

107TH CONGRESS  
1ST SESSION

# S. 675

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 2 (legislative day, MARCH 30), 2001

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

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## A BILL

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.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Powder River Basin  
5       Resource Development Act of 2001”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—The Congress finds that:

1           (1) The Powder River Basin in Wyoming and  
2 Montana is one of the world's richest energy re-  
3 source regions, possessing the largest reserves of  
4 coal in the United States and significant deposits of  
5 oil and natural gas, including coalbed methane.

6           (2) The coal is predominantly federally owned,  
7 either as part of the public lands or reserved from  
8 public lands that were sold under homestead laws  
9 enacted in 1909, 1910, and 1916, and may be leased  
10 to coal producers by the Bureau of Land Manage-  
11 ment, Department of the Interior, under the Mineral  
12 Leasing Act.

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

15           (4) The federally owned gas and oil, like the  
16 coal, are part of the public lands and may be leased  
17 to oil and gas producers by the Bureau of Land  
18 Management under the Mineral Leasing Act.

19           (5) The privately owned gas and oil were con-  
20 veyed with the public lands purchased under the  
21 three homestead laws and may have been sold or  
22 leased to oil and gas producers by the successors to  
23 those original purchasers.

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

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

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

9           (9) Development of both the coal and the gas  
10          and oil is occurring in the Powder River Basin.

11          (10) In many locations the coal and the gas and  
12          oil have been leased or sold to different parties.  
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. Where concurrent development is im-  
17          possible and even where it may be possible, in cer-  
18          tain of these locations disputes have arisen among  
19          the different parties concerning plans for, and the  
20          course of, development of these resources.

21          (11) The development of any one of these re-  
22          sources can result in loss of another, either by mak-  
23          ing recovery impossible in the case of coalbed meth-  
24          ane or uneconomic in the case of coal, oil, or deep  
25          gas.

1           (12) The nature, extent, and value of any loss  
2 or delay in development of the gas, oil, or coal re-  
3 source due to development of another of these re-  
4 sources in the “common areas” within the Powder  
5 River Basin in which disputes between the resources’  
6 developers arise should be ascertained and fair mar-  
7 ket value for the loss or delay should be provided by  
8 agreement between the developers or by an expedi-  
9 tious adjudication procedure.

10           (13) Federal law should provide a procedure  
11 that will assure the orderly development of the en-  
12 ergy resources, and fair treatment to the resources’  
13 developers, in the “common areas” within the Pow-  
14 der River Basin in which disputes between the devel-  
15 opers arise.

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

17           (1) provide a consistent procedure to resolve  
18 disputes between developers of coal and developers  
19 of natural gas and oil in the “common areas” within  
20 the Powder River Basin to which this Act applies  
21 concerning the sequence of development of those re-  
22 sources in the same location, regardless of who owns  
23 the resources;

24           (2) encourage maximum recovery of the re-  
25 sources prior to the time at which such disputes are

1 likely to occur on thereafter until the procedure pro-  
2 vided by this Act is implemented;

3 (3) ensure that the procedure provided by this  
4 Act is employed as a last resort if the disputes are  
5 not fully resolved by voluntary agreements between  
6 the resources' developers or administrative policies  
7 and actions;

8 (4) determine fair and just compensation owed  
9 for the loss of, or delay in, the opportunity to de-  
10 velop a resource resulting from implementation of  
11 the procedure provided by this Act; and

12 (5) provide expressly that the procedure pro-  
13 vided by this Act will neither apply to nor set any  
14 precedent for resolution of disputes between or  
15 among resource developers outside of the "common  
16 areas" within the Powder River Basin to which this  
17 Act applies.

18 **SEC. 3. DEFINITIONS.**

19 As used in this Act, the term—

20 (1) "Powder River Basin" or "Basin" means  
21 the area designated as "Powder River Basin" on a  
22 map entitled "MLA Section 44 Powder River Basin  
23 Area", dated July 1, 1999, and on file in the Wyo-  
24 ming and Montana State Offices of the Bureau of  
25 Land Management, Department of the Interior;

1           (2) “Section 21 Lands” means the area des-  
2           ignated as “Section 21 Lands” on the map de-  
3           scribed in paragraph (1);

4           (3) “Secretary” means the Secretary of the In-  
5           terior;

6           (4) “Mineral Leasing Act” means the Act of  
7           February 25, 1920 (41 Stat. 437), as amended (30  
8           U.S.C. 181 et seq.);

9           (5) “Federal coal lease” means a lease of Fed-  
10          eral coal in the Basin issued pursuant to the Mineral  
11          Leasing Act;

12          (6) “Federal coal lessee” means the holder of a  
13          Federal coal lease;

14          (7) “Federal oil and gas lease” means a lease  
15          of Federal oil and gas in the Basin issued pursuant  
16          to the Mineral Leasing Act;

17          (8) “oil and gas lease or right to develop”  
18          means a Federal oil and gas lease or a lease for or  
19          right to develop oil and gas in the Basin provided  
20          by a State or private owner of the resources;

21          (9) “non-Federal oil and gas lease or right to  
22          develop” means a lease for or right to develop oil  
23          and gas in the Basin provided by a State or private  
24          owner of the resources;

1           (10) “oil and gas developer” means the holder  
2 of an oil and gas lease or right to develop;

3           (11) “oil and gas property means an area in the  
4 Basin which is subject to an oil and gas lease or  
5 right to develop held by an oil and gas developer;

6           (12) “coalbed methane” shall have the meaning  
7 given that term in section 1339(p)(2) of the Energy  
8 Policy Act of 1992 (106 Stat. 2992, 42 U.S.C.  
9 13368(p)(2));

10          (13) “common area” means an area in the  
11 Basin in which all or a portion of a Federal coal  
12 lease (including any area of State or private coal  
13 within a logical mining unit with the Federal coal  
14 lease) overlaps all or a portion of an oil and gas  
15 property;

16          (14) “approved or proposed mining plan”  
17 means a mining plan that is approved by, or has  
18 been submitted for the approval of, the Secretary;

19          (15) “owners of any interest in the oil and gas  
20 property” means persons who own the working in-  
21 terest, lease interest, operating interest, mineral in-  
22 terest, royalty interest, or any other interest in the  
23 oil and gas property, and any other persons who  
24 might receive compensation for unavoidable fixed ex-

1       penses under an order concerning the oil and gas  
2       property issued pursuant to section 11(d);

3           (16) “owners of any non-Federal interest in the  
4       oil and gas property” means all owners of any inter-  
5       est in the oil and gas property except the Federal  
6       Government or any agency or department thereof;  
7       and

8           (17) “develop” or “development” means to de-  
9       velop or to produce, or both, or the development or  
10      production, or both, respectively, including all inci-  
11      dental operations.

