
BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Secretary Of The Interior

Cooperative Leasing Offers Increased Competition, Revenues, And Production From Federal Coal Leases In Western Checkerboard Lands

The Secretary of the Interior will soon decide whether to adopt the cooperative coal leasing concept and use it to conduct the Department's proposed Federal lease sale of the Red Rim tract in Wyoming.

Because of the potential to significantly increase competition, lease sale revenues, and production, GAO believes the Department should plan and conduct cooperative lease sales, including the proposed sale of Red Rim. The data from Red Rim, together with data from future cooperative lease sales, will provide a sound foundation needed for an intelligent decision on the continued use of the concept.

GAO makes recommendations leading to the cooperative leasing of Red Rim and continued application of the concept.



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

ENERGY AND MINERALS
DIVISION

B-205879

The Honorable James G. Watt
Secretary of the Interior

Dear Mr. Secretary:

This report summarizes our evaluation of the Department of the Interior's ongoing experiment with cooperative leasing agreements as a possible alternative approach for developing Federal coal in Western "checkerboard lands." 1/ As you know, the cooperative coal leasing concept combines--before the actual lease sale--the surface and coal rights to checkerboard lands into a single logical mining unit. We understand a Secretarial Issue Document on cooperative leasing and the first cooperative lease sale will soon be forwarded for your decision. Because of the potential to significantly increase competition, revenues, and production from Federal leases, we believe that Interior's efforts to plan and conduct cooperative lease sales, including the proposed Red Rim sale, should be continued.

The Department chose the Red Rim, Wyoming, tract as the test site for the first cooperative coal lease sale. However, obtaining consent from the private surface owner, and unresolved legal issues surrounding participation by the mining affiliates of land grant railroads, complicate the proposed sale. Moreover, the possibility of protracted litigation of either issue may persuade the Department to withdraw the tract from consideration for sale under the cooperative agreement concept. We are concerned that this first experience might jeopardize the concept in the future. And, we believe it would be imprudent to decide on the merits of the cooperative coal leasing concept based solely on the outcome of Red Rim.

Cooperative coal leasing could substantially increase competition, revenues, and production from checkerboard area coal leases. In addition, the concept could lead to mining of Federal coal that might not otherwise be recovered. However, before meaningful comparisons can be made against other leasing alternatives--such as normal leasing procedures, lease and land exchanges, and eminent domain condemnation--more experience with the concept is needed. In obtaining this experience, we believe that the public--particularly the coal industry and private surface owners--should play stronger roles. Greater public participation

1/Alternating tracts of federally and privately owned land.

could help ensure that future cooperative coal leasing agreements are made voluntarily in a manner consistent with the concept's underlying theoretical basis. On page 13, we make recommendations leading to continued application of the cooperative leasing concept.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our basic objective was to determine whether Interior's efforts to plan and conduct a cooperative coal lease sale would result in a fair and reasonable first test for the concept. To satisfy this basic objective, we employed a case study methodology limited to an analysis of the events leading to the proposed April 1982 cooperative sale of the Red Rim tract in the Green River/Hams Fork Federal Coal Region in northwest Colorado and southwest Wyoming. However, because our approach to this evaluation was tempered with the understanding that the Red Rim experiment was the Department's first experience with this concept, the results of our work should be seen in light of this important qualification.

In forming the technical foundation for this evaluation, we relied on Department of Justice reports covering competition in the coal industry 1/ and selected contractor reports. 2/ We also considered the results of Interior's studies targeted at identifying and solving fair market value problems. The cooperative leasing concept is anchored in these studies.

We analyzed the design of the proposed cooperative leasing experiment and reviewed public comments on Interior's announcements in the December 30, 1980, and November 18, 1981, Federal Register. We interviewed selected Federal officials at the Department of the Interior and Bureau of Land Management (BLM) offices in Washington, D.C.; the Bureau's State offices in Cheyenne, Wyoming, and Billings, Montana; and the Bureau's district office in Rawlins, Wyoming. We also contacted representatives of the Rocky Mountain Energy Company in Broomfield, Colorado.

1/U.S. Department of Justice, "Competition in the Coal Industry," Report of the U.S. Department of Justice Pursuant to Section 8 of the Federal Coal Leasing Amendments Act of 1976, May 1978 and Nov. 1980, respectively.

