti-  
20 tion for relief, the respondent shall, within 10  
21 days of the date of service of the petition, file  
22 with the court a response setting forth the  
23 grounds of dispute.

24 “(ii) The court may receive such briefs  
25 and/or testimony it deems appropriate within

1           30 days of the date of filing of the supple-  
2           mental petition for relief, but may refrain from  
3           issuing the order required by subparagraph  
4           (D)(ii) only if the court makes either deter-  
5           mination set forth in paragraph (5)(A).

6           “(D)(i) Based on the supplemental petition  
7           for relief and any response, briefs, or testimony  
8           received pursuant to paragraph (C), and after  
9           review of the report of the panel of experts sub-  
10          mitted pursuant to paragraph (9) prior to the  
11          issuance of the order pursuant to paragraph  
12          (10)(C) or paragraph (11)(C), the court shall  
13          make a determination whether to suspend or  
14          terminate an additional part or all of the oil  
15          and gas lease or right to develop or to suspend  
16          or terminate the Federal coal lease as described  
17          in, and award an additional sum of money cal-  
18          culated in accordance with, paragraph (10) or  
19          paragraph (11).

20          “(ii) The court shall issue any order result-  
21          ing from the determinations made pursuant to  
22          clause (i) within 90 days of the date of filing  
23          of the supplemental petition for relief.

1           “(iii) Any award of an additional sum of  
2 money shall be paid in accordance with para-  
3 graph (13).

4           “(17) APPEAL OF COURT ORDERS.—

5           “(A) Any order issued pursuant to para-  
6 graph (4)(C), paragraph (4)(D), paragraph  
7 (5)(B), paragraph (14)(B), or paragraph  
8 (15)(B) is final and may not be appealed.

9           “(B) Any order issued pursuant to para-  
10 graph (10)(C), paragraph (11)(C), paragraph  
11 (14)(C)(iii), paragraph (15)(C)(iii), or para-  
12 graph (16)(D) may be appealed, but the appeal,  
13 and any disposition thereof, may not disturb  
14 any order referred to in subparagraph (A).

15           “(e) LIABILITY LIMITATION.—

16           “(1) FEDERAL COAL LESSEE.—Except as pro-  
17 vided in a written agreement reached pursuant to  
18 subsection (c)(2) or reached on or after September  
19 1, 1999, and before the date of enactment of this  
20 section, or as provided by an order of the court pur-  
21 suant to subsection (d), the holder of a Federal coal  
22 lease subject to the agreement or order shall not be  
23 liable to the oil and gas lessee of, or any owner of  
24 an interest in, any oil and gas property subject to  
25 the agreement or order for any decrease in or deple-

1 tion of, or any impairment of the ability to recover,  
2 any gas or oil from the property that may result  
3 from the mining of any coal on the Federal coal  
4 leasehold or within a logical mining unit with the  
5 Federal coal lease.

6 “(2) OIL AND GAS LESSEE.—Except as pro-  
7 vided in a written agreement reached pursuant to  
8 subsection (c)(2) or reached on or after September  
9 1, 1999, and before the date of enactment of this  
10 section, or as provided by an order of the court pur-  
11 suant to subsection (d), the oil and gas lessee of an  
12 oil and gas property subject to the agreement or  
13 order shall not be liable to a holder of a Federal coal  
14 lease subject to the agreement or order, the United  
15 States, or any owner of an interest in private or  
16 State coal within a logical mining unit with the Fed-  
17 eral coal lease, for any impairment of the ability to  
18 recover coal from the Federal coal leasehold or log-  
19 ical mining unit that may result from the production  
20 of gas or oil from the property.

21 “(f) APPLICABILITY LIMITATION.—Nothing in this  
22 section shall be applicable to, or supersede any statutory  
23 or common law otherwise applicable in, any proceeding in  
24 any Federal or State court involving development of oil,

1 gas, or coal outside of any common area as defined in sub-  
2 section (e)(1).

3 “(g) CREDIT AGAINST ROYALTIES.—

4 “(1) IN GENERAL.—

5 “(A) Whenever a holder of a coal lease  
6 issued under this Act is required by a written  
7 agreement reached pursuant to subsection  
8 (e)(2) and ratified by the Bureau of Land Man-  
9 agement or reached prior to the date of enact-  
10 ment of this section and ratified by the Bureau  
11 of Land Management on or after September 1,  
12 1999, or by a court order issued pursuant to  
13 paragraph (10)(C), paragraph (14)(C)(iii), or  
14 paragraph (16)(D) of subsection (d), to pay an  
15 amount for termination or suspension of all or  
16 part of an oil and gas lease of, or right to de-  
17 velop, coalbed methane, as defined in section  
18 1339(p)(2) of the Energy Policy Act of 1992  
19 (106 Stat. 2992, 42 U.S.C. 13368(p)(2)), on  
20 any oil and gas property located within the area  
21 designated as “Subsection (g) Lands” on the  
22 map described in subsection (a)(1), the amount  
23 so paid shall be credited against any royalties  
24 on production required by section 7(a) or any

1 other provision of this Act from any Federal  
2 coal lease of such holder or any affiliate thereof.

3 ~~“(B) Whenever a holder of an oil and gas~~  
4 ~~lease issued under this Act is required by a~~  
5 ~~written agreement reached pursuant to sub-~~  
6 ~~section (e)(2) and ratified by the Bureau of~~  
7 ~~Land Management or reached prior to the date~~  
8 ~~of enactment of this section and ratified by the~~  
9 ~~Bureau of Land Management on or after Sep-~~  
10 ~~tember 1, 1999, or by a court order issued pur-~~  
11 ~~suant to paragraph (11)(C), paragraph~~  
12 ~~(15)(C)(iii), or paragraph (16)(D) of subsection~~  
13 ~~(d), to pay an amount for suspension or termi-~~  
14 ~~nation of a Federal coal lease located within the~~  
15 ~~area designated as “Subsection (g) Lands” on~~  
16 ~~the map described in subsection (a)(1), the~~  
17 ~~amount so paid shall be credited against any~~  
18 ~~royalties on production required by subsection~~  
19 ~~(b)(1)(A) or subsection (c)(1) of section 17 or~~  
20 ~~any other provision of this Act from any Fed-~~  
21 ~~eral oil and gas lease of such holder or any af-~~  
22 ~~filiate thereof.~~

23 ~~“(2) TREATMENT OF ROYALTIES TO STATES.—~~

24 ~~The Secretary shall pay to the State in which a lease~~

1 is located 50 percent of the amount of any credit  
2 against royalties provided under paragraph (1)—

3 “(A) in the same manner as if the credit  
4 against royalties had been paid in money as  
5 royalties and distributed under section 35(a) of  
6 this Act; and

7 “(B) from amounts received as royalties,  
8 rentals, or bonuses derived from leases issued  
9 under this Act that otherwise would be depos-  
10 ited to miscellaneous receipts under section  
11 35(a) of this Act.

12 “(h) MINERAL CONSERVATION.—The Secretary shall  
13 employ such authority as the Secretary may possess under  
14 this Act to encourage expedited development of Federal  
15 minerals that—

16 “(1) are leased pursuant to this Act;

17 “(2) are within common areas; and

18 “(3) otherwise may be lost or bypassed under  
19 agreements entered into, or orders issued, pursuant  
20 to this section.”