12 **SEC. 4. PARTIES ENCOURAGED TO ENTER INTO WRITTEN**  
13           **AGREEMENT.**

14       In any common area, the Federal coal lessee and oil  
15      and gas developer, subject to applicable Federal and State  
16      laws, regulations, and lease terms, may and are encour-  
17      aged to enter into a written agreement that details oper-  
18      ations and assigns or assesses costs or compensation for  
19      the concurrent or sequential development of those re-  
20      sources.

21 **SEC. 5. MINERAL CONSERVATION.**

22       The Secretary shall employ any authority the Sec-  
23      retary possesses to encourage expedited development of  
24      any oil or gas resources and any coal resource that—

1           (1) are leased pursuant to the Mineral Leasing  
2     Act;

3           (2) are within common areas; and

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

6 **SEC. 6. NEGOTIATIONS CONCERNING DEVELOPMENT PRI-**  
7                   **ORITY FOR CERTAIN OPERATIONS IN THE**  
8                   **BASIN.**

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

24           (b) OBLIGATION TO NEGOTIATE.—Promptly after  
25 providing the notice referred to in subsection (a), the party

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

5 **SEC. 7. PETITION FOR RELIEF.**

6 (a) SUBMISSION OF PETITION.—

7 (1) If notice is submitted timely pursuant to  
8 section 6(a) and the Federal coal lessee and the oil  
9 and gas developer engage in negotiations, but do not  
10 reach agreement, pursuant to section 6(b), the Fed-  
11 eral coal lessee or the oil and gas developer may file  
12 a petition for relief as described in paragraph (3) in  
13 the United States district court for the district in  
14 which the common area is located on any date which  
15 is not less than 180 days prior to the date on which  
16 the mining operations or construction of the mine  
17 support facilities is projected by the approved or  
18 proposed mining plan to commence in the common  
19 area.

20 (2) The petitioner shall serve the oil and gas  
21 developer or the Federal coal lessee, as the case may  
22 be, and the Secretary with a copy of the petition for  
23 relief on the same date upon which the petition is  
24 filed with the court pursuant to paragraph (1).

1           (3) The petition for relief shall include the fol-  
2           lowing:

3                   (A) A description and map of the Federal  
4                   coal lease, oil and gas property, and the com-  
5                   mon area.

6                   (B) A list containing the names and ad-  
7                   dresses of all owners of any non-Federal inter-  
8                   est in the oil and gas property and all owners  
9                   of any non-Federal interest in the Federal coal  
10                  lease or logical mining unit. The petitioner shall  
11                  list those owners of any non-Federal interest in  
12                  the oil and gas property and of the Federal coal  
13                  lease or logical mining unit whom the petitioner  
14                  is able to ascertain from the properly indexed  
15                  records of the county recorder of the county or  
16                  counties in which the oil and gas property and  
17                  Federal coal lease or logical mining unit are lo-  
18                  cated, and the respondent shall file with the  
19                  court and serve on the petitioner and the Sec-  
20                  retary any corrections of, additions to, or dele-  
21                  tions from the list known to the respondent  
22                  within 10 days of the date of service of the peti-  
23                  tion for relief pursuant to paragraph (2).  
24                  Thereafter, whenever any correction of, addition  
25                  to, or deletion from the list becomes known to

1           either the petitioner or the respondent, that  
2           party shall promptly file with the court and  
3           serve on the other party and the Secretary the  
4           addition, correction, or deletion. Any person  
5           who believes he or she is an owner of any non-  
6           Federal interest in the oil and gas property or  
7           in the Federal coal lease or logical mining unit  
8           and is omitted from the list may file a motion  
9           in the court to be added to the list at any time  
10          prior to the issuance of an order pursuant to  
11          section 11(d) or section 12(d).

12                   (C) A certified copy of the notice described  
13                   in section 6(a).

14                   (D) A sworn statement by a senior officer  
15                   of the petitioner with authority to commit the  
16                   petitioner in any negotiation under section 6(b)  
17                   stating, and all documents demonstrating, that  
18                   the petitioner negotiated or attempted to nego-  
19                   tiate in good faith with the respondent a vol-  
20                   untary agreement, pursuant to section 6(b).

21                   (4) The Federal coal lessee shall submit a copy  
22                   of the approved or proposed mining plan for the  
23                   mining operations or support facilities that are the  
24                   subject of the petition for relief—

1 (A) with the petition for relief if the Fed-  
2 eral coal lessee is the petitioner; or

3 (B) within 5 days of the date of service of  
4 the petition for relief pursuant to paragraph (2)  
5 if the Federal coal lessee is the respondent.

6 (b) JOINDER OF PARTIES.—The Secretary and all  
7 owners of any non-Federal interest in the oil and gas prop-  
8 erty and in the Federal coal lease or logical mining unit  
9 identified pursuant to subsection (a)(3)(B) shall be joined  
10 in the proceedings established pursuant to this Act.

11 (c) PARTIES' RESPONSE TO PETITION.—The non-  
12 Federal respondent or respondents may provide to the  
13 Secretary a response to the petition within 30 days from  
14 the date of filing of the petition for relief pursuant to sub-  
15 section (a)(1). The Secretary may require the petitioner  
16 and the respondent or respondents to submit such docu-  
17 ments and/or provide such testimony as the Secretary  
18 deems appropriate within 60 days of such date of filing.

