

106TH CONGRESS  
1ST SESSION

# S. 1950

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.

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## 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

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## 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Powder River Basin  
5 Resource Development Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

1           (1) The Powder River Basin in Wyoming and  
2 Montana is one of the world's richest energy re-  
3 source regions, possessing the largest reserves of  
4 coal in the United States and significant deposits of  
5 oil and natural gas, including coalbed methane.

6           (2) The coal is predominantly federally-owned—  
7 either as part of the public lands or reserved from  
8 public lands that were sold under homestead laws  
9 enacted in 1909, 1910, and 1916—and is leased to  
10 coal producers by the Bureau of Land Management,  
11 Department of the Interior, under the Mineral Leas-  
12 ing Act.

13           (3) The gas and oil are owned by the Federal  
14 Government, the States, and private parties.

15           (4) The federally-owned gas and oil, like the  
16 coal, are part of the public lands and leased to oil  
17 and gas lessees by the Bureau of Land Management  
18 under the Mineral Leasing Act.

19           (5) The privately-owned gas and oil were con-  
20 veyed with the public lands purchased under the  
21 three homestead laws and may have been sold or  
22 leased to oil and gas producers by the successors to  
23 those original purchasers.

1           (6) Development of these valuable energy re-  
2           sources is of critical importance to the American  
3           public.

4           (7) These energy resources provide fuel to heat  
5           and light our homes and power our industries.

6           (8) Extraction of these energy resources pro-  
7           vides royalties, taxes, and wages that contribute to  
8           national, State, and local treasuries and economies.

9           (9) Development of both the coal and the gas  
10          and oil is occurring in the Powder River Basin.  
11          These resources are frequently extracted sequen-  
12          tially, but for safety and operational reasons typi-  
13          cally cannot be extracted simultaneously, in the  
14          same location. Even if concurrent development may  
15          be possible, disputes often occur.

16          (10) In many locations both the coal and the  
17          gas and oil have been leased or sold to different par-  
18          ties, and disputes have arisen among those parties  
19          concerning plans for, and the course of, development  
20          of those resources.

21          (11) The development of any one of those re-  
22          sources can result in loss of another, either by mak-  
23          ing recovery impossible in the case of coalbed meth-  
24          ane or uneconomic in the case of deep natural gas,  
25          oil, or coal.

1           (12) The nature, extent, and value of any loss  
2           or delay in development of the gas, oil, or coal re-  
3           source due to development of another of these re-  
4           sources should be ascertained and fair market value  
5           for the loss or delay provided either by agreement  
6           between the resources' producers or by an expedi-  
7           tious adjudication procedure.

8           (13) The Federal law under which most of the  
9           coal and much of the gas and oil in the Powder  
10          River Basin are made available for development  
11          should be amended to provide a procedure that will  
12          assure the orderly development of the Powder River  
13          Basin's energy resources and fair treatment to the  
14          resources' producers.

15          (b) PURPOSE.—The purpose of this Act is to amend  
16          the Mineral Leasing Act to provide a procedure to resolve  
17          disputes between producers of coal and producers of nat-  
18          ural gas and oil in the Powder River Basin regarding the  
19          sequence of development of those resources in the same  
20          location and to determine fair and just compensation owed  
21          for the postponement, or loss, of the opportunity to de-  
22          velop a resource resulting from implementation of the pro-  
23          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 (c)(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) or  
2 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 order 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 fa-  
5           cilities 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-

1           tion obligations on the oil and gas lease or  
2           right to develop for the period in which the  
3           mining operations or mine support facili-  
4           ties are expected to occupy the common  
5           area in accordance with the approved or  
6           proposed mining plan; and

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

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

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

23                 “(B) shall determine the amount of any  
24                 net income that will not be realized from the  
25                 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 pur-  
2           suant 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 per  
25          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 or  
15           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

1           30 days of the date of filing of the supple-  
2           mental petition for relief, but may refrain from  
3           issuing the order required by subparagraph  
4           (D)(ii) only if the court makes either deter-  
5           mination set forth in paragraph (5)(A).

6           “(D)(i) Based on the supplemental petition  
7           for relief and any response, briefs, or testimony  
8           received pursuant to paragraph (C), and after  
9           review of the report of the panel of experts sub-  
10          mitted pursuant to paragraph (9) prior to the  
11          issuance of the order pursuant to paragraph  
12          (10)(C) or paragraph (11)(C), the court shall  
13          make a determination whether to suspend or  
14          terminate an additional part or all of the oil  
15          and gas lease or right to develop or to suspend  
16          or terminate the Federal coal lease as described  
17          in, and award an additional sum of money cal-  
18          culated in accordance with, paragraph (10) or  
19          paragraph (11).

20          “(ii) The court shall issue any order result-  
21          ing from the determinations made pursuant to  
22          clause(i) within 90 days of the date of filing of  
23          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 (c)(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 (c)(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.

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