21 **SEC. 4. EFFECTIVE DATE.**

22 This Act shall be effective upon the date of its enact-  
23 ment.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Powder River Basin*  
3 *Resource Development Act of 2000”.*

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 *(a) FINDINGS.—The Congress finds the following:*

6 *(1) The Powder River Basin in Wyoming and*  
7 *Montana is one of the world’s richest energy resource*  
8 *regions, possessing the largest reserves of coal in the*  
9 *United States and significant deposits of oil and nat-*  
10 *ural gas, including coalbed methane.*

11 *(2) The coal is predominantly federally owned—*  
12 *either as part of the public lands or reserved from*  
13 *public lands that were sold under homestead laws en-*  
14 *acted in 1909, 1910, and 1916—and may be leased*  
15 *to coal producers by the Bureau of Land Manage-*  
16 *ment, Department of the Interior, under the Mineral*  
17 *Leasing Act.*

18 *(3) The gas and oil are owned by the Federal*  
19 *Government, the States, and private parties.*

20 *(4) The federally owned gas and oil, like the coal,*  
21 *are part of the public lands and leased to oil and gas*  
22 *lessees by the Bureau of Land Management under the*  
23 *Mineral Leasing Act.*

24 *(5) The privately owned gas and oil were con-*  
25 *veyed with the public lands purchased under the three*  
26 *homestead laws and may have been sold or leased to*

1        *oil and gas producers by the successors to those origi-*  
2        *nal purchasers.*

3                *(6) Development of these valuable energy re-*  
4        *sources is of critical importance to the American pub-*  
5        *lic.*

6                *(7) These energy resources provide fuel to heat*  
7        *and light our homes and power our industries.*

8                *(8) Extraction of these energy resources provides*  
9        *royalties, taxes, and wages that contribute to na-*  
10        *tional, State, and local treasuries and economies.*

11                *(9) Development of the coal and the gas and oil*  
12        *is occurring in the Powder River Basin.*

13                *(10) In many locations the coal and the gas and*  
14        *oil have been leased or sold to different parties. These*  
15        *resources are frequently extracted sequentially, but for*  
16        *safety and operational reasons typically cannot be ex-*  
17        *tracted simultaneously, in the same location. Where*  
18        *concurrent development is impossible and even where*  
19        *it may be possible, in certain of these locations dis-*  
20        *putes have arisen among the different parties con-*  
21        *cerning plans for, and the course of, development of*  
22        *these resources.*

23                *(11) The development of any one of those re-*  
24        *sources can result in loss of another, either by making*  
25        *recovery impossible in the case of coalbed methane or*

1        *uneconomic in the case of deep natural gas, oil, or*  
2        *coal.*

3            (12) *The nature, extent, and value of any loss or*  
4        *delay in development of the gas, oil, or coal resource*  
5        *due to development of another of these resources in the*  
6        *“common areas” within the Powder River Basin in*  
7        *which disputes between the resources’ developers arise*  
8        *should be ascertained and fair market value for the*  
9        *loss or delay should be provided by agreement between*  
10       *the developers or by an expeditious adjudication pro-*  
11       *cedure.*

12           (13) *The Federal law under which most of the*  
13       *coal and much of the gas and oil in the Powder River*  
14       *Basin are made available for development should be*  
15       *amended to provide a procedure that will assure the*  
16       *orderly development of the energy resources, and fair*  
17       *treatment to the resources’ developers, in the “common*  
18       *areas” within the Powder River Basin in which dis-*  
19       *putes between the developers arise.*

20       (b) *PURPOSES.*—*The purposes of this Act are to—*

21           (1) *amend the Mineral Leasing Act to provide a*  
22       *consistent procedure to resolve disputes between devel-*  
23       *opers of coal and developers of natural gas and oil in*  
24       *the “common areas” within the Powder River Basin*  
25       *to which this Act applies concerning the sequence of*

1        *development of those resources in the same location,*  
2        *regardless of who owns the resources;*

3            *(2) encourage maximum recovery of the resources*  
4        *prior to the time at which such disputes are likely to*  
5        *occur or thereafter until the procedure provided by*  
6        *this Act is implemented;*

7            *(3) ensure that the procedure provided by this*  
8        *Act is employed as a last resort if the disputes are not*  
9        *fully resolved by voluntary agreements between the re-*  
10       *sources' developers or administrative policies and ac-*  
11       *tions;*

12           *(4) determine fair and just compensation owed*  
13       *for the loss of, or delay in, the opportunity to develop*  
14       *a resource resulting from implementation of the pro-*  
15       *cedure provided by this Act; and*

16           *(5) provide expressly that the procedure provided*  
17       *by this Act will neither apply to nor set any prece-*  
18       *dent for resolution of disputes between or among re-*  
19       *source developers outside of the "common areas" with-*  
20       *in the Powder River Basin to which this Act applies.*

21       **SEC. 3. AMENDMENT TO THE MINERAL LEASING ACT.**

22        *The Mineral Leasing Act (30 U.S.C. 181 et seq.) is*  
23       *amended by renumbering section 44 as section 45 and in-*  
24       *serting the following new section:*

1 **“SEC. 44. DEVELOPMENT OF COAL, NATURAL GAS, AND OIL**  
2 **IN THE POWDER RIVER BASIN.**

3 “(a) *DEFINITIONS.—As used in this section:*

4 “(1) *The term ‘Powder River Basin’ or ‘Basin’*  
5 *means the area designated as ‘Powder River Basin’*  
6 *on a map entitled ‘MLA Section 44 Powder River*  
7 *Basin Area’, dated July 1, 1999, and on file in the*  
8 *Wyoming and Montana State Offices of the Bureau of*  
9 *Land Management, Department of the Interior.*

10 “(2) *The term ‘Subsection (g) Lands’ means the*  
11 *area designated as ‘Subsection (g) Lands’ on the map*  
12 *described in paragraph (1).*

13 “(3) *The term ‘Secretary’ means the Secretary of*  
14 *the Interior.*

15 “(4) *The term ‘Federal coal lease’ means a lease*  
16 *of Federal coal in the Basin issued pursuant to this*  
17 *Act.*

18 “(5) *The term ‘Federal coal lessee’ means the*  
19 *holder of a Federal coal lease.*

20 “(6) *The term ‘Federal oil and gas lease’ means*  
21 *a lease of Federal oil and gas in the Basin issued*  
22 *pursuant to the Act.*

23 “(7) *The term ‘oil and gas lease or right to de-*  
24 *velop’ means a Federal oil and gas lease or a lease*  
25 *for or right to develop oil and gas in the Basin pro-*  
26 *vided by a State or private owner of the resources.*

1           “(8) *The term ‘non-Federal oil and gas lease or*  
2 *right to develop’ means a lease for or right to develop*  
3 *oil and gas in the Basin provided by a State or pri-*  
4 *vate owner of the resources.*

5           “(9) *The term ‘oil and gas developer’ means the*  
6 *holder of an oil or gas lease or right to develop.*

7           “(10) *The term ‘oil and gas property’ means an*  
8 *area in the Basin which is subject to an oil or gas*  
9 *lease or right to develop held by an oil or gas devel-*  
10 *oper.*

11           “(11) *The term ‘common area’ means an area in*  
12 *the Basin in which all or a portion of a Federal coal*  
13 *lease (including any area of State or private coal*  
14 *within a logical mining unit with the Federal coal*  
15 *lease) overlaps all or a portion of an oil and gas*  
16 *property.*

17           “(12) *The term ‘approved or proposed mining*  
18 *plan’ means a mining plan that is approved by, or*  
19 *has been submitted for the approval of, the Secretary.*

20           “(13) *The term ‘coalbed methane’ shall have the*  
21 *meaning given that term in section 1339(p)(2) of the*  
22 *Energy Policy Act of 1992 (106 Stat. 2992, 42 U.S.C.*  
23 *13368(p)(2)).*

24           “(14) *The term ‘owners of any interest in the oil*  
25 *and gas property’ means persons who own the work-*

1        *ing interest, lease interest, operating interest, mineral*  
2        *interest, royalty interest, or any other interest in the*  
3        *oil and gas property, and any other persons who*  
4        *might receive compensation for unavoidable fixed ex-*  
5        *penses under an order concerning the oil and gas*  
6        *property issued pursuant to subsection (e)(10)(E).*

7                *“(15) The term ‘owners of any non-Federal in-*  
8        *terest in the oil and gas property’ means all owners*  
9        *of any interest in the oil and gas property except the*  
10        *Federal government or any agency or department*  
11        *thereof.*

