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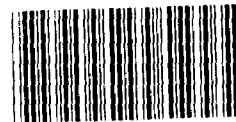
BY THE U.S. GENERAL ACCOUNTING OFFICE

**Report To The Honorable Pat Williams,
House Of Representatives**

**Coal Exchange Management
Continues To Need Attention**

The Department of the Interior is currently considering a proposal to exchange Federal coal for nearby coal owned by the Meridian Land and Mineral Company in Montana. GAO found that Interior's actions and decisions regarding the proposed coal exchange comply with existing Federal policies, but the extent of discretion allowed the Secretary is quite broad. Consideration of the Meridian proposal will provide experience for formulating criteria and procedures to aid in evaluating future proposals.

GAO concludes that consideration of this particular proposal should proceed but makes recommendations to help achieve equitable and consistent evaluations of coal exchanges.



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

RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

B-208717

The Honorable Pat Williams
House of Representatives

Dear Mr. Williams:

This report is in response to your July 14, 1982, letter asking that we examine several aspects of the proposed exchange of coal ownership near Circle, Montana, between the Bureau of Land Management and the Meridian Land and Mineral Company. The report discusses actions we believe the Department of the Interior could take to enhance its management of coal ownership exchanges.

To assure that the report was issued in time to meet your needs, we obtained oral comments in a draft of this report from Interior officials. The Meridian Land and Mineral Company provided written comments. Comments from both have been appropriately recognized and dealt with in the final report.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days from the date of the report. At that time we will send copies to the Department of the Interior and other interested parties and make copies available to others upon request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Dexter Peach".

J. Dexter Peach
Director

D I G E S T

In November 1981, the Meridian Land and Mineral Company, an affiliate of Burlington Northern Railroad, proposed that certain of its coal holdings in eastern Montana be exchanged for adjacent Federal coal managed by the Department of Interior's Bureau of Land Management (BLM). BLM's Montana State office is currently evaluating the merits of this proposal to determine whether to approve the exchange or to include the Federal coal in an upcoming lease sale in the same general area.

BLM's evaluation has not yet reached the point where GAO could adequately assess the merits of the exchange, but in response to a request from Representative Pat Williams of Montana, determined

- whether BLM's consideration of this exchange should proceed, based on compliance with existing laws and regulations governing exchanges;
- whether the legal prohibition against a railroad obtaining a Federal coal lease is also relevant to coal exchanges;
- the relative advantages and disadvantages of the Federal Government entering into a coal exchange versus leasing the coal;
- the adequacy of BLM's procedures for considering this and future coal exchanges, and
- whether GAO's previous recommendations on an earlier exchange have been implemented.

PROPOSED EXCHANGE
OF COAL OWNERSHIP

The land ownership pattern in the area under consideration is "checkerboarded," a common situation in the West where alternate sections of land were granted to railroads along rail track routes. As a result, neither the Federal Government nor the private landowner usually has sufficiently

large blocks of land to sustain a modern surface coal mining operation. Meridian's proposal would exchange its coal in one portion of the area for Federal coal in another, thus leaving Meridian and BLM each with two contiguous parcels more conducive to leasing and development. The exchange, now being considered by the BLM State office, would give Meridian a block of about 420.4 million tons of coal on 20,075 acres and BLM 435.7 million tons on 24,466 acres. (See p. 1.)

CONSIDERATION OF THE PROPOSED
MERIDIAN EXCHANGE IS IN
COMPLIANCE WITH EXISTING LAW

Section 2(c) of the Mineral Leasing Act of 1920 generally prohibits common carrier railroads from receiving Federal coal leases. These restrictions do not, however, apply to coal exchanges. BLM can noncompetitively exchange coal ownership at any time--including with a railroad-affiliated company--under the authority of the Federal Land Policy and Management Act of 1976. (See p. 8.) That law establishes only two criteria for land resource exchanges--that they be in the public interest and that the exchanged resources be of equal value. The law and implementing regulations describe only generally what factors should be considered in making these determinations. This leaves a great deal of discretion to Interior in processing exchange proposals such as that made by Meridian. (See p. 5-6.)

RELATIONSHIP OF COAL
EXCHANGES TO LEASING

The relationship between leasing Federal coal or exchanging it is also not discussed in the law or regulations--they are legally and procedurally distinct and separate. Coal leases must be issued competitively and in compliance with a number of requirements regarding pace of development, rents, royalties, and land use planning, but exchanges need only meet the two broad criteria of public interest and equal value.