2/Science Application Inc., "Enhancing Competition for Federal Coal Leases," Jan. 1976, SAI-76-513-WA; and Environmental Law Institute, "Management of Federal Coal Properties in Areas of Fragmented Ownership," Jan. 3, 1980, Contract No. 14-01-0001-78-C-19.

This evaluation was conducted in accordance with the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

BACKGROUND

Beginning in 1850, the Congress granted land to many railroads for the purpose of encouraging development of the West. The grants generally consisted of 200- to 400-foot rights-of-way for trackage, and alternating (square mile) sections of land on either side of the right-of-way ranging from 6 to 20 miles. A total of 89 grants were made, but 17 were later forfeited due to lack of performance. Under the remaining 72 grants, more than 131 million acres of land were actually transferred to the railroads. The grants created three corridors through Western States with land ownership patterns appearing like checkerboards--the railroads and the Federal Government owning alternating sections. Although some of the grants excluded mineral rights, coal and iron were not excluded, and therefore, the railroads initially owned both surface and coal rights in the checkerboard areas.

Over the years, some railroads merged with others or were sold. Currently, the checkerboard areas in the major coal regions are adjacent to the Burlington Northern Railroad, through North Dakota and Montana; the Union Pacific Railroad, through Colorado, Wyoming, and Utah; and the Santa Fe Railroad, through New Mexico and Arizona. As a group, the companies which own these three railroads are reported to own about 15 billion tons of coal reserves, which is roughly equal to the Federal reserves in the checkerboard areas.

Over time, the railroads and the Federal Government sold some of the surface rights in the checkerboard areas. As a result, checkerboard coal development is complicated not only because of multiple coal owners, but also by the existence of split estates, where one party owns the coal while another owns the surface rights. The checkerboard ownership pattern and the occurrence of split estates complicate Federal coal leasing efforts, increase mining costs, and serve to reduce competitive interest in checkerboard area leases.

Because individually owned checkerboard tracts are generally too small to mine efficiently as a single unit, mining companies must obtain two or more adjacent tracts, as well as consent from the surface owner(s), in order to form a logical mining unit. The additional cost of forming a logical mining unit creates market imperfections which drive down the value of individual tracts--both Federal and private. If these tracts were combined, however, the

Department believes the value of the combined tract would exceed considerably the sum of the values of the individual tracts. In theory, cooperative leasing is one mechanism for combining the individual tracts before a lease sale, thus enhancing their value to potential bidders and the resulting revenues to the Government.

DESIGNING A WORKABLE FEDERAL/PRIVATE
COOPERATIVE COAL LEASING EXPERIMENT

About 3 years ago, the Department began an experiment aimed at conducting a cooperative coal lease sale and through post-sale evaluations, determining the feasibility of making cooperative leasing a viable alternative to more conventional leasing methods. BLM's Wyoming State Director recommended the Red Rim tract. It is considered to be in a prime coal producing area and close to transportation.

The former Conservation Division of the U.S. Geological Survey (USGS) performed an economic recovery potential analysis for the proposed combined tract in September 1979. According to that analysis, the tract's total surface is 20,480 acres, of which 10,320 acres are federally owned and 10,160 acres are privately owned. A tract of this size would be among the largest ever leased by the Federal Government. An estimated 85 percent of the underlying coal, about 50 million tons, is believed recoverable.

The design of the cooperative leasing experiment at Red Rim was the product of a June 1980 task force consisting of representatives from the Interior's Office of Policy Analysis; Office of Coal Leasing, Planning and Coordination; Office of the Solicitor; BLM; and USGS.

A December 30, 1980, Federal Register announcement explains that in designing a workable cooperative leasing experiment, the task force established the following basic criteria:

- The proposal must provide for pre-sale packaging of Federal and private coal.
- Any lease terms affecting the value of the lease must be the same in both public (Federal) and private leases.
- Due to the absence of legal authority for compulsory pre-sale packaging of Federal and private tracts, the Department must rely upon voluntary participation from private parties.
- The proposal must be in accord with all current laws and regulations governing Federal coal leasing.

A potential additional criterion would have provided that the private coal owner not participate in the sale as a bidder. This criterion was subsequently rejected by the task force as a result of negotiations with the private coal owner--Rocky Mountain Energy Company, a subsidiary of the Union Pacific Corporation and an affiliate of the Union Pacific Railroad.