12                *“(16) The term ‘develop’ or ‘development’ means*  
13        *to develop or to produce, or both, or the development*  
14        *or production, or both, respectively, including all in-*  
15        *cidental operations.*

16                *“(b) PARTIES ENCOURAGED TO ENTER INTO WRITTEN*  
17        *AGREEMENT.—In any common area, the Federal coal lessee*  
18        *and oil and gas developer, subject to applicable Federal and*  
19        *State laws, regulations, and lease terms, may and are en-*  
20        *couraged to enter into a written agreement that details op-*  
21        *erations and assigns or assesses costs or compensation for*  
22        *the concurrent or sequential development of those resources.*

23                *“(c) MINERAL CONSERVATION.—The Secretary shall*  
24        *employ any authority the Secretary possesses to encourage*

1 *expedited development of any oil and gas resources and any*  
2 *coal resource that—*

3           “(1) *are leased pursuant to this Act;*

4           “(2) *are within common areas; and*

5           “(3) *otherwise may be lost or bypassed due to the*  
6 *development of another of the resources.*

7           “(d) *NEGOTIATIONS CONCERNING DEVELOPMENT PRI-*  
8 *ORITY FOR CERTAIN OPERATIONS IN THE BASIN.—*

9           “(1) *OBLIGATION TO PROVIDE WRITTEN NOTICE*  
10 *OF CONFLICT.—Whenever a Federal coal lessee or an*  
11 *oil and gas developer determines that its Federal coal*  
12 *lease (or a logical mining unit including the Federal*  
13 *coal lease) or its oil and gas property is located in*  
14 *a common area, and, pursuant to an approved or*  
15 *proposed mining plan, mining operations or facilities*  
16 *in support of mining for coal on the Federal coal*  
17 *leases or the logical mining unit will be located with-*  
18 *in the common area, the Federal coal lessee or the oil*  
19 *and gas developer shall deliver written notice of the*  
20 *determination to the other party and the Secretary no*  
21 *later than 240 days prior to the date on which the*  
22 *mining operations or construction of the mine sup-*  
23 *port facilities is projected by the approved or pro-*  
24 *posed mining plan to commence in the common area.*

1           “(2) *OBLIGATION TO NEGOTIATE.*—*Promptly*  
2 *after providing the notice referred to in paragraph*  
3 *(1), the party which provided the notice shall seek to*  
4 *negotiate a written agreement with the other party*  
5 *that resolves any conflict between the development of*  
6 *gas or oil and development of coal in the common*  
7 *area.*

8           “(e) *COMPENSATION PROCEDURES FOR ASSIGNMENT*  
9 *OF DEVELOPMENT PRIORITY.*—

10           “(1) *PETITION FOR RELIEF.*—

11           “(A) *If notice is submitted timely pursuant*  
12 *to subsection (d)(1) and the Federal coal lessee*  
13 *and the oil and gas developer engage in negotia-*  
14 *tions, but do not reach agreement, pursuant to*  
15 *subsection (d)(2), the Federal coal lessee or the*  
16 *oil and gas developer may file a petition for re-*  
17 *lief as described in subparagraph (C) in the*  
18 *United States district court for the district in*  
19 *which the common area is located on any date*  
20 *which is not less than 180 days prior to the date*  
21 *on which the mining operations or construction*  
22 *of the mine support facilities is projected by the*  
23 *approved or proposed mining plan to commence*  
24 *in the common area.*

1           “(B) *The petitioner shall serve the oil and*  
2           *gas developer or the Federal coal lessee, as the*  
3           *case may be, and the Secretary with a copy of*  
4           *the petition for relief on the same date upon*  
5           *which the petition is filed with the court pursu-*  
6           *ant to subparagraph (A).*

7           “(C) *The petition for relief shall include the*  
8           *following:*

9                   “(i) *A description and map of the Fed-*  
10                   *eral coal lease, the oil and gas property,*  
11                   *and the common area.*

12                   “(ii) *A list containing the names and*  
13                   *addresses of all owners of any non-Federal*  
14                   *interest in the oil and gas property and all*  
15                   *owners of any non-Federal interest in the*  
16                   *Federal coal lease or logical mining unit.*  
17                   *The petitioner shall list those owners of any*  
18                   *non-Federal interest in the oil and gas*  
19                   *property and of the Federal coal lease or*  
20                   *logical mining unit whom the petitioner is*  
21                   *able to ascertain from the properly indexed*  
22                   *records of the county recorder of the county*  
23                   *or counties in which the oil and gas prop-*  
24                   *erty and Federal coal lease or logical min-*  
25                   *ing unit are located, and the respondent*

1 shall file with the court and serve on the pe-  
2 titioner and the Secretary any corrections  
3 of, additions to, or deletions from the list  
4 known to the respondent within 10 days of  
5 the date of service of the petition for relief  
6 pursuant to subparagraph (B). Thereafter,  
7 whenever any correction of, addition to, or  
8 deletion from the list becomes known to ei-  
9 ther the petitioner or the respondent, that  
10 party shall promptly file with the court and  
11 serve on the other party and the Secretary  
12 the addition, correction, or deletion. Any  
13 person who believes he or she is an owner  
14 of any non-Federal interest in the oil and  
15 gas property or in the Federal coal lease or  
16 logical mining unit and is omitted from the  
17 list may file a motion in the court to be  
18 added to the list at any time prior to the  
19 issuance of an order pursuant to paragraph  
20 (10)(E) or paragraph (11)(C).

21 “(iii) A certified copy of the notice de-  
22 scribed in subsection (d)(1).

23 “(iv) A sworn statement by a senior of-  
24 ficer of the petitioner with authority to  
25 commit the petitioner in any negotiation

1           under subsection (d)(2) stating, and all doc-  
2           uments demonstrating, that the petitioner  
3           negotiated or attempted to negotiate in good  
4           faith with the respondent a voluntary agree-  
5           ment, pursuant to subsection (d)(2).

6           “(D) The Federal coal lessee shall submit a  
7           copy of the approved or proposed mining plan  
8           for the mining operations or support facilities  
9           that are the subject of the petition for relief—

10           “(i) with the petition for relief if the  
11           Federal coal lessee is the petitioner; or

12           “(ii) within 5 days of the date of serv-  
13           ice of the petition for relief pursuant to sub-  
14           paragraph (B) if the Federal coal lessee is  
15           the respondent.

16           “(2) JOINDER OF PARTIES.—The Secretary and  
17           all owners of any non-Federal interest in the oil and  
18           gas property and in the Federal coal lease or logical  
19           mining unit identified pursuant to paragraph  
20           (1)(C)(ii) shall be joined in the proceedings estab-  
21           lished pursuant to this subsection.

22           “(3) PARTIES’ RESPONSE TO PETITION.—The  
23           non-Federal respondent or respondents may provide  
24           to the Secretary a response to the petition within 30  
25           days from the date of filing of the petition for relief

1       *pursuant to paragraph (1)(A). The Secretary may re-*  
2       *quire the petitioner and the respondent or respondents*  
3       *to submit such documents and/or provide such testi-*  
4       *mony as the Secretary deems appropriate within 60*  
5       *days of such date of filing.*

6               “(4) SECRETARY’S INITIAL RESPONSE TO PETI-  
7       *TION.—Within 90 days of the date of filing of the pe-*  
8       *tition for relief pursuant to paragraph (1)(A) the Sec-*  
9       *retary shall take the following actions:*

10               “(A) *The Secretary shall determine, with*  
11       *petitioner having the burden of proof—*

12               “(i) *whether a common area exists;*

13               *and*

14               “(ii) *whether the approved or proposed*  
15       *mining plan submitted pursuant to para-*  
16       *graph (3)(D) provides for the mining oper-*  
17       *ations to intersect, or the mine support fa-*  
18       *cilities to be constructed in, any portion of*  
19       *the common area.*

20               “(B)(i) *If existence of the common area and*  
21       *intersection of, or construction in, the common*  
22       *area are determined pursuant to subparagraph*  
23       *(A), the Secretary shall determine whether the*  
24       *public interest is best realized by delaying or*  
25       *foregoing development of either—*

1           “(I) the oil or gas resource to permit  
2           the mining operations to intersect, or the  
3           mine support facilities to be constructed in,  
4           the common area in accordance with the  
5           approved or proposed mining plan; or

6           “(II) the coal resource to permit com-  
7           mencement or continuation of the develop-  
8           ment of the oil or gas resource in the com-  
9           mon area after the date on which the min-  
10          ing operations or construction of the mine  
11          support facilities is projected by the ap-  
12          proved or proposed mining plan to com-  
13          mence in the common area.