19 **SEC. 8. SECRETARY'S RESPONSE TO PETITION.**

20 (a) IN GENERAL.—Within 90 days of the date of fil-  
21 ing of the petition for relief pursuant to section 7(a)(1)  
22 the Secretary shall take the actions required by this sec-  
23 tion.

24 (b) INITIAL DETERMINATIONS.—The Secretary shall  
25 determine, with petitioner having the burden of proof—

1 (1) whether a common area exists; and

2 (2) whether the approved or proposed mining  
3 plan submitted pursuant to section 7(a)(4) provides  
4 for the mining operations to intersect, or the mine  
5 support facilities to be constructed in, any portion of  
6 the common area.

7 (c) PUBLIC INTEREST DETERMINATION.—(1) If ex-  
8 istence of the common area and intersection of, or con-  
9 struction in, the common area are determined pursuant  
10 to subsection (b), the Secretary shall determine whether  
11 the public interest is best realized by delaying or foregoing  
12 development of either—

13 (A) the oil or gas resource to permit the mining  
14 operations to intersect, or the mine support facilities  
15 to be constructed in, the common area in accordance  
16 with the approved or proposed mining plan; or

17 (B) the coal resource to permit commencement  
18 or continuation of the development of the oil or gas  
19 resource in the common area after the date on which  
20 the mining operations or construction of the mine  
21 support facilities is projected by the approved or  
22 proposed mining plan to commence in the common  
23 area.

24 (2) The Secretary shall make the public interest de-  
25 termination described in paragraph (1) solely by the cal-

1 culation of the greater economic benefit to be realized by  
2 comparison, on a net present value basis, of the Federal  
3 and State revenues from royalties and severance taxes  
4 likely to be generated from each resource underlying the  
5 common area to which the petition for relief applies.

6 (d) LEASE SUSPENSION.—If any portion of the re-  
7 source for which delayed or foregone development is deter-  
8 mined to be in the public interest pursuant to subsection  
9 (c) is subject to a lease issued pursuant to the Mineral  
10 Leasing Act, the Secretary shall suspend all or any portion  
11 of, including any geographical area of or zone or reservoir  
12 subject to, the lease to accommodate development of the  
13 other resource in the common area during the period be-  
14 ginning on a date no later than the commencement date  
15 referred to in section 7(a)(1) and provided in the notice  
16 submitted pursuant to section 7(a)(3)(C) and ending on  
17 the date on which an order is issued pursuant to section  
18 11(d) or section 12(d).

19 (e) EXCEPTIONS.—The Secretary may refrain from  
20 either making the determinations required by subsections  
21 (b) and (c) or suspending all or any portion of a lease  
22 issued pursuant to the Mineral Leasing Act as required  
23 by subsection (d) if the Secretary determines that—

24 (1) no common areas exists; or

1           (2) the approved or proposed mining plan does  
2           not provide for the mining operations to intersect, or  
3           the mine support facilities to be constructed in, the  
4           common area.

5           (f) SECRETARIAL REPORT.—The Secretary shall—

6           (1) not delegate the determinations made pur-  
7           suant to this section;

8           (2) report the determinations made pursuant to  
9           subsections (b) and (c) or subsection (e) and any  
10          suspension made pursuant to subsection (d), includ-  
11          ing the administrative record therefor, with the  
12          court in which the petition for relief is filed pursuant  
13          to section 7(a)(1); and

14          (3) provide the petitioner and respondent or re-  
15          spondents with copies of the report and record.

16 **SEC. 9. COURT'S INITIAL RESPONSE TO PETITION.**

17          (a) RECEIPT OF SECRETARIAL REPORT.—The court  
18          in which the petition is filed pursuant to section 7(a)(1)  
19          shall have exclusive jurisdiction to receive and review the  
20          report of the Secretary required by section 8(f), and the  
21          determinations made and any action taken by the Sec-  
22          retary pursuant to section 8.

23          (b) PARTIES' OBJECTIONS TO REPORT.—(1) The pe-  
24          titioner and respondent or respondents shall have 30 days  
25          from the date upon which the report of the Secretary is

1 filed with the court pursuant to section 8(f) in which to  
2 file with the court any objection to any determination of  
3 the Secretary required by section 8.

4 (2) If any objection is filed pursuant to paragraph  
5 (1), the court shall, within 60 days of receipt of the report  
6 of the Secretary pursuant to section 8(f), make the deter-  
7 mination that is the subject of the objection on the basis  
8 of the administrative record filed with the report and in  
9 accordance with the applicable requirements or standards  
10 of subsection (b) or subsection (c) of section 8.

11 (3) Any determination made by the court pursuant  
12 to paragraph (3) shall be an independent judicial deter-  
13 mination that is de novo, without regard to the prior de-  
14 termination of the Secretary.

15 (4) If no objection is filed pursuant to paragraph (1),  
16 the determinations of the Secretary required by section 8  
17 shall be final and approved by the court in the order issued  
18 pursuant to subsection (c) or subsection (f).

19 (c) COURT ORDER.—Within 90 days of the date of  
20 receipt of the report of the Secretary pursuant to section  
21 8(f), the court, except as provided in subsection (f), shall  
22 issue an order that—

23 (1) suspends all or any part of, including any  
24 geographical areas of or reservoir subject to, any  
25 non-Federal oil and gas lease or right to develop, or

1 any non-Federal interest in any logical mining unit  
2 that includes the Federal coal lease, in the common  
3 area in accordance with the determination of the  
4 Secretary pursuant to subparagraph (A) or subpara-  
5 graph (B), respectively, of section 8(c)(1) or in ac-  
6 cordance with the determination of the court pursu-  
7 ant to subsection (b)(2);

8 (2) if required by a determination of the court  
9 pursuant to subsection (b)(2), terminates a suspen-  
10 sion of a lease issued pursuant to the Mineral Leas-  
11 ing Act imposed by the Secretary pursuant to sec-  
12 tion 8(d), or imposes a suspension of a lease issued  
13 pursuant to the Mineral Leasing Act, or both, in ac-  
14 cordance with the determination;

15 (3) if all or any part of the oil and gas lease  
16 or right to develop is suspended pursuant to section  
17 8(d) or this subsection, fixes the date upon which  
18 the Federal coal lease may commence mining oper-  
19 ations or construction of mine support facilities in  
20 the common area, which may be no later than the  
21 commencement date referred to in section 7(a)(1)  
22 and provided in the notice submitted pursuant to  
23 section 7(a)(3)(C), except for good cause shown; and

24 (4) if all or any part of the Federal coal lease  
25 and/or any non-Federal interest in the logical mining

1 unit that includes the Federal coal lease is sus-  
2 pended pursuant to section 8(d) or this subsection,  
3 prohibits the mining operations for intersecting, or  
4 the support facilities from being constructed in, all  
5 or a portion of the common area.

