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

STATEMENT OF  
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DIRECTOR, ENERGY AND MINERALS DIVISION  
BEFORE THE  
SUBCOMMITTEE ON ENERGY AND POWER  
OF THE  
HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE  
ON  
[COAL TRESPASS IN THE EASTERN UNITED STATES]

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Mr. Chairman and Members of the Subcommittee:

We welcome the opportunity to appear before this Subcommittee to discuss our findings on reported cases of coal trespass in the Eastern States and, specifically, Alabama. My testimony is based on our recent report, prepared at your request, evaluating the extent to which the Department of the Interior and its Bureau of Land Management have investigated reported cases involving trespass of Federally owned coal with losses--based on the value of the coal--estimated by the Bureau ranging from \$135 million to more than \$1 billion. 1/ I should mention at the outset that this estimate--made by the Bureau's Eastern States Office--is based on very limited data, and is thus unreliable; but

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1/"Coal Trespass in the Eastern States--More Federal Oversight Needed," EMD-79-69, May 25, 1979.



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does illustrate the potential significance of the trespass problem in the Eastern coal States.

Our primary objective was to examine the adequacy of the Bureau's and the Department's efforts to identify coal trespasses and initiate enforcement actions in a timely manner. We also examined the Bureau's procedures and monitoring methods for preventing and halting such trespasses and identifying Federal coal ownership.

Our work sought to answer three questions:

- Has the Bureau investigated suspected coal trespasses and prosecuted trespassers in an aggressive and timely manner?
- Is information on Federal mineral rights available to help identify trespasses and manage the resources?
- Does the Bureau have an overall strategy and plan to determine the extent of trespasses in the Eastern States and to identify, prevent, or control it?

In simple terms, the basic answer to all three is "negative."

We believe coal trespass is a serious problem in Alabama, and that a similar problem may exist in the other Eastern States. Our review showed that the Interior Department and its Bureau of Land Management have not provided an effective system for management and control of Federally owned coal in Alabama and the other Eastern States. Their documents and our review show that effective procedures, adequate staff, and an overall strategy and coal plan are

lacking. Specifically, the Bureau has not developed the programs necessary to safeguard, or even to identify, Federal mineral resources. Information on Federal mineral ownership in the Eastern States, other than Alabama, has not been available in a useful format that would serve to inform the public of their presence.

So far, all coal trespasses identified by the Bureau's Eastern States Office have occurred on lands where the surface is owned either by the State or a private party but where the minerals are owned by the Federal Government. Typically, these are small and widely scattered tracts, ranging in size from 20 to 200 acres. Bureau officials doubt that trespasses have occurred on Federally owned surfaces because these are normally large and well marked tracts and responsible agencies-- such as the Forest Service--usually have adequate staffs to monitor activities on these lands.

AGGRESSIVE AND TIMELY  
ACTION NOT TAKEN

The Bureau of Land Management and its Eastern States Office have taken limited action to investigate suspected coal trespass cases and to prosecute trespassers. Even for suspected trespass cases in Alabama, initially reported as early as November 1976, the Eastern States Office has not taken aggressive and timely investigative action. The lack

of action occurred, in our opinion, because the Eastern States Office did not initially recognize the overall significance of the trespasses and, in addition, lacked adequate staff resources, investigative procedures, and strong policy and guidance from Bureau headquarters.

The Eastern States Office notified the Bureau of suspected coal trespasses in Alabama as early as 1975. In November 1976, the U.S. Geological Survey reported two suspected cases to the Eastern States Office. As of September 1977, the Office had identified 31 suspected trespasses and, by April 1978, the Bureau had estimated losses to the Government in Alabama alone, conservatively, at \$64 million--based on the value of what it considered the minimum amount of coal removed as a result of 39 cases identified to that time. By April 1979--a year later--a total of 50 suspected coal trespasses had been identified in the Eastern States--48 in Alabama, and 2 in Maryland. But the Bureau had sought to recover damages--of about \$3.5 million--in only 1 of these cases. No liability has been determined for the remaining cases.

A major part of the basic problem concerns the Bureau's neglect in promptly advising senior officials about the suspected cases in Alabama. We learned that a Bureau official initially briefed the Secretary of the Interior on the Alabama

coal trespass problem during the morning of January 23, 1979, following a January 22, 1979, telecast dealing with this issue. The Assistant Secretary for Land and Water Resources was not formally briefed by Bureau officials until January 22, 1979, just prior to his being interviewed for the above noted television broadcast. Top Bureau officials--including the Director--had been briefed by its Eastern States Office on the potential significance of coal trespass as early as May and June 1978. The Bureau Director said, however, that he did not bring the matter to the attention of Secretarial-level officials at that time because the data presented was highly speculative and better definition of the trespass problem was needed. While we agree that the basis used to project the estimate of total losses in the Eastern States was questionable, we believe the situation was serious enough--based on information available at that time--to warrant bringing it to the attention of the Assistant Secretary. Even the May and June 1978 briefings at the Bureau level were long overdue, we feel, since 31 of the trespass cases had been reported by September 1977.

