

true, both as to exploration conducted to determine the presence of phosphate under a phosphate prospecting permit and as to exploration done after the granting of the lease for the purpose of determining how the ore body lies and its phosphate content. Since it is impossible to plot in advance the location of drill holes, if the regulating agency were to dictate the location of such drill holes, it would be necessary to either have a representative from the agency on the scene when the drilling was taking place or to have the lessee obtain permission to drill each hole. It is submitted that both procedures are impractical and in fact, unnecessary inasmuch as the location of such holes is determined by geologic conditions, and the lessee for economic reasons will not drill any more holes than is necessary. Reclamation of the areas affected by exploration activities could be accomplished without the submission of a plan of operation prior to commencing the exploration activities by establishing the requirements for such reclamation in the regulations.

C. Open end regulations

Regulations with an "open end" allowing the regulating agency to change unilaterally the obligations of a mining operator should be forbidden. Otherwise, the operator would never know what costs might be added as a result of the changes. In such circumstances, it would be practically impossible, particularly for a small operator, to obtain a bond inasmuch as the bonding agency would not know the extent of its exposure.

D. Time limits

Any regulations adopted should contain time limits within which the regulating agency must act on proposed plans submitted by an operator. An operator must be able to program his plans for operation, and extensive delays may result in a failure of the enterprise with the resulting loss of investment.

CONCLUSION

In conclusion the Conference asserts that unless some specific standards and limitations are placed in any legislation pertaining to mined land reclamation, the Congress will, in effect, have abdicated to the administrative branch its responsibility for establishing policy. Pursuant to the unfettered authority which would be given under the present provisions of these bills, a Secretary could insist upon regulations which would have all the problems for the western phosphate industry which the industry has already encountered in the two sets of proposed regulations published by the Department of the Interior.

There must be some guidelines limiting the authority of the administering agency. Otherwise the industry will find its mining methods being dictated by the agency without any opportunity or basis for challenging its authority. With no limitations in the statute, the mining and reclamation requirements would be subject to change with every change of administrative officer.

The Conference again expresses its appreciation for this opportunity to comment on S. 3132 and S. 3126. While the Conference believes that adequate reclamation of surface mined western phosphate lands could be accomplished without federal intervention, nevertheless, the Conference offers its cooperation in working together with the Committee to draft proposals and changes in the proposed bills which would retain the idea of treating the problems of mined land reclamation on a localized basis, but which would nevertheless establish standards and guidelines to define the power of the administering agency to impose requirements on the industry, either by federal or state regulation.

It should also be noted that the Public Land Law Review Commission is currently reviewing the laws, regulations and problems involving public lands, including phosphate lands. It is anticipated that a substantial amount of data will be obtained in conjunction with this study. The Conference suggests that it might be wise to withhold final consideration of any legislation until this data is available.

Senator METCALF. We want to thank you for your statement.

Senator JORDAN. Thank you, gentlemen, for what I believe is a very profound and accurate statement of the troubles I know beset the phosphate industry of the West.

It seems to me that there is a basic misunderstanding here between those of you who are operators and those of the executive branch who