6 (d) EXPIRATION OF ORDER.—The order of the court  
7 issued pursuant to subsection (c) shall expire upon the  
8 issuance of an order pursuant to section 11(d), or section  
9 12(d).

10 (e) EXCEPTIONS.—The court may refrain from  
11 issuing the order required by subsection (c), only if—

12 (1) the Secretary makes a determination de-  
13 scribed in section 8(e); or

14 (2) the court, acting on an objection filed pur-  
15 suant to subsection (b), concurs in a determination  
16 made by the Secretary pursuant to section 8(e), or  
17 determines that—

18 (A) no common area exists; or

19 (B) the approved or proposed mining plan  
20 submitted pursuant to section 7(a)(4) does not  
21 provide for the mining operations to intersect,  
22 or the mine support facilities to be constructed  
23 in, the common area.

24 (f) TERMINATION OF PROCEEDING.—If the Secretary  
25 makes a determination described in section 8(e) or the

1 court makes a determination described in subsection  
2 (e)(2), the court shall issue an order terminating the pro-  
3 ceeding under this Act.

4 **SEC. 10. APPOINTMENT OF EXPERTS.**

5 (a) APPOINTMENT PROCEDURE.—Within 30 days of  
6 the date of issuance of an order pursuant to section 9(c),  
7 to assist the court in making the determinations pursuant  
8 to section 11 or section 12, the Federal coal lessee and  
9 the oil and gas developer shall each appoint a person who  
10 is an expert in appraising the value of, and right to de-  
11 velop, gas or oil if all or any part of the oil and gas lease  
12 or right to develop is suspended, or coal if all or any part  
13 of the Federal coal lease and/or any non-Federal interest  
14 in the logical mining unit that includes the Federal coal  
15 lease is suspended, pursuant to section 8(d) and/or section  
16 9(c), and these persons shall agree upon and appoint a  
17 third person with such expertise. If no agreement is  
18 reached on the date of appointment of a third person, the  
19 court shall make the appointment.

20 (b) COMPENSATION.—The Federal coal lessee shall  
21 be responsible for compensation of the expert appointed  
22 by it; the oil and gas developer shall be responsible for  
23 compensation of the expert appointed by it; and the Fed-  
24 eral coal lessee and oil and gas developer shall each pay  
25 one-half of the compensation for the third expert.

1 (c) INFORMATION AND DATA.—

2 (1) The Federal coal lessee, oil and gas devel-  
3 oper, and Secretary shall each submit to the panel  
4 of experts within 30 days of the date of appointment  
5 of the panel pursuant to subsection (a) all informa-  
6 tion and data in the possession of such party that  
7 is pertinent to the determinations to be made pursu-  
8 ant to section 11 or section 12, and shall each sub-  
9 mit to the panel of experts thereafter any additional  
10 pertinent information and data in the possession of  
11 such party that the panel requests of such party in  
12 writing.

13 (2) Except as provided in paragraph (3), the  
14 court shall ensure that any information and data  
15 submitted to the panel of experts pursuant to para-  
16 graphs (1) and (4) shall have the protection of con-  
17 fidentiality that is applicable, and may be accorded,  
18 to them by law and the Federal rules of civil proce-  
19 dure and evidence.

20 (3) All information and data submitted to the  
21 panel of experts pursuant to paragraphs (1) and (4)  
22 shall be available for review by all parties unless an  
23 ex parte order is issued by the court.

24 (4)(A) The Federal coal lessee may drill for and  
25 otherwise collect data or information on coalbed

1 methane at any site or sites within the common area  
2 that are not within a spacing unit containing a well  
3 that is producing or capable of producing coalbed  
4 methane under the conditions set forth in subpara-  
5 graph (B).

6 (B) The drilling or collection of data or infor-  
7 mation authorized by subparagraph (A) shall be for  
8 the sole purpose of submission of information and  
9 data pursuant to this paragraph.

10 (C) The Federal coal lessee shall not produce  
11 any coalbed methane as a result of any drilling au-  
12 thorized by subparagraph (A) and shall comply with  
13 any Federal or State requirements applicable to such  
14 activity.

15 (D) The Federal coal lessee shall submit to the  
16 Secretary an exploration plan to conduct any drilling  
17 pursuant to subparagraph (A). The Secretary shall  
18 approve, approve as modified, or reject the plan,  
19 within 15 days of the date of its submission. The  
20 Secretary may modify or reject the plan only for  
21 good cause fully set forth in writing and provided to  
22 the Federal coal lessee. The Federal coal lessee shall  
23 adhere to the plan, as approved by the Secretary.

24 (d) SUBMISSION OF BRIEFS AND HEARING.—(1)  
25 Within 45 days of the date of appointment of the panel

1 of experts pursuant to subsection (a), all parties may sub-  
 2 mit briefs concerning the determinations to be made pur-  
 3 suant to section 11 or section 12.

4 (2) Within 60 days of the date of appointment of the  
 5 panel of experts pursuant to subsection (a), the panel may,  
 6 or if requested by the petitioner or a respondent shall, re-  
 7 ceive testimony from all parties concerning the determina-  
 8 tions to be made pursuant to section 11 or section 12.

9 (e) EXPERT'S REPORT.—Within 120 days of the date  
 10 of appointment of the panel of experts pursuant to sub-  
 11 section (a), the panel shall submit a written report to the  
 12 court providing in detail the panel's recommendations on  
 13 the determinations to be made pursuant to section 11 or  
 14 section 12.