Within these criteria, the task force proposed a presale cooperative leasing agreement providing an opportunity for interested private parties to obtain separate leases for both Federal and private coal necessary for an efficient mining operation. The Federal coal lease sale would be conducted under normal procedures--sealed bids followed by an oral auction. But under the conditions set forth in the pre-sale cooperative agreement the winning bidder for the Federal coal would be given the opportunity to buy the private coal and have 45 days to conclude a sale agreement and satisfy other Federal requirements.

The price of the private coal would be a function of the cost of the Federal lease and determined by applying a Federal/private bid ratio announced before the Federal lease sale. According to the Department, it would be a fixed ratio based on economic evaluations of the tracts and arrived at through bilateral negotiation. It would also be used to set a mutually acceptable minimum bid for each lease. Royalties would be apportioned according to the relative values of the Federal and private coal.

Interior officials realize that the list of possible questions on the mechanics of cooperative leasing is lengthy. They believe, however, that many questions can be answered by the experience gained from attempting to conduct a cooperative lease sale. Nonetheless, many concerns about Interior's proposed application of the concept were expressed through public comments on the planned cooperative leasing of the Red Rim tract.

A number of questions have surfaced about the need for cooperative leasing, its impact on competition in the coal industry, and who would benefit most from its implementation. Some of the concerns expressed in public comments have not been addressed formally through a revised cooperative agreement format.

PUBLIC COMMENTS ON THE
DEPARTMENT'S FEDERAL/PRIVATE
COOPERATIVE COAL LEASING PROPOSAL

The proposed cooperative lease sale at Red Rim has been troubled by a number of public concerns raised in comments responding to Interior's December 30, 1980, and November 18, 1981, Federal Register announcements. These concerns include the Federal Coal Regions in which it will be workable. Some

questioned the Government's statutory authority to impose such a program and others questioned whether the rights of private surface owners and private leaseholders, as well as existing Federal lessees, were given adequate consideration. Some asked if the mining company affiliates of land grant railroads would be allowed to participate as bidders when railroad coal is included in the combined tract. Others flatly objected to any participation by railroad mining affiliates. Concern over a potential National Environmental Policy Act compliance requirement was also raised. Although these concerns served to bring important issues to the Department's attention, most were anticipated beforehand and are unlikely to influence Interior's policy.

Although each of the public concerns could potentially lead to litigation, two are complicated, controversial matters that could result in the delay or possible cancellation of the proposed cooperative lease sale at Red Rim: concerns over the (1) rights of private surface owners and (2) unresolved legal issues surrounding participation by the mining affiliates of the land grant railroads. Whether these concerns relate chiefly to the cooperative leasing concept itself or only to the experiment at Red Rim has not been determined.

Interior officials believe the bulk of industry and public opposition is against the Red Rim experiment instead of the concept per se. These officials argue that under different circumstances--that is, with a more agreeable private surface owner and less bidding interest from the railroad mining affiliate--opposition to a cooperative lease sale similar to that at Red Rim would be substantially less. Both the private surface owner and the railroad mining affiliate issues are discussed in more detail below.

Difficulties obtaining consent from Red Rim private surface owners

Although the Federal Government owns the surface above its share of Red Rim coal, the owner of the private coal--Rocky Mountain Energy Company--does not own the surface over its coal. Private surface ownership is vested with individuals owning and operating cattle ranches. The single largest rancher owns roughly 90 percent of the surface over Red Rim's privately owned coal reserves and holds an agency agreement to represent the other ranchers.

According to Interior officials, Wyoming State law basically grants "resident or agricultural" surface owners veto power over surface coal mining. The attorney for the cattle ranchers contends

they were first approached by representatives of the Union Pacific Railroad (current affiliate with Rocky Mountain Energy Company) in 1976. ^{1/} At that time, efforts to either buy out the ranchers or arrive at an equity or royalty position were begun. According to Interior records, Rocky Mountain Energy negotiated with the cattle ranchers, but could not secure a consent agreement.

In an August 13, 1981, memo to PLM's Office of Coal Management, the Task Force on Cooperative Leasing recommended abandoning the experiment to lease Red Rim cooperatively. According to the memo, the overriding reason behind the recommendation was the inability to include private surface owner rights over the Rocky Mountain Energy coal in the proposed cooperative leasing agreement. The Task Force reasoned that a basic precept of the experiment has been that any terms affecting the value of the lease must be the same or comparable in both public and private leases. It concluded that, since the Federal lease on Red Rim will convey the right to enter and mine over the Federal surface (i.e., both surface and coal rights), the private lease should also.