Furthermore, there are no legal or regulatory criteria for determining when (and whether) to consider an exchange or leasing, including cooperative leasing. In the case of the Meridian proposal:

- An exchange is the surest way to assemble tracts of land conducive to development, and while the coal passing to Meridian would not be subject to Federal controls such as the diligent development requirements of a Federal lease, in this instance even greater quantities of coal will be brought under Federal jurisdiction.
- Meridian may be able to lease or develop its coal more quickly than the Federal Government. Early development by Meridian may reduce the immediate marketability of the Federal tract, but may enhance its long-term marketability by establishing a contiguous developable parcel that would not otherwise exist.
- Competitive leasing in a checkerboard area would generate some Federal revenues immediately but would not guarantee production. In contrast, Federal leasing after an exchange would likely attract more competitive interest and greater revenues because of elimination of the checkerboard problem.
- Cooperative leasing in a checkerboard area--whereby Meridian and the Federal Government would jointly offer their lands in one combined lease--is a third option but is an essentially unproven approach. (See p. 14.)

PROCEDURAL IMPROVEMENTS
NEEDED FOR HANDLING EXCHANGES

The absence of procedures left BLM State and district officials with little guidance and criteria for dealing with the economic and other considerations entailed in evaluating the exchange proposal. BLM intends to use the Meridian experience as a basis to develop criteria for handling future exchanges, but there is presently little assurance that key factors affecting exchange decisions will be fully considered. For example, the BLM plan for handling the Meridian exchange did not include consideration of possible alternatives or such things as the impact an exchange, as opposed to leasing, would have on the competitiveness and developability of the Federal coal. Also, there were problems of coordination within the Department between BLM and Interior's Minerals Management Service which have delayed completion of the economic evaluation.

Similar management problems were noted in a prior GAO report concerning an exchange of coal lease applications for a coal lease in Utah. ^{1/} Among other things, GAO had recommended that Interior set standards for the minimum level of data needed to evaluate an exchange and establish definitive criteria for determining the appropriate economic evaluation method to be used. These recommendations--which Interior agreed with in principle but has not yet fully implemented--remain valid and, although specifically related to lease exchanges, address the same kinds of managerial considerations important in evaluating coal exchanges.

Written procedures would help assure that future exchange proposals are handled equitably and consistently. These procedures should include some basic criteria for weighing the merit of a lease versus an exchange, identifying those factors that reflect equal value and public benefit, and generally indicating the necessary steps and responsibilities involved in evaluating an exchange. Such procedures would be particularly useful in enhancing uniformity of action from region to region, since responsibility for conducting exchanges is delegated to the State and district levels of BLM. Continued processing of the Meridian proposal should help in the development of these procedures. (See pp. 12-13.)

CONCLUSIONS

The Bureau of Land Management's actions and decisions regarding the proposed coal exchange with Meridian comply with existing Federal policies, but the extent of discretion allowed is quite broad. Though railroad involvement in an exchange is not prohibited by law, Congress and the Interior Department may have to confront continuing concerns from segments of the private sector about the opportunity railroad-affiliated companies have to obtain Federal coal through an exchange.

^{1/}"How Interior Should Handle Congressionally Authorized Coal Lease Exchanges," EMD-81-87, Aug. 6, 1981.

GAO believes there is merit to proceeding with consideration of the Meridian proposal. Such consideration is needed to adequately assess the merits of the proposal and could provide useful experience for formulating criteria and procedures for use by State and district offices in assuring consistent and equitable treatment of future exchange proposals. (See pp. 14-15.)

RECOMMENDATIONS

GAO recommends that the Secretary of the Interior establish regulatory requirements to help assure that future coal exchange proposals are consistently and equitably handled at the State level. These regulations should include (1) guidelines for measuring public benefit and equal value for coal suitable for exchange and (2) a requirement that both lease and exchange options are adequately considered. In addition, the Secretary should follow through in implementing the recommendations previously made by GAO with regard to lease exchanges. (See pp. 15-16.)

VIEWS OF AGENCY AND INDUSTRY OFFICIALS

BLM representatives from headquarters and the Montana State office, and the Meridian Land and Mineral Company provided their oral and written comments, respectively. Both were in basic agreement with the report. Meridian's comments mainly were geared to points of clarification and emphasis and have been appropriately recognized in the report. BLM, while agreeing with the recommendation, felt that public benefit and equal value are not quantifiable in most cases. GAO agrees that quantification may be difficult and that specific instructions encompassing every conceivable exchange situation may not be practical but believes these critical factors need to be specifically addressed in any exchange evaluation. GAO's concern is that with exchanges being managed at a decentralized level, there should be Department-wide criteria assuring, to the extent practicable, that the desirability of an exchange--as opposed to other options--is first considered, and that, if an exchange is deemed appropriate, it is handled consistently and equitably. (See pp. 16-18.)



