

Calendar No. 939

106TH CONGRESS
2D 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-

tion obligations on the oil and gas lease or right to develop for the period in which the mining operations or mine support facilities are expected to occupy the common area in accordance with the approved or proposed mining plan; and

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

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

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

“(B) shall determine the amount of any net income that will not be realized from the 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

30 days of the date of filing of the supplemental petition for relief, but may refrain from issuing the order required by subparagraph (D)(ii) only if the court makes either determination set forth in paragraph (5)(A).

“(D)(i) Based on the supplemental petition for relief and any response, briefs, or testimony received pursuant to paragraph (C), and after review of the report of the panel of experts submitted pursuant to paragraph (9) prior to the issuance of the order pursuant to paragraph (10)(C) or paragraph (11)(C), the court shall make a determination whether to suspend or terminate an additional part or all of the oil and gas lease or right to develop or to suspend or terminate the Federal coal lease as described in, and award an additional sum of money calculated in accordance with, paragraph (10) or paragraph (11).

“(ii) The court shall issue any order resulting from the determinations made pursuant to clause (i) within 90 days of the date of filing 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 (c)(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

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

“(ii) The Secretary may refrain from either making the determination required by subparagraphs (A) and (B) or suspending all or any portion of a lease issued pursuant to this Act as required by clause (i) only if the Secretary determines that—

“(I) no common area exists; or

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

“(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 “(ii) *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 *“(ii) 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 *pends 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-*

graph (A), all or any part of the Federal coal lease and/or any non-Federal interest in the logical mining unit, including any applicable payment or production obligations on the lease or logical mining unit, for the period necessary for expeditious development in the common area of the gas or oil that is the subject of the petition for relief as demonstrated to the court in a production plan submitted by the oil and gas developer; and

“(ii) awards to the Federal coal lessee and all other owners of any interest in the Federal coal lease or logical mining unit, as their interests may appear, a sum of money equal to the net income amount and unavoidable fixed expenses determined pursuant to subparagraph (B).

“(12) REVIEW OF EXPERTS’ REPORT.—

“(A) The court shall make the determinations required by paragraph (10) or paragraph (11) after reviewing the report of the panel of experts submitted pursuant to paragraph (9) and 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 (ii) and
 22 subparagraph (C).

23 “(ii) 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 (ii) 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 “(ii) 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 “(ii) *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

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

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

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

“(A) in the same manner as if the credit 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