The Task Force found that it would be possible to force the Red Rim cooperative sale further, but not without appearing to favor either Rocky Mountain Energy or the private surface owners and not without jeopardizing the public's interest in the coal. If the Red Rim sale was forced further, the Task Force felt cooperative leasing would lose its very important "voluntary" cast and continuation then would serve no purpose.

About 5 weeks later, the Task Force withdrew its earlier abandonment recommendation. This action resulted from an August 27, 1981, Rocky Mountain Energy proposal to compensate the eventual successful bidder on Red Rim an amount that the Task Force reported equitably represents the value of the private surface rights. Interior officials could not, however, provide us with detailed information explaining how they determined the equitable value of the private surface rights.

In a November 18, 1981, Federal Register announcement, the Department stated that

"* * * RME (Rocky Mountain Energy) has offered to include a provision to the following effect in its lease with the successful bidder: If the Red Rim tract is leased in a cooperative lease sale, and the winning bidder for the

^{1/}U.S. Senate, Hearings Before the Senate Subcommittee on Energy and Mineral Resources, Committee on Energy and Natural Resources, on S. 1542, Sept. 11 and Oct. 1, 1981, pp. 170 to 193.

combined lands is other than RME or one of the surface owners (or a party affiliated with a surface owner) RME would contribute by assignment up to a 3% coal production royalty on its land upon consummation of a 'surface owner agreement' with such owners in a form satisfactory to RME. RME would also be willing to contribute upon consummation of such an agreement or agreements up to \$400,000 to be distributed rateably among such surface owners as an advance royalty to be recouped by RME out of the first monies payable to such owners on the coal production royalty assigned them by RME * * *."

The Department feels this offer is within the range of production royalties commonly offered private surface owners under similar situations and is a significant advance step that would not normally be negotiated until after the actual lease sale.

Establishing an advance royalty agreement, although it may attract a number of additional prospective bidders to the Red Rim sale, may not result in the essential private surface owner consent agreement. Interior officials are concerned that the unwilling private surface owners and Rocky Mountain Energy will end up in protracted litigation which will either delay or negate the the cooperative leasing of Red Rim. Unless an agreement can be reached, under Wyoming's untested statute, the mine operators are required to post a bond covering prospective damage to the surface owners' estates. The surface owners will be entitled to annual payments for damages to their land, crops, overall operations, and other property. Rocky Mountain Energy is expected to argue a reserved right to use as much of the surface estate as is necessary to develop the mineral (coal) estate without compensating the surface owners. Because Wyoming courts have not addressed such questions, the outcome is uncertain at best. However, Texas courts have examined the extent of surface owner rights under similar circumstances. In cases involving mining rights reservation language like that being cited by Rocky Mountain Energy, the courts held that the surface owners own the minerals up to 200 feet beneath their surface. 1/

The absence of full cooperation from all of the private parties--surface as well as coal rights holders--to a cooperative leasing agreement will likely reduce competition for and revenues from the proposed lease sale to some degree. However, combining less than all the coal and surface rights to a proposed tract may

1/See Reed v. Wylie, 554 S.W. 2d 169 and 597 S.W. 2d 743.

nonetheless increase competition and revenues beyond what would normally be expected should the Federal and private tracts be sold separately.

The extent of the increases is what cannot be forecast accurately. From the standpoint of economic theory, cooperative leases containing all of the surface and coal rights are clearly preferred, because all the uncertainties about the cost of obtaining additional rights are eliminated. However, packaging leases containing only the coal rights may prove to be desirable as well.

After gaining more experience with cooperative leasing agreements packaging only coal rights, the Department may find that significant increases in competition and revenues cannot be expected. But until more cooperative lease sales of this type are conducted, the Department has no basis for determining the desirability of cooperative leases for coal rights alone. This holds true for the proposed cooperative leasing of Red Rim. Red Rim's cooperative sale would provide the first indication of the extent to which cooperative leases containing only coal rights increase coal leasing competition and revenues.