15 **SEC. 11. COURT'S FINAL RESPONSE TO PETITION: VALU-**  
 16 **ATION CONCERNING ECONOMICALLY RECOV-**  
 17 **ERABLE OIL OR GAS RESOURCES LOST OR**  
 18 **DELAYED, SUSPENSION OR TERMINATION,**  
 19 **AND PAYMENT ORDER.**

20 (a) IN GENERAL.—Within 210 days of the date of  
 21 issuance of an order pursuant to section 9(c), by which,  
 22 or by any action of the Secretary pursuant to section 8(d),  
 23 all or any part of the oil and gas lease or right to develop  
 24 is suspended, the court shall take the actions required by  
 25 this section.

1 (b) SUSPENSION OR TERMINATION DETERMINA-  
2 TION.—(1) The court shall determine whether, as a result  
3 of the order or any action of the Secretary, all or any part  
4 of, including any geographical area of or zone or reservoir  
5 subject to, the oil and gas lease or right to develop should  
6 be suspended during any remaining period in which the  
7 mining operations or support facilities occupy the common  
8 area or whether the oil and gas lease or right to develop  
9 should be terminated.

10 (2) Any determination to suspend pursuant to para-  
11 graph (1) shall, wherever possible or appropriate, limit the  
12 suspension or phase the suspension to permit the optimum  
13 development of the oil or gas prior to the time at which  
14 the mining operations would reach the area within the  
15 common area that is subject to the suspension or par-  
16 ticular phase of the suspension.

17 (3) Any determination to terminate pursuant to para-  
18 graph (1) shall be made only if the court finds that the  
19 economically recoverable oil and gas resources subject to  
20 compensation pursuant to subsection (d) would be entirely  
21 lost or rendered impracticable to produce as a consequence  
22 of the mining operations in the common area and that  
23 such resources constitute all of the economically recover-  
24 able resources within the oil and gas property.

1           (c) COMPENSATION DETERMINATION.—(1) If the  
2 court makes a determination to suspend pursuant to sub-  
3 section (b), the court shall determine—

4           (A) the amount of any net income that will not  
5 be realized due to delay in development of economi-  
6 cally recoverable resources of oil or gas, other than  
7 coalbed methane, from the common area, whether or  
8 not such development has commenced;

9           (B) the amount of any net income that will not  
10 be realized, whether or not development of coalbed  
11 methane has commenced, that is due to—

12           (i) delay in development of economically re-  
13 coverable resources of coalbed methane in the  
14 common area; and

15           (ii) the loss of any economically recoverable  
16 resources of coalbed methane from the coal to  
17 be extracted by the mining operations in the  
18 common area; and

19           (iii) the loss of any economically recover-  
20 able resources of coalbed methane underlying  
21 any area that is within the oil and gas property  
22 associated with the common area and that ex-  
23 tends outward from each exposed coal face of  
24 the mining operations for a distance from which

1 drainage of such resources is established to the  
2 satisfaction of the court; and

3 (C) any of the following damages that will be  
4 incurred by the owners of any interest in the oil and  
5 gas property as a consequence of the suspension:  
6 any unavoidable fixed expenses (including, but not  
7 limited to, the expenses of shutting in production  
8 from, maintenance of, testing of, and redrilling or  
9 reconnecting an existing well; relaying pipeline; and  
10 all other expenses reasonably related to reestab-  
11 lishing any existing oil or gas production); expenses  
12 associated with stranded costs of drilling equipment  
13 and facilities; any lost royalties on oil or gas not  
14 produced by the oil and gas developer; and any lost  
15 income associated with temporarily shutting in pro-  
16 duction from wells outside of the common area as  
17 needed for reconnection to a gathering system or  
18 pipeline to market.

19 If the court determines that the unavoidable fixed ex-  
20 penses to achieve post-suspension recovery of all or certain  
21 economically recoverable resources of oil or gas in the com-  
22 mon area will exceed the net income to be derived from  
23 the resources, the court shall determine the amount of the  
24 net income and lost royalties in lieu of the unavoidable  
25 fixed expenses.

1           (2) The determinations made pursuant to paragraph  
2 (1) shall not include any decrease in net income or dam-  
3 ages resulting from loss of any oil or gas resources that  
4 occurred before the date of the determinations and is  
5 caused by mining within or outside of the common area  
6 on the Federal coal lease or logical mining unit that is  
7 the subject of the common area determination made pur-  
8 suant to section 8(b)(1) or section 9(b)(2).

9           (3) If the court makes a determination to terminate  
10 pursuant to subsection (b), the court shall determine the  
11 amount of any net income that will not be realized and  
12 any damages due to the loss of, or impracticability to  
13 produce, the economically recoverable resources of oil or  
14 gas in the oil and gas property in the same manner as  
15 provided in paragraph (1).

16           (4) In determining the amount of net income that will  
17 not be realized pursuant to paragraph (1) or paragraph  
18 (3) and the sum of money to be awarded pursuant to sub-  
19 section (d), the court shall ensure to the best of its ability  
20 that the Federal coal lessee is not required to pay for the  
21 same gas or oil lost, delayed in development, or rendered  
22 impractical to develop to more than one oil and gas devel-  
23 oper or the owners of any interest in more than one oil  
24 and gas property.

1 (d) COURT ORDER.—The court shall issue an order  
2 that—

3 (1) suspends all or any part of, suspends in  
4 phases parts of, or terminates the oil and gas lease  
5 or right to develop, including any applicable payment  
6 or production obligations, in accordance with the de-  
7 termination made pursuant to subsection (b); and

8 (2) awards to the oil and gas developer and all  
9 other owners of any interest in the oil and gas prop-  
10 erty, as their interest may appear, a sum of money  
11 from the Federal coal lessee equal to the net income  
12 amount and damages determined pursuant to sub-  
13 section (c).

