

protection of state rights in this instance would be provided if the bill were changed to provide for a public hearing board or appeals board if a state requested an appeal of the Secretary's ruling. This would be consistent with the Air Quality Act of 1967, which provides that if a state fails to act to set up standards for air quality, or if the Secretary of HEW determines that the standards are not acceptable, or if the Governor of another affected state petitions for revisions of such standards, and HEW develops standards to be applied to that region (after calling a conference to include representatives of all interested agencies and parties) the state may then petition for a review of such standards and HEW is required to call a public hearing board consisting of representatives of affected states, HEW and other interested Federal agencies, with HEW not having a majority. Such hearings are to be held in or near the affected region after at least 30 days notice to parties concerned and at the hearing, state and local officials, industry and other parties are invited to present testimony and evidence. The Board's decision then is binding.

We believe a similar provision should be included in S. 3132.

(5) This legislation also fails to make clear a situation in a state which already has an existing mining reclamation law. Under Section 7(a), line 5, page 7, it appears that a state may submit its plan for the regulation and reclamation of surface mining "after public hearings". Does this mean that a state which already has a law in effect would have to hold public hearings on this law and then submit it as its proposed plan? And if the Secretary rejects the state law as its plan, and the state refuses to repeal it in order to accept a Federal alternative, does the Federal government really wish to override the legislative action and supersede local control despite the proposed provision that primary responsibility lies with that state? Should this be solely a matter of the Secretary's "judgment"? Perhaps part of this problem could be obviated by the inclusion of a grandfather clause which would excuse a state which already has a mined land reclamation law which it believes is working satisfactorily, from being subject to this provision.

(6) Perhaps most important of all, the proposed legislation provides no recognition whatsoever that there are considerations vital to the national economy and local economies that must be reflected in any regulation of surface mining. Unlike the Air Quality Act of 1967, where maximization of the use of our industrial resources is reflected in dealing with a major environmental problem, and air quality regulations is required to be consistent with economic and technological feasibility, this proposed surface mining legislation provides no such objective and no such standard. While we do favor natural beauty, surely economic realities also must be taken into account.

There are many more specifics I could mention. I believe the legislation as now proposed is an unsatisfactory bill which should be carefully reviewed if it is to be considered at all. As I said at the outset, if further consideration is to be given to this legislation, I would like an opportunity to submit more detailed comments.

Mr. MOODY. I would like now to call on my colleague, Mr. Ed Phelps, who will tell you what strip mining really is.

Senator METCALF. We are honored to have you here. Go ahead, Mr. Phelps.

STATEMENT OF EDWIN R. PHELPS, VICE PRESIDENT OF ENGINEERING, PEABODY COAL CO.

Mr. PHELPS. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Edwin R. Phelps, and I am vice president of engineering for Peabody Coal Co. I am an engineer and I have been employed for 30 years in the industry and have served in several operating, engineering, and management positions for strip coal mining companies. I can qualify as an expert simply from the standpoint of experience; as I have lived with the problem ever since graduating from college.

I feel confident that many on this committee are not too familiar with surface mining of coal and its attendant reclamation, and since