Participation of land grant
railroad mining affiliates
in cooperative coal leasing

The Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 et seq.), as amended, prohibits common-carrier railroads from holding Federal coal leases. Current Federal law also restricts a railroad's ability to mine and transport its reserves. Under the Elkins Amendment to the Hepburn Act of 1906 [49 U.S.C. 1(8)] railroads are prohibited from carrying coal that they own--except coal for the railroad's own use, a need that has virtually disappeared since the advent of the diesel locomotive. Although this legislation appears to seriously restrict railroad participation in the coal industry, much of it is considered outdated and ineffective. More importantly, the restrictions are easily circumvented as explained in Justice's reports on "Competition in the Coal Industry".

The May 1978 Justice Department report observes that within 2 years of the Elkins Amendment's enactment, railroads had learned how to evade its prohibition. In the United States v. Delaware & Hudson Company, 1/ the Supreme Court held that, although a railroad could not transport its own coal, it could transport coal of a corporation in which it held stock. Known as the

1/213 U.S. 366 (1909).

Delaware decision, it was subsequently upheld in United States v. Elgin J. & E. Ry. and in United States v. South Buffalo Ry. ^{1/} Thus, the Elkins Amendment could be avoided merely by transferring title in the railroad and mining interest to a holding company.

In the same report, the Justice Department concluded that a potentially more serious restriction is imposed by section 2(c) of the Mineral Lands Leasing Act of 1920 which prohibits a railroad from holding a Federal coal lease, except to produce coal for its own use. Pointing out that sections of railroad land contained within the checkerboard patterns are too small to constitute logical mining units, the report concluded that section 2(c), which prevents railroads from acquiring contiguous Federal leases, makes it impossible for railroads to mine coal efficiently.

On the other hand, however, the report noted that the legal effectiveness of section 2(c) is not clear. Apparently, no Federal court has had to decide whether the act would permit a holding company exception. The Justice Department believes it would not because the wording of the prohibition in the Mineral Lands Leasing Act differs from that in the Hepburn Act; thus, it could be read as applying to a broader class of companies. That is, while the proscription in the Hepburn Act expressly pertains to a "railroad company," the proscription in the Mineral Lands Leasing Act pertains to a "company or corporation operating a common-carrier railroad." According to Interior's explanation of the coal leasing prohibition of section 2(c), the limitation does not apply to a subsidiary of a railroad that is a legitimate mining company, and such a company is authorized to hold a lease under the provisions of the Mineral Lands Leasing Act.

In the 1980 report, the Justice Department observed that whatever the merits of a general prohibition on leasing to railroads, the broad sweep of section 2(c) is now an impediment to, rather than a bulkwark of, competition. It then recommended that section 2(c) be repealed. This conclusion has been reached by others, most notably the U.S. Public Land Law Review Commission in its 1970 report One Third of the Nation's Land.

Although the Justice Department considers the blanket restriction of section 2(c) to be inappropriate, according to Justice, it does not imply that the competitive concerns that led to section 2(c) are not valid. According to its report, Justice merely concluded that the competitive issues involved in

^{1/}298 U.S. 492 (1936) and 33 U.S. 771 (1948), respectively.

leasing to railroads should be handled on a case-by-case basis under the antitrust review procedure of section 15 of the Federal Coal Leasing Amendments Act of 1976 [30 U.S.C. §184(1)(2)].

Under that procedure, Justice reviews each Federal coal lease to determine whether the lease's issuance would "create or maintain a situation inconsistent with antitrust laws." Justice's report explains that the competitive concerns embodied in section 2(c) could be handled on a case-by-case basis under the antitrust review procedure without the detrimental effect on competition that arises from prohibiting Federal coal leasing to all railroads. In our view, this important control should adequately protect the interests of the coal industry, and the public as well.

Regarding the possibility of a railroad's mining affiliate being the winning bidder of the planned cooperative sale of Red Rim, Rocky Mountain Energy Company is a wholly owned subsidiary of the Union Pacific Corporation, which also owns the Union Pacific Railroad and other companies. Rocky Mountain Energy owns the mineral rights to Red Rim's private coal and is expected to bid on the Federal portion of the proposed combined tract. Interior officials anticipate litigation bringing to Federal courts the unresolved issues surrounding the leasing of Federal coal to mining affiliates of land grant railroads. Possible complainants include private surface owners and competing mining companies. Thus, the proposed cooperative lease sale at Red Rim may be the scene of a legal battle to either establish or disenfranchise railroad mining affiliates in the coal industry.