14 **SEC. 12. COURT'S FINAL RESPONSE TO PETITION: VALU-**  
15 **ATION CONCERNING ECONOMICALLY RECOV-**  
16 **ERABLE COAL RESOURCES LOST OR DE-**  
17 **LAYED, SUSPENSION OR TERMINATION AND**  
18 **PAYMENT ORDER.**

19 (a) IN GENERAL.—Within 210 days of the date of  
20 issuance of an order pursuant to section 9(c) by which,  
21 or by any action by the Secretary pursuant to section 8(d),  
22 the Federal coal lease and/or any non-Federal interest in  
23 the logical mining unit is suspended, the court shall take  
24 the actions required by this section.

1           (b) SUSPENSION DETERMINATION.—The court shall  
2 determine whether, as a result of the order or any action  
3 of the Secretary, the Federal coal lease and/or any non-  
4 Federal interest in the logical mining unit shall be sus-  
5 pended in whole or in part to further accommodate oil or  
6 gas development in the common area.

7           (c) COMPENSATION DETERMINATION.—If the court  
8 makes a determination to suspend pursuant to subsection  
9 (b), the court shall determine the amount of any net in-  
10 come that will not be realized from the loss or delay in  
11 development of economically recoverable resources of coal,  
12 and the unavoidable fixed expenses (including, but not lim-  
13 ited to, additional expenses associated with reclamation,  
14 expenses associated with stranded costs of mining equip-  
15 ment and facilities, a proportionate refund of the lease  
16 bonus, and any lost royalties on coal not produced by the  
17 Federal coal lessee) that will be incurred, by the Federal  
18 coal lessee as a consequence of the suspension.

19           (d) COURT ORDER.—The court shall issue an order  
20 that—

21               (1) suspends, in accordance with the determina-  
22 tion made pursuant to subsection (b), all or any part  
23 of the Federal coal lease and/or any non-Federal in-  
24 terest in the logical mining unit, including any appli-  
25 cable payment or production obligations on the lease

1 or logical mining unit, for the period necessary for  
2 expeditious development in the common area of the  
3 gas or oil that is the subject of the petition for relief  
4 as demonstrated to the court in a production plan  
5 submitted by the oil and gas developer; and

6 (2) awards to the Federal coal lessee and all  
7 other owners of any interest in the Federal coal  
8 lease or logical mining unit, as their interests may  
9 appear, a sum of money equal to the net income  
10 amount and unavoidable fixed expenses determined  
11 pursuant to subsection (c).

12 **SEC. 13. REVIEW OF EXPERTS' REPORT AND HEARING.**

13 (a) The court shall make the determinations required  
14 by section 11 or section 12 after reviewing the report of  
15 the panel of experts submitted pursuant to section 10(e)  
16 and the hearing required by subsection (b).

17 (b) After submission of the report of the panel of ex-  
18 perts pursuant to section 10(e) and prior to making the  
19 determinations required by section 11 or section 12, the  
20 court shall hold a hearing in which the panel of experts  
21 shall present their report and the parties to the proceeding  
22 shall have the opportunity to examine the panel and pro-  
23 vide to the court any evidence or arguments they may have  
24 to support or contravene the recommendations of the re-  
25 port.

1 **SEC. 14. DISBURSEMENT OF PAYMENTS.**

2 (a) PAYMENT TO OIL AND GAS DEVELOPER.—(1) At  
3 the election of the oil and gas developer, the sum of money  
4 awarded by the court pursuant to section 11(d)(2) shall  
5 be—

6 (A) paid in full within 60 days of the date of  
7 issuance of the order pursuant to section 11(d); or

8 (B) divided into the number of tons of recover-  
9 able coal in the common area and paid in per ton  
10 increments as the coal is mined in accordance with  
11 paragraph (2) and subsection (c).

12 (2) The Federal coal lessee shall make the payments  
13 required by paragraph (1)(B) on a quarterly basis in ad-  
14 vance based on the Federal coal lessee's estimate of the  
15 number of tons of coal to be mined in the common area  
16 during the following quarter, and shall add or subtract  
17 an amount to or from the advance payment for the next  
18 quarter to reflect the coal actually sold or transferred.

19 (b) PAYMENT TO FEDERAL COAL LESSEE.—(1) At  
20 the election of the Federal coal lessee, the sum of money  
21 awarded by the court pursuant to section 12(d)(2) shall  
22 be—

23 (A) paid in full within 60 days of the date of  
24 issuance of the order pursuant to section 12(d); or

25 (B) divided into the number of barrels of recov-  
26 erable oil or cubic feet of recoverable gas in the com-

1 mon area and paid in per barrel or cubic feet incre-  
2 ments as the oil or gas is produced in accordance  
3 with paragraph (2) and subsection (c).

4 (2) The oil and gas developer shall make the pay-  
5 ments required by paragraph (1)(B) on a quarterly basis  
6 in advance based on the oil and gas developer's estimate  
7 of the number of barrels of oil or cubic feet of gas to be  
8 produced in the common area during the following quar-  
9 ter, and shall add or subtract an amount to or from the  
10 advance payment for the next quarter to reflect the oil  
11 or gas actually produced.

12 (c) FINAL PAYMENT.—If the mining or production  
13 necessary to make full payment of the sum of money  
14 awarded by the court in accordance with subsection  
15 (a)(1)(B) or subsection (b)(1)(B) does not occur within  
16 5 years of the date of issuance of the court order pursuant  
17 to section 11(d) or section 12(d), the unpaid balance shall  
18 be paid within 60 days thereafter.

19 **SEC. 15. TERMINATION OF OIL AND GAS LEASE SUSPEN-**  
20 **SION.**

21 (a) NOTIFICATION OF COURT.—If the court issues an  
22 order to suspend all or any part of the oil and gas lease  
23 or right to develop pursuant to section 11(d)—

24 (1) the Federal coal lessee shall notify the court  
25 and the oil and gas developer when the portion of

1 the common area subject to the order issued pursu-  
2 ant to section 11(d) is no longer required for mining  
3 operations or support facilities; and

4 (2) within 120 days of the date of receipt by  
5 the court of the notification pursuant to paragraph  
6 (1) or within 60 days prior to the date on which the  
7 period established by the court in the order issued  
8 pursuant to section 11(d) concludes, the oil and gas  
9 lessee may petition the court for an order that ter-  
10 minates the suspension and fixes the date and terms  
11 on which the oil and gas developer may resume oper-  
12 ations within the portion of the common area subject  
13 to the order issued pursuant to section 11(d).