We believe that the Bureau's efforts have been and continue to be reactive to coal trespass cases, most of which were identified incidental to a limited land use study in Alabama. The Bureau's response to the 50 cases reported to the Eastern States Office was apparently triggered more by

news reports and congressional inquiries than by a conclusion that coal trespass is a serious problem. Indeed, the Bureau has not determined the extent of the coal trespass problem in the Eastern States and, in our opinion, has not been taking effective steps to define it.

LACK OF INFORMATION ON  
FEDERAL MINERAL OWNERSHIP

Dealing with problems such as coal trespass is not easy given the lack of information on what Federal minerals the Government actually owns in the 31 Eastern States. The Bureau's Eastern States Office has not completed the identification of Federal mineral ownership underlying Federal, State, and private lands in any of the Eastern States. The Office's mapping program is expected to be completed by the end of fiscal year 1982, and the mapping of Federal coal ownership under Federal, State, and private land in known Eastern coal regions should be completed by the end of fiscal year 1981. The Office has accelerated a portion of this mapping program, to concentrate on Federal coal underlying State and private land in 12 Eastern States. This accelerated program is to be completed by the end of fiscal year 1979, However, the Office has experienced difficulty in completing these maps in a timely fashion and we are not convinced they will be able to meet this timeframe.

Even this mapping program, though, is not sufficient to assure effective coal management and to prevent or control trespass because it is still necessary to monitor land use through increased Bureau presence and/or the use of aerial photographs. Currently, the Bureau's Eastern States Office has no program for obtaining aerial photographs and other resource data or for assigning staff to identify coal trespasses--through a data matching process--beyond what has already been identified in a four-county area of Alabama.

BUREAU "PRESENCE"  
AND OVERALL PLAN LACKING

The Bureau's efforts to deal with the Eastern States' coal trespass problem have generally been limited to cases already identified in Alabama, rather than seeking out additional cases. This is due to the agency's lack of "presence" in the Eastern States and the lack of an overall coal management plan which would (1) provide for the definition of the magnitude and priority of the coal trespass problem, and (2) establish procedures to assure its resolution. For example, the Eastern States Office still has no criminal investigators or mineral examiners on-board to carry out detailed investigations and collect needed evidence. GAO believes the problem identified with coal may be symptomatic of a larger problem involving the Bureau's ability to

effectively manage mineral resources throughout the Eastern States.

Presently, the Bureau does not have an overall plan for identifying, preventing, and controlling coal and other mineral trespasses in the Eastern States. As stated earlier, part of this problem for coal stems from the absence of a complete mapping and data matching process--but another important contributing factor is the lack of Bureau presence in the Eastern States. Until the Bureau's eastern presence increases, its ability to identify trespasses and safeguard Federal mineral resources will be greatly hindered.

An essential part of any effort to establish the Bureau's presence would be an effective public awareness program--which can serve as an important deterrent for coal as well as other trespass. But, until recently, no such program existed. Even now, the program basically is limited to Alabama.

As mentioned earlier, coal trespasses identified so far have occurred under State or private surface lands, generally located in small scattered tracts ranging in size from 20 to 200 acres. The Bureau feels that because Federal coal is scattered throughout the Eastern States and because the Bureau lacks administrative control over the surface, the management of these reserves poses a difficult problem not faced by Bureau offices in the West. We believe there



is some credence to this latter contention, although similar management problems do exist in the Western States, but perhaps not to the extent as in the Eastern States. We believe the Bureau needs to find the means to effectively manage Federal coal under such lands or, as an alternative, it may want to seek some appropriate means of divesting itself of this ownership responsibility, being assured of course the public interest is properly protected.

We recommend that the Secretary of the Interior, through the Bureau of Land Management and its Eastern States Office, develop an overall strategy and plan to safeguard and otherwise manage Federal coal in the Eastern States, which should include immediate steps to:

- Establish an effective investigative approach and an appropriately staffed work group to come to grips with existing coal trespass cases, considering the legal implications of the statute of limitations in determining the priority of individual cases.
- Determine the extent of coal trespass in the Eastern States by following through on the accelerated Federal coal mapping program and, at the same time, establishing an aggressive trespass identification program beyond the four-county area of Alabama.
- Expand the public trespass awareness program-- beyond Alabama--to include:
  - making computer listings of Federally owned minerals available to the public,
  - implementing a reward system for public information leading to the identification of trespass cases,

--notifying the public through advertising of the Federal mineral ownership in the Eastern States, and

--implementing a "hotline" to enhance and simplify trespass reporting by concerned citizens.

--Assure that adequate staff resources are made available to accomplish these tasks, either through reallocations within the Bureau or additional positions justified to the Interior Department.

We believe an adequate Bureau "presence" in the Eastern States is vital to identify and safeguard Federal mineral resources. Thus, the Secretary should require--as part of the Bureau's overall coal management plan--a specific determination as to whether retention of Federal coal rights under State and privately owned surfaces in the Eastern States is cost-effective, considering the small, scattered ownership patterns, and increased cost to effectively monitor and manage these resources. If the Secretary determines that such retention is not cost-effective, we believe the Interior Department should seek appropriate means of divesting itself of this responsibility, while being assured the public interest is protected.

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Mr. Chairman, this concludes my statement. We will be happy to answer any questions the Subcommittee might have.