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ABBREVIATIONS

| | |
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| BLM | Bureau of Land Management |
| FCLAA | Federal Coal Leasing Amendment Act of 1976 |
| FLPMA | Federal Land Policy and Management Act |
| GAO | General Accounting Office |

CHAPTER I

INTRODUCTION

This report evaluates the management of a proposed exchange of coal resource ownership between a private company and the Bureau of Land Management (BLM). Representative Pat Williams asked GAO to examine several aspects of the proposed exchange of coal mineral rights in Montana between the Meridian Land and Mineral Company, a subsidiary of Burlington Northern, Inc., and the Bureau of Land Management. GAO was asked to address two main questions--(1) should the exchange proceed, be delayed pending correction of problems, or not proceed; and (2) have prior GAO recommendations regarding coal exchanges been implemented? Additionally, the request posed other questions such as the relevance of the legal prohibition against railroads receiving coal leases, the adequacy of policies and procedures governing exchanges, and whether an exchange or lease would be more lucrative to the Federal Government (see appendix I).

BACKGROUND

The most common method used by BLM to allow private access to federally owned coal is competitive leasing as authorized by the Mineral Lands Leasing Act, as amended. However, an exchange involving a trade of private for Federal resources prior to lease is another option and is authorized by a different law--the Federal Land Policy and Management Act of 1976 (FLPMA). A third option Interior is considering using in some instances is cooperative leasing. This involves the Federal Government and an adjacent private landholder concurrently leasing their holdings to make one viable mining area available for development.

In November 1981, the Meridian Land and Mineral Company proposed an exchange of coal ownership in an area of known reserves, already under consideration for leasing, near Circle, Montana. The land ownership pattern in this area is "checkerboarded" with alternate sections of land belonging to railroads along rail track routes in the West. As a result, in many areas, neither the Federal Government nor the private landowner has a sufficiently large block of land to sustain a modern surface coal mining operation. Meridian's proposal is to consolidate its and BLM's holdings by exchanging privately owned coal in the southern portion for Federal coal in the north to create two contiguous parcels each more conducive to leasing and development. BLM does, however, have the option of selecting either the northern or the southern tract.

As now proposed, Meridian would acquire approximately 173.6 million tons of coal on 8,128 acres in the north tract. BLM would acquire 223.3 million tons of coal on 11,553 acres to the south. This would give Meridian a block of about 420.4 million tons of coal on 20,075 acres and BLM 435.7 million tons on 24,466 acres.

The Montana State Office of the Bureau of Land Management accepted the proposal and began the decisionmaking process in

December 1981. The purpose of the process is to determine whether or not the exchange should be made. This decision is currently scheduled to be made on March 18, 1983.

Coal exchange experience

As nearly as we could determine, Bureau-wide experience in exchanging coal as authorized in FLPMA is limited to the Meridian proposal; a project in Wyoming involving Rocky Mountain Energy Company, a subsidiary of the Union Pacific Railroad; and an exchange in New Mexico involving a subsidiary of the Santa Fe Railway. These three projects are not being coordinated at the Bureau or the State level. All three projects involve consolidating coal ownership by railroad-affiliated companies in areas of mixed Federal and railroad coal resources.

In the Wyoming project, BLM published its intent to transfer the coal by exchange, before fair market value appraisals were performed. The Federal Register notice dated September 16, 1982, indicated that the legal requirement that the exchanged resources be substantially equal would be pursued by dollar and acreage adjustments.

In addition to the ownership exchanges authorized by FLPMA, the Bureau also is administering a number of exchanges of leases. These exchanges are not covered by FLPMA. Rather, each one is authorized by specific legislation. The Minerals Management Service (MMS) indicated to us that they are doing, plan to do, or have done at BLM's request approximately 32 economic evaluations for disposals of leasable minerals by exchange, and 23 of these evaluations involve coal. Most of these appear to be congressionally directed coal lease exchanges authorized by special legislation rather than ownership exchanges as authorized by FLPMA and processed under a different set of procedures.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives in this review were (1) to determine whether the processing of the proposed exchange between Meridian Land and Mineral Company and the Bureau of Land Management should continue, be delayed until problems are corrected, or be ended and (2) to evaluate the status of implementation of our prior recommendations and their relevance to the proposed exchange. Also, we addressed specific legal, procedural, and factual questions, included in a letter from Congressman Pat Williams (see appendix I).

Our scope was generally limited to the processing of the Meridian proposal. We reviewed case files and other proposal-related documents and data for completeness, accuracy, and compliance with written policies and procedures. We interviewed responsible officials of the Bureau of Land Management and the Minerals Management Service in Washington, D.C., Montana, and Wyoming as well as representatives of Meridian Land and Mineral

Company. 1/ We evaluated the nature and handling of public comments regarding the proposal and interviewed private citizens and public interest group representatives who had commented on the proposal in public hearings or writing. We addressed legal questions through correspondence between GAO's General Counsel and the Solicitor's Office of the Department of the Interior. Finally, we evaluated project management of the exchange proposal review process for thoroughness, objectivity, and efficiency.

We conducted our review in accordance with generally accepted government audit standards.