14 (b) COURT ORDER TO TERMINATE SUSPENSION OF  
15 LEASE OR RIGHT TO DEVELOP.—The court shall issue  
16 the order sought under subsection (a)(2) within 30 days  
17 of the date of receipt of the petition pursuant to subsection  
18 (a)(2).

19 (c) TERMINATION OF LEASE OR RIGHT TO DE-  
20 VELOP.—(1) If the oil and gas developer determines that,  
21 as a consequence of the order of the court issued pursuant  
22 to section 9(c) and an order to suspend all or any part  
23 of the oil and gas lease or right to develop pursuant to  
24 section 11(d), the conditions described in section 11(b)(3)

1 exist, the oil and gas developer may petition the court to  
2 terminate the oil and gas lease or right to develop.

3 (2) The petition referred to in paragraph (1) may be  
4 filed any time after issuance of the order of the court pur-  
5 suant to section 11(d) but not later than 120 days after  
6 the date of receipt by the court of the notification pursu-  
7 ant to subsection (a)(1).

8 (3) Upon receipt of a petition pursuant to paragraph  
9 (1), the court shall make a determination whether to issue  
10 an order to terminate the oil and gas lease or right to  
11 develop and award an additional amount from the Federal  
12 coal lessee to the oil and gas developer and all other own-  
13 ers of any interest in the oil and gas property, as their  
14 interests may appear, in accordance with the procedures  
15 and deadlines established in section 7(a) and sections 10  
16 through 14.

17 **SEC. 16. TERMINATION OF COAL LEASE SUSPENSION.**

18 (a) NOTIFICATION OF COURT.—If the court issues an  
19 order requiring suspension of all or any part of the Fed-  
20 eral coal lease and/or any non-Federal interest in the log-  
21 ical mining unit that includes the Federal coal lease pursu-  
22 ant to section 12(d)—

23 (1) the oil and gas developer shall notify the  
24 court and the Federal coal lessee when the portion  
25 of the common area subject to the order issued pur-

1 suant to section 12(d) is no longer required for gas  
2 or oil production from such portion; and

3 (2) within 120 days of the date of receipt by  
4 the court of the notification pursuant to paragraph  
5 (1) or within 60 days prior to the date on which the  
6 period established by the court in the order issued  
7 pursuant to section 12(d) concludes, the Federal  
8 coal lessee may petition the court for an order that  
9 fixes the date and terms on which the Federal coal  
10 lessee may commence mining operations or construc-  
11 tion of support facilities in the portion of the com-  
12 mon area subject to the order issued pursuant to  
13 section 12(d) and, if all or any part of the Federal  
14 coal lease and/or any non-Federal interest in the log-  
15 ical mining unit is suspended, terminates the sus-  
16 pension.

17 (b) COURT ORDER TO TERMINATE LEASE SUSPEN-  
18 SION.—The court shall issue the order sought under sub-  
19 section (a)(2) within 30 days of the date of receipt of the  
20 petition pursuant to subsection (a)(2).

21 (c) TERMINATION OF LEASE.—(1) If the Federal coal  
22 lessee determines that, as a consequence of the order of  
23 the court issued pursuant to section 12(d), further devel-  
24 opment of all or any part of the Federal coal lease and/  
25 or any non-Federal interest in the logical mining unit is

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

4       (2) The petition referred to in paragraph (1) may be  
5 filed any time after issuance of the order of the court pur-  
6 suant to section 12(d) but not later than 120 days after  
7 the date of receipt by the court of the notification pursu-  
8 ant to subsection (a)(1).

9       (3) Upon receipt of a petition pursuant to paragraph  
10 (1), the court shall make a determination whether to issue  
11 an order to terminate all or any part of the Federal coal  
12 lease and/or any non-Federal interest in the logical mining  
13 unit and award an additional amount from the oil and gas  
14 developer to the Federal coal lessee and all other owners  
15 of any interest in the Federal coal lease or logical mining  
16 unit, as their interests may appear, in accordance with the  
17 procedures and deadlines established in section 7(a) and  
18 sections 10 through 14.

19 **SEC. 17. SUPPLEMENTAL PETITION FOR RELIEF.**

20       (a) PETITION SUBMITTAL.—(1) If, at any time after  
21 the issuance of an order pursuant to section 11(d) or sec-  
22 tion 12(d), the mining plan that is the basis of the order  
23 is altered in a manner that may warrant suspension of  
24 an additional part or all of, or termination of, the oil and  
25 gas lease or right to develop or suspension of an additional

1 part of the Federal coal lease and/or any non-Federal in-  
2 terest in the logical mining unit that includes the Federal  
3 coal lease and/or an increase in the sum of money that  
4 was awarded under the order, either the Federal coal les-  
5 see or the oil and gas developer may, if necessary after  
6 compliance with the requirements of section 6, file a sup-  
7 plemental petition for relief with the court to amend the  
8 order.

9 (2) The requirements of section 7(a) and sections 8  
10 through 14 shall apply to the supplemental petition sub-  
11 mitted pursuant to paragraph (1).

12 (b) COURT ORDER.—(1) Upon completion of the  
13 process required by subsection (a)(2), the court shall make  
14 a determination whether to suspend an additional part or  
15 all of, or terminate, the oil and gas lease or right to de-  
16 velop or to suspend an additional part of the Federal coal  
17 lease and/or any non-Federal interest in the logical mining  
18 unit as described in, and to award an additional sum of  
19 money calculated in accordance with, section 11 or section  
20 12.

21 (2) The court shall issue any order resulting from the  
22 determinations made pursuant to paragraph (1) within 90  
23 days of the date of filing of the supplemental petition for  
24 relief.

1           (3) Any award of an additional sum of money shall  
2 be paid in accordance with section 14.

3 **SEC. 18. APPEAL OF COURT ORDERS.**

4           (a) NON-APPEALABLE ORDERS.—Any order issued  
5 pursuant to section 9(c), section 9(f), section 15(b), or  
6 section 16(b) is final and may not be appealed.