14          “(i) The Secretary shall make the public  
15          interest determination described in clause (i)  
16          solely by the calculation of the greater economic  
17          benefit to be realized by comparison, on a net  
18          present value basis, of the Federal and State rev-  
19          enues from royalties and severance taxes likely to  
20          be generated from each resource underlying the  
21          common area to which the petition for relief ap-  
22          plies.

23          “(C)(i) If any portion of the resource for  
24          which delayed or foregoing development is deter-  
25          mined to be in the public interest pursuant to

1            *subparagraph (B) is subject to a lease issued*  
2            *pursuant to this Act, the Secretary shall suspend*  
3            *all or any portion of, including any geographical*  
4            *areas of or zone or reservoir subject to, the lease*  
5            *to accommodate development of the other resource*  
6            *in the common area during the period beginning*  
7            *on a date no later than the commencement date*  
8            *referred to in paragraph (1)(A) and provided in*  
9            *the notice submitted pursuant to paragraph*  
10           *(1)(C)(iii) and ending on the date on which an*  
11           *order is issued pursuant to paragraph (10)(E) or*  
12           *paragraph (11)(C).*

13           *“(i) The Secretary may refrain from either*  
14           *making the determination required by subpara-*  
15           *graphs (A) and (B) or suspending all or any*  
16           *portion of a lease issued pursuant to this Act as*  
17           *required by clause (i) only if the Secretary deter-*  
18           *mines that—*

19                    *“(I) no common area exists; or*

20                    *“(II) the approved or proposed mining*  
21                    *plan does not provide for the mining oper-*  
22                    *ations to intersect, or the mine support fa-*  
23                    *cilities to be constructed in, the common*  
24                    *area.*

25                    *“(D) The Secretary shall—*

1           “(i) report the determinations made  
2           pursuant to subparagraphs (A) and (B) or  
3           subparagraph (C)(ii) and any suspension  
4           made pursuant to subparagraph (C)(i), in-  
5           cluding the administrative record therefor,  
6           with the court in which the petition for re-  
7           lief is filed pursuant to paragraph (1)(A);  
8           and

9           1“(ii) provide the petitioner and re-  
10          spondent or respondents with copies of the  
11          report and record.

12          “(5) COURT’S INITIAL RESPONSE TO PETITION.—

13          “(A)(i) The court in which the petition is  
14          filed pursuant to paragraph (1)(A) shall have ex-  
15          clusive jurisdiction to receive and review the re-  
16          port of the Secretary required by paragraph  
17          (4)(D), and the determinations made and any  
18          action taken by the Secretary pursuant to para-  
19          graph (4).

20          “(ii) The petitioner and respondent or re-  
21          spondents shall have 30 days from the date upon  
22          which the report of the Secretary is filed with the  
23          court pursuant to paragraph (4)(D) in which to  
24          file with the court any objection to any deter-

1            *mination of the Secretary required by paragraph*  
2            *(4).*

3            *“(iii) If any objection is filed pursuant to*  
4            *clause (ii), the court shall, within 60 days of re-*  
5            *ceipt of the report of the Secretary pursuant to*  
6            *paragraph (4)(D), make the determination that*  
7            *is the subject to the objection on the basis of the*  
8            *administrative record filed with the report and*  
9            *in accordance with the applicable requirements*  
10           *or standards of subparagraph (A) or subpara-*  
11           *graph (B) of paragraph (4).*

12           *“(iv) Any determination made by the court*  
13           *pursuant to clause (iii) shall be an independent*  
14           *judicial determination that is de novo, without*  
15           *regard to the prior determination of the Sec-*  
16           *retary.*

17           *“(v) If no objection is filed pursuant to*  
18           *clause (ii), the determinations of the Secretary*  
19           *required by paragraph (4) shall be final and ap-*  
20           *proved by the court in the order issued pursuant*  
21           *to subparagraph (B) or subparagraph (E).*

22           *“(B) Within 90 days of the date of receipt*  
23           *of the report of the Secretary pursuant to para-*  
24           *graph (4)(D), the court, except as provided in*  
25           *subparagraph (E), shall issue an order that—*

1           “(i) suspends all or any part of, in-  
2           cluding any geographical area of or res-  
3           ervoir subject to, any non-Federal oil and  
4           gas lease or right to develop, or any non-  
5           Federal interest in any logical mining unit  
6           that includes the Federal coal lease, in the  
7           common area in accordance with the deter-  
8           mination of the Secretary pursuant to sub-  
9           clause (I) or subclause (II), respectively, of  
10          paragraph (4)(B)(i) or in accordance with  
11          the determination of the court pursuant to  
12          subparagraph (A)(iii); and

13          “(ii) if required by a determination of  
14          the court pursuant to subparagraph  
15          (A)(iii), terminates a suspension of a lease  
16          issued pursuant to this Act imposed by the  
17          Secretary pursuant to paragraph (4)(C)(i),  
18          or imposes a suspension of a lease issued  
19          pursuant to this Act, or both, in accordance  
20          with the determination; and

21          “(iii) if all or any part of the oil and  
22          gas lease or right to develop is suspended  
23          pursuant to paragraph (4)(C)(i) or this  
24          subparagraph, fixes the date upon which the  
25          Federal coal lessee may commence mining

1            *operations or construction of mine support*  
2            *facilities in the common area, which may be*  
3            *no later than the commencement date re-*  
4            *ferred to in paragraph (1)(A) and provided*  
5            *in the notice submitted pursuant to para-*  
6            *graph (1)(C)(iii), except for good cause*  
7            *shown; and*

8            *“(iv) if all or any part of the Federal*  
9            *coal lease and/or any non-Federal interest*  
10           *in the logical mining unit that includes the*  
11           *Federal coal lease is suspended pursuant to*  
12           *paragraph (4)(C)(i) or this subparagraph,*  
13           *prohibits the mining operations from inter-*  
14           *secting, or the support facilities from being*  
15           *constructed in, all or a portion of the com-*  
16           *mon area.*

17           *“(C) The order of the court issued pursuant*  
18           *to subparagraph (B) shall expire upon the*  
19           *issuance of an order pursuant to paragraph*  
20           *(10)(E) or paragraph (11)(C).*

21           *“(D) The court may refrain from issuing*  
22           *the order required by subparagraph (B), only*  
23           *if—*

24           *“(i) the Secretary makes a determina-*  
25           *tion described in paragraph (4)(C)(ii); or*

1           “(ii) the court, acting on an objection  
2           filed pursuant to subparagraph (A)(ii), de-  
3           termines that—

4                   “(I) no common area exists; or

5                   “(II) the approval or proposed  
6           mining plan submitted pursuant to  
7           paragraph (1)(D) does not provide for  
8           the mining operations to intersect, or  
9           the mine support facilities to be con-  
10          structed in, the common area.

11           “(E) If the Secretary makes a determina-  
12          tion described in paragraph (4)(C)(ii) or the  
13          court makes a determination described in sub-  
14          paragraph (D)(ii), the court shall issue an order  
15          terminating the proceeding under this subsection.

