

part, the recommendations of the Secretary's report "Surface Mining and Our Environment"; that report contains not a hint and most certainly does not recommend that such detailed regulation of the industry even be contemplated. Moreover, in proposing these powers, the bill goes far beyond and, in effect, completely ignores what was intended by the Congress when it authorized the study to be conducted in the first place. Section 205(c) of the Appalachian Development Act expressly limited the study to "reclamation and rehabilitation" matters and in no way contemplated the detailed regulation of all aspects of surface mining operations which these proposals would authorize.

In addition to ignoring Congress' intent, these proposals would, by authorizing the Secretary to determine not only when and how mine operations are to be conducted but, also, whether they are to be conducted at all would plainly constitute a sufficient "taking" of the owners' property rights to at least raise serious Constitutional questions.

In addition, the authority which would be given to the Secretary to regulate matters such as air and water pollution and safety would be completely duplicative of existing regulation of those matters both at the Federal and State levels.

Finally, we would note that the Secretary's report indicates that there are currently in excess of 18,000 separate surface mining operations in the United States. The detailed regulation of that number of operations would require a veritable army of new Federal employees who would have to be fully qualified and well-experienced in mining operations. Even were the Congress disposed to authorize the creation of such a huge new bureaucracy, such numbers of qualified persons simply do not exist.

*Reclamation requirements ignore impact upon Operators' competitive postures*

Section 205(c) (6) of the Appalachian Development Act expressly directed the Secretary of the Interior, in conducting his study of reclamation and rehabilitation matters in the surface mining industry to include:

"(S)pecific consideration of (A) the extent, if any, to which strip and surface mine operators are unable to bear the cost of remedial action within the limits imposed by the economics of such mining activity, and (B) the extent to which the prospective value of lands and other natural resources, after remedial work has been completed, would be inadequate to justify the landowners doing the remedial work at their own expense; . . ."

With respect to the crushed stone industry at least, these express Congressional directions were given extremely cavalier treatment in the study report and, in these proposals, the problems of competition and economics with which Congress was concerned are completely ignored.

The only mention of these problems in the study report is contained at page 90 where it is stated that:

"The amount that surface mining operators can afford to pay for reclamation varies widely among industries and individual operations. In effect, reclamation merely superimposes an additional charge upon variable cost structures that have already been largely determined by the economics of doing business."

After discussing how detailed average per acre reclamation costs were developed for coal, the report then states:

"These data, plus comparable information on clay, sand and gravel, stone, and phosphate rock are shown in Table 5, Appendix I."

The report immediately goes on to say, however, that:

"Details are lacking as to the exact type, or degree, of reclamation represented by the costs reported by the mineral industries, but the level was probably influenced by legal requirements of the states."

In other words, after setting forth an impressive looking table of average per acre reclamation costs for stone and other noncoal minerals, the report says "We don't know what these figures mean"! Moreover, absolutely no consideration is given by the report of what effect even these meaningless figures would have upon operators' competitive postures in the industries affected. We would note in passing that the average "cost" shown for stone is nearly four times that shown for sand and gravel, a commodity with which stone is in severe price competition in many markets.

While the problems of economics and effect upon competition which concerned Congress were, to the extent they were considered at all, given cavalier treatment by the report, they are completely ignored by the proposals before the Committee. The nature of those proposals makes plain that absolutely no consideration was given to their potential effect upon competition within (and