Absent litigation, however, Interior's interpretation of section 2(c) is controlling. Although the Justice Department may not agree with Interior's interpretation, its role in this aspect of Federal coal leasing is purely advisory. The Secretary of the Interior ultimately decides whether to approve or disapprove all Federal coal lease sales, including the proposed cooperative lease sale at Red Rim.

CONCLUSIONS

As custodian of the Nation's coal reserves, the Department of the Interior is responsible for ensuring that the public receives the highest possible return from leasing and development of Federal coal. In discharging this responsibility, the Department must weigh the relative advantages and disadvantages of different coal leasing alternatives and determine which will most likely (1) maximize the Government's return on a given lease property and (2) maintain the proper balance between competing lease sale objectives, environmental and socioeconomic concerns, etc. As an adjunct to established leasing procedures, the Department is experimenting with cooperative coal leasing agreements as a possible alternative for use in checkerboard areas.

In western checkerboard areas small, unmineable Federal coal tracts are divided by alternating private tracts of equal size. There is little competition for checkerboard area leases and, consequently, lease sale revenues are not being maximized. Cooperative leasing conceivably could increase competition, lease sale revenues, and lead to mining of Federal coal that might not otherwise be developed.

The cooperative leasing concept combines both the surface and coal rights to Federal and private tracts--before the actual lease sale. By packaging what are essentially logical mining units in this fashion, the Department hopes to overcome previous market imperfections and--in doing so--substantially increase competition for Federal leases and thus revenues from lease sales. However, packaging all the surface and coal rights to Federal and private tracts is not easy and, in some cases, may not be possible. Packaging less than all the rights to either the private or Federal tract will likely result in smaller increases in competition and lease sale revenues. Because the Department has not conducted its first cooperative lease sale, the extent to which full or partial implementation of the concept might increase competition or lease sale revenue is still uncertain.

Presently, the Red Rim tract in the Green River/Hams Fork Federal Coal Region of northwest Colorado and southwest Wyoming is the only combined Federal/private coal tract being considered for cooperative leasing. Difficulties in obtaining consent from the private surface owner and unresolved legal issues surrounding participation in Federal leases by the mining company affiliates of land grant railroads complicate the proposed lease sale. The possibility of litigation may persuade the Department to withdraw the Red Rim tract from consideration of a cooperative lease sale. Moreover, this less-than-ideal first experience may jeopardize future use of the concept as well.

Whether or not the proposed Red Rim sale is conducted under the mantle of cooperative leasing, we believe it would be imprudent to decide from one experience on the concept's merit as a coal leasing alternative. More data are needed on the impact of cooperative leasing on competition and lease sale revenues, including instances where only part of the surface or coal rights can be packaged before the actual lease sale.

The Red Rim cooperative lease sale--although not containing all the surface and coal rights--should provide the first indication of the merits of the concept. The initial data, together with data from future cooperative lease sales, are needed to determine the concept's impact on competition and revenues. Without this information, meaningful comparisons against other leasing alternatives cannot be made.

The Department should obtain more experience with cooperative leasing before deciding on the future utility of the concept. During the current period of fiscal austerity, however, a timely, efficient, and effective way to plan and conduct future cooperative coal lease sales is required. Stronger public participation, including industry as well as private surface owners, is one means of streamlining Federal efforts and ensuring concept application in a manner consistent with the underlying theoretical basis.

RECOMMENDATIONS

To bring the cooperative leasing concept out of the realm of theory and into the reality of practice, we recommend that you continue efforts leading to the cooperative leasing of the Red Rim tract. Data from this first cooperative lease sale will provide an indication of the concept's merit. Although not all the surface and coal rights are included in the proposed Red Rim tract, the Department nonetheless needs information on the extent to which even partial implementation of the cooperative leasing concept will impact competition and revenues. The data from Red Rim, together with data from future cooperative lease sales, will provide a sound foundation needed for an intelligent decision on the continued use of the concept.

Further, to facilitate continued use of the concept as an alternative for developing Federal coal within the framework of the Federal coal leasing program, we recommend that--in planning future leasing activities--you (1) take steps, such as announcements in the Federal Register or other media, which could lead to increased submittals of cooperative coal leasing proposals from private parties holding surface and coal rights to lands adjoining Federal coal holdings; (2) identify to the public where cooperative leasing proposals could be incorporated into the existing coal leasing program; and (3) give priority to cooperative coal leasing proposals containing all the surface and underlying coal rights.