16          “(6) VALUATION PROCEDURE: APPOINTMENT OF  
17          EXPERTS.—

18           “(A) Within 30 days of the date of issuance  
19          of an order pursuant to paragraph (5)(B), to as-  
20          sist the court in making the determinations pur-  
21          suant to paragraph (10) or paragraph (11), the  
22          Federal coal lessee and the oil and gas developer  
23          shall each appoint a person who is an expert in  
24          appraising the value of, and right to develop, gas  
25          or oil if all or any part of the oil and gas lease

1           or right to develop is suspended, or coal if all or  
2           any part of the Federal coal lease and/or any  
3           non-Federal interest in the logical mining unit  
4           that includes the Federal coal lease is suspended,  
5           pursuant to paragraph (4)(C) and/or paragraph  
6           (5)(B), and these persons shall agree upon and  
7           appoint a third person with such expertise. If  
8           no agreement is reached on the date of appoint-  
9           ment of a third person, the court shall make the  
10          appointment.

11                 “(B) The Federal coal lessee shall be respon-  
12           sible for compensation of the expert appointed by  
13           it; the oil and gas developer shall be responsible  
14           for compensation of the expert appointed by it;  
15           and the Federal coal lessee and oil and gas devel-  
16           oper shall each pay one-half of the compensation  
17           for the third expert.

18                 “(7) INFORMATION AND DATA.—

19                 “(A) The Federal coal lessee, oil and gas de-  
20           veloper, and Secretary shall each submit to the  
21           panel of experts within 30 days of the date of ap-  
22           pointment of the panel pursuant to paragraph  
23           (6) all information and data in the possession of  
24           such party that is pertinent to the determina-  
25           tions to be made pursuant to paragraph (10) or

1 paragraph (11), and shall each submit to the  
2 panel of experts thereafter any additional perti-  
3 nent information and data in the possession of  
4 such party that the panel requests of such party  
5 in writing.

6 “(B) Except as provided in subparagraph  
7 (C), the court shall ensure that any information  
8 and data submitted to the panel of experts pur-  
9 suant to subparagraphs (A) and (D) shall have  
10 the protection of confidentiality that is applica-  
11 ble, and may be accorded, to them by law and  
12 the federal rules of civil procedure and evidence.

13 “(C) All information and data submitted to  
14 the panel of experts pursuant to subparagraphs  
15 (A) and (D) shall be available for review by all  
16 parties unless an *ex parte* order is issued by the  
17 court.

18 “(D)(i) The Federal coal lessee may drill for  
19 and otherwise collect data or information on  
20 coalbed methane at any site or sites within the  
21 common area that are not within a spacing unit  
22 containing a well that is producing or capable of  
23 producing coalbed methane under the conditions  
24 set forth in clause (ii).

1           “(i) The drilling or collection of data or  
2 information authorized by clause (i) shall be for  
3 the sole purpose of submission of information  
4 and data pursuant to this paragraph.

5           “(iii) The Federal coal lessee shall not  
6 produce any coalbed methane as a result of any  
7 drilling authorized by clause (i) and shall com-  
8 ply with any Federal or State requirements ap-  
9 plicable to such activity.

10           “(iv) The Federal coal lessee shall submit to  
11 the Secretary an exploration plan to conduct  
12 any drilling pursuant to clause (i). The Sec-  
13 retary shall approve, approve as modified, or re-  
14 ject the plan, within 15 days of the date of its  
15 submission. The Secretary may modify or reject  
16 the plan only for good cause fully set forth in  
17 writing and provided to the Federal coal lessee.  
18 The Federal coal lessee shall adhere to the plan,  
19 as approved by the Secretary.

20           “(8) SUBMISSION OF BRIEFS AND HEARING.—

21           “(A) Within 45 days of the date of appoint-  
22 ment of the panel of experts pursuant to para-  
23 graph (6), all parties may submit briefs con-  
24 cerning the determinations to be made pursuant  
25 to paragraph (10) or paragraph (11).

1           “(B) *Within 60 days of the date of appoint-*  
2           *ment of the panel of experts pursuant to para-*  
3           *graph (6), the panel may, or if requested by the*  
4           *petitioner or a respondent shall, receive testi-*  
5           *mony from all parties concerning the determina-*  
6           *tions to be made pursuant to paragraph (10) or*  
7           *paragraph (11).*

8           “(9) *EXPERTS’ REPORT.—Within 120 days of the*  
9           *date of appointment of the panel of experts pursuant*  
10          *to paragraph (6), the panel shall submit a written re-*  
11          *port to the court providing in detail the panel’s rec-*  
12          *ommendations on the determinations to be made pur-*  
13          *suant to paragraph (10) or paragraph (11).*

14          “(10) *COURT’S FINAL RESPONSE TO PETITION:*  
15          *VALUATION CONCERNING ECONOMICALLY RECOVER-*  
16          *ABLE OIL OR GAS RESOURCES LOST OR DELAYED,*  
17          *SUSPENSION OR TERMINATION, AND PAYMENT*  
18          *ORDER.—Within 210 days of the date of issuance of*  
19          *an order pursuant to paragraph (5)(B), by which, or*  
20          *by any action of the Secretary pursuant to paragraph*  
21          *(4)(C)(i), all or any part of the oil and gas lease or*  
22          *right to develop is suspended, the court shall take the*  
23          *following actions:*

24                  “(A)(i) *The court shall determine whether,*  
25                  *as a result of the order or any action of the Sec-*

1            *retary, all or any part of, including any geo-*  
2            *graphical area of or zone or reservoir subject to,*  
3            *the oil and gas lease or right to develop should*  
4            *be suspended during any remaining period in*  
5            *which the mining operations or support facilities*  
6            *occupy the common area or whether the oil and*  
7            *gas lease or right to develop should be termi-*  
8            *nated.*

9            *“(i) Any determination to suspend pursu-*  
10           *ant to clause (i) shall, wherever possible or ap-*  
11           *propriate, limit the suspension or phase the sus-*  
12           *pension to permit the optimum development of*  
13           *the oil or gas prior to the time at which the min-*  
14           *ing operations would reach the area within the*  
15           *common area that is subject to the suspension or*  
16           *particular phase of the suspension.*

17           *“(iii) Any determination to terminate pur-*  
18           *suant to clause (i) shall be made only if the*  
19           *court finds that the economically recoverable oil*  
20           *and gas resources subject to compensation pursu-*  
21           *ant to subparagraph (E) would be entirely lost*  
22           *or rendered impracticable to produce as a con-*  
23           *sequence of the mining operations in the common*  
24           *area and that such resources constitute all of the*

1           *economically recoverable resources within the oil*  
2           *and gas property.*

3           “(B) *If the court makes a determination to*  
4           *suspend pursuant to subparagraph (A), the court*  
5           *shall determine—*

6                     “(i) *the amount of any net income that*  
7                     *will not be realized due to delay in develop-*  
8                     *ment of economically recoverable resources*  
9                     *of oil or gas, other than coalbed methane,*  
10                    *from the common area, whether or not such*  
11                    *development has commenced;*

12                   “(ii) *the amount of any net income*  
13                    *that will not be realized, whether or not de-*  
14                    *velopment of coalbed methane has com-*  
15                    *menced, that is due to—*

16                             “(I) *delay in development of eco-*  
17                             *nomically recoverable resources of coal-*  
18                             *bed methane in the common area; and*

19                             “(II) *the loss of any economically*  
20                             *recoverable resources of coalbed meth-*  
21                             *ane from the coal to be extracted by the*  
22                             *mining operations in the common*  
23                             *area; and*

24                             “(III) *the loss of any economically*  
25                             *recoverable resources of coalbed meth-*

1            *ane underlying any area that is within*  
2            *the oil and gas property associated*  
3            *with the common area and that ex-*  
4            *tends outward from each exposed coal*  
5            *face of the mining operations for a dis-*  
6            *tance from which drainage of such re-*  
7            *sources is established to the satisfaction*  
8            *of the court; and*