7           (b) APPEALABLE ORDERS.—Any order issued pursu-  
8 ant to section 11(d), section 12(d), section 15(c)(3), sec-  
9 tion 16(c)(3), or section 17(c)(2) may be appealed, but  
10 the appeal, and any disposition thereof, may not disturb  
11 any order referred to in subsection (a).

12 **SEC. 19. SUSPENSION TERMS.**

13           (a) FEDERAL LEASE SUSPENSION TERMS.—If all or  
14 any part of any lease issued pursuant to the Mineral Leas-  
15 ing Act is suspended in whole or in part by the Secretary  
16 or the court under this Act—

17                   (1) the lessee shall not be required to pay any  
18 rental for the lease for the period of the suspension;  
19 and

20                   (2) if the lease is a Federal oil or gas lease and  
21 is in the primary term or if the lease is a Federal  
22 coal lease, the term of the lease shall be extended by  
23 the length of the period of the suspension plus one  
24 year; or

1           (3) the lease shall not terminate due to lack of  
2           production for the period of the suspension plus one  
3           year.

4           (b) OTHER.—If any non-Federal oil and gas lease or  
5           right to develop or any non-Federal interest in a logical  
6           mining unit is suspended in whole or in part by the court  
7           under this Act, the court shall establish terms for the sus-  
8           pension comparable to the terms set forth in subsection  
9           (a).

10 **SEC. 20. LIABILITY LIMITATION.**

11           (a) FEDERAL COAL LESSEE.—Except as provided in  
12           a written agreement reached pursuant to section 6(b) or  
13           reached on or after September 1, 1999, and before the  
14           date of enactment of this Act, or as provided by an order  
15           of the court pursuant to this Act, neither the holder of  
16           a Federal coal lease subject to the agreement or order nor  
17           the United States shall be liable to the oil and gas devel-  
18           oper of, or any owner of an interest in, any oil and gas  
19           property subject to the agreement or order for any de-  
20           crease in or depletion of, or any impairment of the ability  
21           to recover, any gas or oil from the property that may re-  
22           sult from the development of any coal on the Federal coal  
23           leasehold or within a logical mining unit that includes the  
24           Federal coal lease.

1 (b) OIL AND GAS DEVELOPER.—Except as provided  
2 in a written agreement reached pursuant to section 6(b)  
3 or reached on or after September 1, 1999, and before the  
4 date of enactment of this Act, or as provided by an order  
5 of the court pursuant to this Act, neither the oil and gas  
6 developer of an oil and gas property subject to the agree-  
7 ment or order nor the United States shall be liable to a  
8 holder of a Federal coal lease subject to the agreement  
9 or order, or any owner of any non-Federal interest in a  
10 logical mining unit that includes the Federal coal lease,  
11 or the United States for any impairment of the ability to  
12 recover coal from the Federal coal leasehold or logical min-  
13 ing unit that may result from the development of gas or  
14 oil on the property.

15 **SEC. 21. CREDIT AGAINST ROYALTIES.**

16 (a) IN GENERAL.—

17 (1) Whenever a holder of a Federal coal lease  
18 is required by a written agreement reached pursuant  
19 to section 6(b) and approved by the Bureau of Land  
20 Management or reached prior to the date of enact-  
21 ment of this Act and approved by the Bureau of  
22 Land Management on or after September 1, 1999,  
23 or by a court order issued pursuant to section 11(d),  
24 section 15(c)(3) or section 17(b)(2), to pay an  
25 amount for suspension of all or part of, or termi-

1 nation of, a Federal oil and gas lease for coalbed  
2 methane located within the Section 21 Lands, the  
3 amount so paid shall be credited against any royalti-  
4 ties on production required by section 7(a) or any  
5 other provision of the Mineral Leasing Act from any  
6 lease of Federal coal issued under the Mineral Leas-  
7 ing Act to such holder or any affiliate thereof.

8 (2) Whenever a holder of a Federal oil and gas  
9 lease is required by a written agreement reached  
10 pursuant to section 6(b) and approved by the Bu-  
11 reau of land Management or reached prior to the  
12 date of enactment of this Act and approved by the  
13 Bureau of Land Management on or after September  
14 1, 1999, or by a court order issued pursuant to sec-  
15 tion 12(d), section 16(c)(3), or section 17(b)(2), to  
16 pay an amount for suspension or termination of all  
17 or part of a Federal coal lease located within the  
18 Section 21 Lands, the amount so paid shall be cred-  
19 ited against any royalties on production required by  
20 subsection (b)(1)(A) or subsection (c)(1) of section  
21 17 or any other provision of the Mineral Leasing Act  
22 from any lease of Federal oil and gas issued under  
23 the Mineral Leasing Act to such holder or any affil-  
24 iate thereof.

1 (b) TREATMENT OF ROYALTIES TO STATES.—The  
2 Secretary shall pay to the State in which the Federal coal  
3 lease or Federal oil and gas lease referred to in subsection  
4 (a)(1) or subsection (a)(2), respectively, is located 50 per-  
5 cent of the amount of any credit against royalties provided  
6 under subsection (a)(1) or subsection (a)(2),  
7 respectively—

8 (1) in the same manner as if the credit against  
9 royalties had been paid in money as royalties and  
10 distributed under section 35(a) of the Mineral Leas-  
11 ing Act; and

12 (2) from amounts received as royalties, rentals,  
13 or bonuses derived from leases issued under this Act  
14 that otherwise would be deposited to miscellaneous  
15 receipts under section 35(a) of the Mining Leasing  
16 Act.

17 **SEC. 22. DENIAL OF USE AS PRECEDENT.**

18 Nothing in this Act shall be applicable to any lease  
19 under the Mineral Leasing Act for any mineral, or shall  
20 be applicable to, or supersede any statutory or common  
21 law otherwise applicable in, any proceeding in any Federal  
22 or State court involving development of any mineral, out-  
23 side of any common area, as defined in section 3(13),  
24 within or outside of the Powder River Basin, as defined  
25 in section 3(1).

1 **SEC. 23. EFFECTIVE DATE.**

2       This Act shall be effective upon the date of its enact-  
3 ment.

○