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A draft of this report was sent to the Assistant Secretaries for Land and Water Resources, and Policy, Budget, and Administration. Its contents have been discussed with Interior officials and the Cooperative Leasing Task Force, and their comments have been incorporated where appropriate. These officials raised no substantive questions concerning the analysis of the issues and treatment of the facts presented in our draft report, and found our suggestions helpful and constructive.

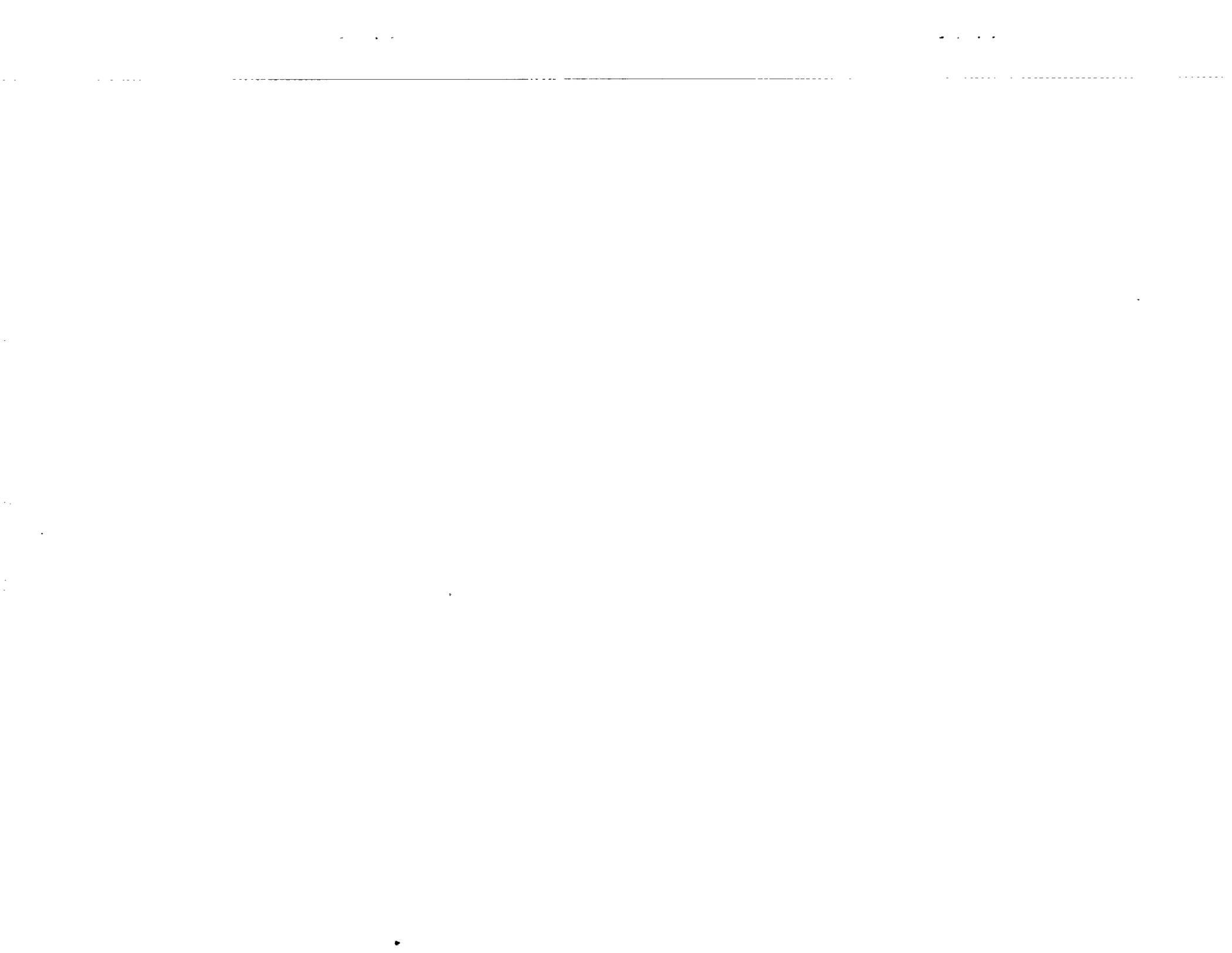
As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We appreciate the courtesy and cooperation extended our staff during this evaluation.

Sincerely yours,

for J. Dexter Peach
Director

(008988)



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