9            *“(iii) any of the following damages*  
10           *that will be incurred by the owners of any*  
11           *interest in the oil and gas property as a*  
12           *consequence of the suspension: any unavoid-*  
13           *able fixed expenses (including, but not lim-*  
14           *ited to, the expenses of shutting in produc-*  
15           *tion from, maintenance of, testing of, and*  
16           *redrilling or reconnecting an existing well;*  
17           *relaying pipeline; and all other expenses*  
18           *reasonably related to reestablishing any ex-*  
19           *isting oil or gas production); expenses asso-*  
20           *ciated with stranded costs of drilling equip-*  
21           *ment and facilities; any lost royalties on oil*  
22           *or gas not produced by the oil and gas de-*  
23           *veloper; and any lost income associated*  
24           *with temporarily shutting in production*  
25           *from wells outside of the common area as*

1                   *needed for reconnection to a gathering sys-*  
2                   *tem or pipeline to market.*

3                   “(C) *The determinations made pursuant to*  
4                   *subparagraph (B) shall not include any decrease*  
5                   *in net income or damages resulting from loss of*  
6                   *any oil or gas resources that occurred before the*  
7                   *date of the determinations and is caused by min-*  
8                   *ing within or outside of the common area on the*  
9                   *Federal coal lease or logical mining unit that is*  
10                   *the subject of the common area determination*  
11                   *made pursuant to paragraph (4)(A)(i).*

12                   “(D) *If the court makes a determination to*  
13                   *terminate pursuant to subparagraph (A), the*  
14                   *court shall determine the amount of any net in-*  
15                   *come that will not be realized and any damages*  
16                   *due to the loss of, or impracticability to produce,*  
17                   *the economically recoverable resources of oil or*  
18                   *gas in the oil and gas property in the same*  
19                   *manner as provided in subparagraph (B).*

20                   “(E) *The court shall issue an order that—*

21                    “(i) *suspends all or any part of, sus-*  
22                    *sponds in phases parts of, or terminates the*  
23                    *oil and gas lease or right to develop, includ-*  
24                    *ing any applicable payment or production*  
25                    *obligations, in accordance with the deter-*

1            *mination made pursuant to subparagraph*  
2            *(A); and*

3            *“(ii) awards to the oil and gas devel-*  
4            *oper and all other owners of any interest in*  
5            *the oil and gas property, as their interests*  
6            *may appear, a sum of money from the Fed-*  
7            *eral coal lessee equal to the net income*  
8            *amount and damages determined pursuant*  
9            *to subparagraph (B) or subparagraph (D).*

10          *“(F) In determining the amount of net in-*  
11          *come that will not be realized pursuant to sub-*  
12          *paragraph (B) or subparagraph (D) and the*  
13          *sum of money to be awarded pursuant to sub-*  
14          *paragraph (E), the court shall ensure to the best*  
15          *of its ability that the Federal coal lessee is not*  
16          *required to pay for the same gas lost, delayed in*  
17          *development, or rendered impracticable to de-*  
18          *velop to more than one oil and gas developer or*  
19          *the owners of any interest in more than one oil*  
20          *and gas property.*

21          *“(11) COURT’S FINAL RESPONSE TO PETITION:*  
22          *VALUATION CONCERNING ECONOMICALLY RECOVER-*  
23          *ABLE COAL RESOURCES LOST OR DELAYED, SUSPEN-*  
24          *SION OR TERMINATION AND PAYMENT ORDER.—With-*  
25          *in 210 days of the date of issuance of an order pursu-*

1        *ant to paragraph (5)(B) by which, or by any action*  
2        *by the Secretary pursuant to paragraph (4)(C)(i), the*  
3        *Federal coal lease and/or any non-Federal interest in*  
4        *the logical mining unit is suspended, the court—*

5                *“(A) shall determine whether, as a result of*  
6                *the order or any action of the Secretary, the Fed-*  
7                *eral coal lease and/or any non-Federal interest*  
8                *in the logical mining unit shall be suspended in*  
9                *whole or in part to further accommodate oil or*  
10               *gas development in the common area; and*

11               *“(B) shall determine the amount of any net*  
12               *income that will not be realized from the loss or*  
13               *delay in development of economically recoverable*  
14               *resources of coal, and the unavoidable fixed ex-*  
15               *penses (including, but not limited to, additional*  
16               *expenses associated with reclamation, expenses*  
17               *associated with stranded costs of mining equip-*  
18               *ment and facilities, a proportionate refund of the*  
19               *lease bonus, and any lost royalties on coal not*  
20               *produced by the Federal coal lessee) that will be*  
21               *incurred, by the Federal coal lessee as a con-*  
22               *sequence of the suspension; and*

23               *“(C) shall issue an order that—*

24                        *“(i) suspends, in accordance with the*  
25                        *determination made pursuant to subpara-*

1            *graph (A), all or any part of the Federal*  
2            *coal lease and/or any non-Federal interest*  
3            *in the logical mining unit, including any*  
4            *applicable payment or production obliga-*  
5            *tions on the lease or logical mining unit, for*  
6            *the period necessary for expeditious develop-*  
7            *ment in the common area of the gas or oil*  
8            *that is the subject of the petition for relief*  
9            *as demonstrated to the court in a produc-*  
10           *tion plan submitted by the oil and gas de-*  
11           *veloper; and*

12           *“(ii) awards to the Federal coal lessee*  
13           *and all other owners of any interest in the*  
14           *Federal coal lease or logical mining unit, as*  
15           *their interests may appear, a sum of money*  
16           *equal to the net income amount and un-*  
17           *avoidable fixed expenses determined pursu-*  
18           *ant to subparagraph (B).*

19           *“(12) REVIEW OF EXPERTS’ REPORT.—*

20           *“(A) The court shall make the determina-*  
21           *tions required by paragraph (10) or paragraph*  
22           *(11) after reviewing the report of the panel of ex-*  
23           *perts submitted pursuant to paragraph (9) and*  
24           *the hearing required by subparagraph (B).*

1           “(B) After submission of the report of the  
2 panel of experts pursuant to paragraph (9) and  
3 prior to making the determinations required by  
4 paragraph (10) or paragraph (11), the court  
5 shall hold a hearing in which the panel of ex-  
6 perts shall present their report and the parties to  
7 the proceeding shall have the opportunity to ex-  
8 amine the panel and provide to the court any  
9 evidence or arguments they may have to support  
10 or contravene the recommendations of the report.

11           “(13) DISBURSEMENT OF PAYMENTS.—

12           “(A)(i) At the election of the oil and gas de-  
13 veloper, the sum of money awarded by the court  
14 pursuant to paragraph (10)(E) shall be—

15                   “(I) paid in full within 60 days of the  
16 date of issuance of the order pursuant to  
17 paragraph (10)(E); or

18                   “(II) divided into the number of tons  
19 of recoverable coal in the common area and  
20 paid in per ton increments as the coal is  
21 mined in accordance with clause (i) and  
22 subparagraph (C).

23           “(i) The Federal coal lessee shall make the  
24 payments required by clause (i)(II) on a quar-  
25 terly basis in advance based on the Federal coal

1            *lessee's estimate of the number of tons of coal to*  
2            *be mined in the common area during the fol-*  
3            *lowing quarter, and shall add or subtract an*  
4            *amount to or from the advance payment for the*  
5            *next quarter to reflect the coal actually sold or*  
6            *transferred.*

7            *“(B)(i) At the election of the Federal coal*  
8            *lessee, the sum of money awarded by the court*  
9            *pursuant to paragraph (11)(C) shall be:*

10            *“(I) paid in full within 60 days of the*  
11            *date of issuance of the order pursuant to*  
12            *paragraph (11)(C); or*

13            *“(II) divided into the number of bar-*  
14            *rels of recoverable oil or cubic feet of recov-*  
15            *erable gas in the common area and paid in*  
16            *per barrel or cubic feet increments as the oil*  
17            *or gas is produced in accordance with*  
18            *clause (i) and subparagraph (C).*

19            *“(ii) The oil and gas developer shall make*  
20            *the payments required by clause (i)(II) on a*  
21            *quarterly basis in advance based on the oil and*  
22            *gas developer's estimate of the number of barrels*  
23            *of oil or cubic feet of gas to be produced in the*  
24            *common area during the following quarter, and*  
25            *shall add or subtract an amount to or from the*

1           *advance payment for the next quarter to reflect*  
2           *the oil or gas actually produced.*

3           “(C) *If the mining or production necessary*  
4           *to make full payment of the sum of money*  
5           *awarded by the court in accordance with sub-*  
6           *paragraph (A)(i)(II) or subparagraph (B)(i)(II)*  
7           *does not occur within 5 years of the date of*  
8           *issuance of the court order pursuant to para-*  
9           *graph (10)(E) or paragraph (11)(C), the unpaid*  
10           *balance shall be paid within 60 days thereafter.*

11           “(14) *TERMINATION OF OIL AND GAS LEASE SUS-*  
12           *PENSION.—*

13           “(A) *If the court issues an order to suspend*  
14           *all or any part of the oil and gas lease or right*  
15           *to develop pursuant to paragraph (10)(E)—*

16                   “(i) *the Federal coal lessee shall notify*  
17                   *the court and the oil and gas developer*  
18                   *when the portion of the common area sub-*  
19                   *ject to the order issued pursuant to para-*  
20                   *graph (10)(E) is no longer required for*  
21                   *mining operations or support facilities; and*

22                   “(ii) *within 120 days of the date of re-*  
23                   *ceipt by the court of the notification pursu-*  
24                   *ant to clause (i) or within 60 days prior to*  
25                   *the date on which the period established by*

1           the court in the order issued pursuant to  
2           paragraph (10)(E) concludes, the oil and  
3           gas lessee may petition the court for an  
4           order that terminates the suspension and  
5           fixes the date and terms on which the oil  
6           and gas lessee may resume operations with-  
7           in the portion of the common area subject  
8           to the order issued pursuant to paragraph  
9           (10)(E).

10           “(B) The court shall issue the order sought  
11           under subparagraph (A)(ii) within 30 days of  
12           the date of receipt of the petition pursuant to  
13           subparagraph (A)(ii).

14           “(C)(i) If the oil and gas developer deter-  
15           mines that, as a consequence of the order of the  
16           court issued pursuant to paragraph (5)(B) and  
17           an order to suspend all or part of the oil and gas  
18           lease or right to develop pursuant to paragraph  
19           (10)(E), the conditions described in paragraph  
20           (10)(A)(iii) exist, the oil and gas developer may  
21           petition the court to terminate the oil and gas  
22           lease or right to develop.

23           “(i) The petition referred to in clause (i)  
24           may be filed any time after issuance of the order  
25           of the court pursuant to paragraph (10)(E) but

1           *not later than 120 days after the date of receipt*  
2           *by the court of the notification pursuant to sub-*  
3           *paragraph (A)(i).*

4           “(iii) Upon receipt of a petition pursuant  
5           to clause (i), the court shall make a determina-  
6           tion whether to issue an order to terminate the  
7           oil and gas lease or right to develop and award  
8           an additional amount from the Federal coal les-  
9           see to the oil or gas developer and all other own-  
10          ers of any interest in the oil and gas property,  
11          as their interests may appear, in accordance  
12          with the procedures and deadlines established in  
13          paragraphs (1) and (6) through (13).

14          “(15) *TERMINATION OF COAL LEASE SUSPEN-*  
15          *SION.—*

16                 “(A) *If the court issues an order requiring*  
17                 *suspension of all or any part of the Federal coal*  
18                 *lease and/or any non-Federal interest in the log-*  
19                 *ical mining unit that includes the Federal coal*  
20                 *lease pursuant to paragraph (11)(C)—*

21                         “(i) *the oil and gas developer shall no-*  
22                         *tify the court and the Federal coal lessee*  
23                         *when the portion of the common area sub-*  
24                         *ject to the order issued pursuant to para-*

1           *graph (11)(C) is no longer required for gas*  
2           *or oil production from such portion; and*

3           “(ii) *within 120 days of the date of re-*  
4           *ceipt by the court of the notification pursu-*  
5           *ant to clause (i) or within 60 days prior to*  
6           *the date on which the period established by*  
7           *the court in the order issued pursuant to*  
8           *paragraph (11)(C) concludes, the Federal*  
9           *coal lessee may petition the court for an*  
10           *order that fixes the date and terms on which*  
11           *the Federal coal lessee may commence min-*  
12           *ing operations or construction of support*  
13           *facilities in the portion of the common area*  
14           *subject to the order issued pursuant to para-*  
15           *graph (11)(C) and, if all or any part of the*  
16           *Federal coal lease and/or any non-Federal*  
17           *interest in the logical mining unit is sus-*  
18           *pending, terminates the suspension.*

19           “(B) *The court shall issue the order sought*  
20           *under subparagraph (A)(ii) within 30 days of*  
21           *the date of receipt of the petition pursuant to*  
22           *subparagraph (A)(ii).*

23           “(C)(i) *If the Federal coal lessee determines*  
24           *that, as a consequence of the order of the court*  
25           *issued pursuant to paragraph (11)(C), further*

1           *development of all or any part of the Federal*  
2           *coal lease and/or any non-Federal interest in the*  
3           *logical mining unit is impracticable, the Federal*  
4           *coal lessee may petition the court to terminate*  
5           *all or any part of the Federal coal lease and/or*  
6           *any non-Federal interest in the logical mining*  
7           *unit.*

8           “(i) *The petition referred to in clause (i)*  
9           *may be filed any time after issuance of the order*  
10          *of the court pursuant to paragraph (11)(C) but*  
11          *not later than 120 days after the date of receipt*  
12          *by the court of the notification pursuant to sub-*  
13          *paragraph (A)(i).*

14          “(iii) *Upon receipt of a petition pursuant*  
15          *to clause (i), the court shall make a determina-*  
16          *tion whether to issue an order to terminate all*  
17          *or any part of the Federal coal lease and/or any*  
18          *non-Federal interest in the logical mining unit*  
19          *and award an additional amount from the oil*  
20          *and gas developer to the Federal coal lessee and*  
21          *all other owners of any interest in the Federal*  
22          *coal lease or logical mining unit, as their inter-*  
23          *ests may appear, in accordance with the proce-*  
24          *dures and deadlines established in paragraphs*  
25          *(1) and (6) through (13).*

1           “(16) *SUPPLEMENTAL PETITION FOR RELIEF.*—

2           “(A) *If, any time after the issuance of an*  
3           *order pursuant to paragraph (10)(E) or para-*  
4           *graph (11)(C), the mining plan that is the basis*  
5           *of the order is altered in a manner that may*  
6           *warrant suspension of an additional part or all*  
7           *of, or termination of, the oil and gas lease or*  
8           *right to develop or suspension of an additional*  
9           *part of the Federal coal lease and/or any non-*  
10           *Federal interest in the logical mining unit that*  
11           *includes the Federal coal lease and/or increase in*  
12           *the sum of money that was awarded under the*  
13           *order, either the Federal coal lessee or the oil and*  
14           *gas developer may, if necessary after compliance*  
15           *with the requirements of subsection (d), file a*  
16           *supplemental petition for relief with the court to*  
17           *amend the order.*

18           “(B) *The requirements of paragraphs (1)*  
19           *and (6) through (13) shall apply to the supple-*  
20           *mental petition submitted pursuant to subpara-*  
21           *graph (A).*

22           “(C)(i) *Upon completion of the process re-*  
23           *quired by subparagraph (B), the court shall*  
24           *make a determination whether to suspend an ad-*  
25           *ditional part or all of, or terminate, the oil and*

1           *gas lease or right to develop or to suspend an ad-*  
2           *ditional part of the Federal coal lease and/or*  
3           *any non-Federal interest in the logical mining*  
4           *unit as described in, and to award an additional*  
5           *sum of money calculated in accordance with,*  
6           *paragraph (10) or paragraph (11).*

7           “(ii) *The court shall issue any order result-*  
8           *ing from the determinations made pursuant to*  
9           *clause (i) within 90 days of the date of filing of*  
10           *the supplemental petition for relief.*

11           “(iii) *Any award of an additional sum of*  
12           *money shall be paid in accordance with para-*  
13           *graph (13).*

14           “(17) *APPEAL OF COURT ORDERS.—*

15           “(A) *Any order issued pursuant to para-*  
16           *graph (5)(B), paragraph (5)(E), paragraph*  
17           *(14)(B), or paragraph (15)(B) is final and may*  
18           *not be appealed.*

19           “(B) *Any order issued pursuant to para-*  
20           *graph (10)(E), paragraph (11)(C), paragraph*  
21           *(14)(C)(iii), paragraph (15)(C)(iii), or para-*  
22           *graph (16)(C)(ii) may be appealed, but the ap-*  
23           *peal, and any disposition thereof, may not dis-*  
24           *turb any order referred to in subparagraph (A).*

25           “(18) *SUSPENSION TERM.—*

1           “(A) *If all or any part of any lease issued*  
2 *pursuant to this Act is suspended in whole or in*  
3 *part by the Secretary or the court under this*  
4 *subsection—*

5                   “(i) *the lessee shall not be required to*  
6 *pay any rental for the lease for the period*  
7 *of the suspension; and*

8                   “(ii) *if the lease is a Federal oil or gas*  
9 *lease and is in the primary term or if the*  
10 *lease is a Federal coal lease, the term of the*  
11 *lease shall be extended by the length of the*  
12 *period of the suspension plus one year; or*

13                   “(iii) *the lease shall not terminate due*  
14 *to lack of production for the period of the*  
15 *suspension plus one year.*

16           “(B) *If any non-Federal oil and gas lease*  
17 *or right to develop or any non-Federal interest*  
18 *in a logical mining unit is suspended in whole*  
19 *or in part by the court under this subsection, the*  
20 *court shall establish terms for the suspension*  
21 *comparable to the terms set forth in subpara-*  
22 *graph (A).*

23           “(f) *LIABILITY LIMITATION.—*

24                   “(1) *FEDERAL COAL LESSEE.—Except as pro-*  
25 *vided in a written agreement reached pursuant to*

1        *subsection (d)(2) or reached on or after September 1,*  
2        *1999, and before the date of enactment of this section,*  
3        *or as provided by an order of the court pursuant to*  
4        *subsection (e), neither the holder of a Federal coal*  
5        *lease subject to the agreement or order nor the United*  
6        *States shall be liable to the oil and gas developer of,*  
7        *or any owner of an interest in, any oil and gas prop-*  
8        *erty subject to the agreement or order for any decrease*  
9        *in or depletion of, or any impairment of the ability*  
10       *to recover, any gas or oil from the property that may*  
11       *result from the development of any coal on the Fed-*  
12       *eral coal leasehold or within a logical mining unit*  
13       *that includes the Federal coal lease.*

14                *“(2) OIL AND GAS DEVELOPER.—Except as pro-*  
15        *vided in a written agreement reached pursuant to*  
16        *subsection (d)(2) or reached on or after September 1,*  
17        *1999, and before the date of enactment of this section,*  
18        *or as provided by an order of the court pursuant to*  
19        *subsection (e), neither the oil and gas developer of an*  
20        *oil and gas property subject to the agreement or order*  
21        *nor the United States shall be liable to a holder of a*  
22        *Federal coal lease subject to the agreement or order,*  
23        *or any owner of any non-Federal interest in a logical*  
24        *mining unit that includes the Federal coal lease, or*  
25        *the United States for any impairment of the ability*

1       to recover coal from the Federal coal leasehold or log-  
2       ical mining unit that may result from the develop-  
3       ment of gas or oil on the property.

4       “(g) CREDIT AGAINST ROYALTIES.—

5             “(1) IN GENERAL.—

6                     “(A) Whenever a holder of a Federal coal  
7                     lease is required by a written agreement reached  
8                     pursuant to subsection (d)(2) and approved by  
9                     the Bureau of Land Management or reached  
10                    prior to the date of enactment of this section and  
11                    approved by the Bureau of Land Management on  
12                    or after September 1, 1999, or by a court order  
13                    issued pursuant to paragraph (10)(E), para-  
14                    graph (14)(C)(iii), or paragraph (16)(C)(ii) of  
15                    subsection (e), to pay an amount for suspension  
16                    of all or part of, or termination of, a Federal oil  
17                    and gas lease for coalbed methane located within  
18                    the Subsection (g) Lands, the amount so paid  
19                    shall be credited against any royalties on pro-  
20                    duction required by section 7(a) or any other  
21                    provision of this Act from any lease of Federal  
22                    coal issued under this Act to such holder or any  
23                    affiliate thereof.

24                    “(B) Whenever a holder of a Federal oil and  
25                    gas lease is required by a written agreement

1           reached pursuant to subsection (d)(2) and ap-  
2           proved by the Bureau of Land Management or  
3           reached prior to the date of enactment of this sec-  
4           tion and approved by the Bureau of Land Man-  
5           agement on or after September 1, 1999, or by a  
6           court order issued pursuant to paragraph  
7           (11)(C), paragraph (15)(C)(ii), or paragraph  
8           (16)(C)(ii) of subsection (e), to pay an amount  
9           for suspension or termination of all or part of a  
10          Federal coal lease located within the Subsection  
11          (g) Lands, the amount so paid shall be credited  
12          against any royalties on production required by  
13          subsection (b)(1)(A) or subsection (c)(1) of sec-  
14          tion 17 or any other provision of this Act from  
15          any lease of Federal oil and gas issued under  
16          this Act to such holder or any affiliate thereof.

17           “(2) TREATMENT OF ROYALTIES TO STATES.—

18          The Secretary shall pay to the State in which the  
19          Federal coal lease or Federal oil and gas lease referred  
20          to in paragraph (1)(A) or paragraph (1)(B), respec-  
21          tively, is located 50 percent of the amount of any  
22          credit against royalties provided under paragraph  
23          (1)(A) or paragraph (1)(B), respectively—

24                   “(A) in the same manner as if the credit  
25                   against royalties had been paid in money as

1           *royalties and distributed under section 35(a) of*  
2           *this Act; and*

3                   “(B) *from amounts received as royalties,*  
4                   *rentals, or bonuses derived from leases issued*  
5                   *under this Act that otherwise would be deposited*  
6                   *to miscellaneous receipts under section 35(a) of*  
7                   *this Act.*

8           “(h) *DENIAL OF USE AS PRECEDENT.—Nothing in*  
9           *this section shall be applicable to any lease under this Act*  
10           *for any mineral, or shall be applicable to, or supersede any*  
11           *statutory or common law otherwise applicable in, any pro-*  
12           *ceeding in any Federal or State court involving develop-*  
13           *ment of any mineral, outside of any common area, as de-*  
14           *finied in subsection (a)(11), within or outside of the Powder*  
15           *River Basin, as defined in subsection (a)(1).”.*

16   **SEC. 4. EFFECTIVE DATE.**

17           *This Act shall be effective upon the date of its enact-*  
18           *ment.*

Amend the title so as to read: “A bill to amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coalbed methane, natural gas, and oil in ‘common’ areas of the Powder River Basin, Wyoming and Montana, and for other purposes.”.



**Calendar No. 939**

106TH CONGRESS  
2D SESSION

**S. 1950**

**[Report No. 106-490]**

---

---

**A BILL**

To amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coalbed methane, natural gas, and oil in the Powder River Basin, Wyoming and Montana, and for other purposes.

---

---

OCTOBER 5 (legislative day, SEPTEMBER 22), 2000

Reported with an amendment and an amendment to the  
title