1/On Dec. 3, 1982, most of the activities of the Minerals Management Service discussed in this report were transferred to the Bureau of Land Management.

CHAPTER 2

SHOULD THE EXCHANGE PROCESS CONTINUE?

There appears to be no clear basis to postpone or otherwise interrupt BLM's consideration of the exchange of coal ownership proposed by the Meridian Land and Mineral Company in Montana. At the time we completed our review in February 1983, Interior's evaluation had not yet progressed to the point where the financial and other merits of the exchange could be fully assessed. We believe the process should continue until such determinations can be made. The experience gained to date and further evaluation of the exchange should help in formulating criteria and procedures for considering future exchanges.

There are also broader policy questions in this exchange which apply to other exchanges. For example, the involvement of a railroad affiliate in an exchange is not a legal issue, but there may continue to be some controversy over railroads acquiring by exchange what they are legally prohibited from acquiring by lease.

Although the coal affected by the proposal is in an area under consideration for competitive lease, criteria on when or whether to exchange and/or lease coal is not provided in authorizing legislation or implementing regulations. The choice of which means to use is left to the discretion of the Secretary of the Interior, and can have significant impacts. In the short term, leases afford competition and generate immediate revenue, whereas exchanges produce no immediate revenues and are noncompetitive; leases are subject to several requirements such as meeting a schedule for production, payment of rents and royalties, and reviews to address competitiveness questions, but when exchanged land passes title, it is no longer subject to these requirements and may therefore have a competitive advantage over the remaining Federal coal; further, railroads are generally barred from participating in leasing, but not in exchanges. However, over the longer term an exchange, particularly in checkerboard areas, enables reconfiguration of tracts into parcels more conducive to development and may therefore eventually result in greater competition and increased revenues; and approximately the same amount of coal will still remain subject to Federal control.

Following are some of the basic policy issues surrounding exchanges versus leases, and the handling of exchanges in particular.

LEGAL AUTHORITY FOR EXCHANGES IS BROAD

There is no legal or regulatory provision specifically addressing when an exchange should be conducted, and, once a decision is made to exchange, there is little guidance or criteria on how to implement it.

Exchanges of lands such as Meridian has proposed in Montana are authorized in section 206 of the Federal Lands Policy and Management Act of 1976 (FLPMA). In 1978, section 4 of Public Law 95-554 amended the Mineral Leasing Act of 1920 to make clear that the exchange authority applies to leasable minerals.

FLPMA provides a great deal of discretion to the Secretary of the Interior in conducting exchanges. The only stated criteria for making an exchange are that it must serve the public interest and that the values of the resources acquired by the Government must be substantially equal to the values of the resources given. Up to 25 percent of the value of the exchanged property can be equalized by money payments.

Some elements of public interest are described in the law, including consideration of better land management and the needs of state and local people for economic and community expansion, recreation, food, fiber, minerals, fish, and wildlife. The Secretary must find "that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired."

On the other hand, no method for determining equal value in coal exchanges is addressed. This determination is extremely complex. Coal is a subsurface resource, and information needed to estimate quantities, qualities, and other geologic factors which control its value is very expensive to acquire in detail. Also, BLM must judge such things as the types and timing of mining processes, environmental controls, and other engineering and marketing factors which are crucial to value determination for each potential lease tract.

At the time of our review, decisions on coal value determinations were delegated to the Minerals Management Service (MMS). MMS officials told us that they use the same techniques for valuing coal for exchanges as for leases. This would entail analyzing comparable sales information and adjusting it to the unique circumstances of the coal considered for exchange. Discounted cash flow analysis ^{1/} would be used to gauge amounts of adjustment. Each tract would be independently evaluated.

^{1/}A procedure that considers costs and revenues that could be expected over the projected life of a mine. It discounts these dollars--future costs and revenues--by reflecting changes in the value of money over project life to make these future dollars comparable with today's dollars. The result is an estimate of the cash value of the property (revenues minus costs) at the present time.

Although MMS intends to use comparable sales information and a discounted cash flow analysis, the economic evaluation had not been finished when we completed our review, so we were unable to evaluate it in detail. However, the MMS officials who will be responsible for the Meridian exchange's economic evaluation told us that they were uncertain as to what BLM was expecting from MMS and how it was to be used. In a prior report on a coal exchange ¹/, we noted a number of problems with the development of the economic assumptions for the discounted cash flow analysis method used in the economic evaluation. These types of concerns are discussed in greater detail in chapter 3.

REGULATIONS AND PROCEDURES FOR COAL EXCHANGES

Regulations directing exchanges authorized by Section 206 of FLPMA are in 43 CFR 2200. These regulations contain little elaboration on the law and have no specific requirements which would uniquely apply to coal exchanges; they are general and apply to all types of exchanges. Definitions of public interest and equal value are virtually restated from the law without interpretation or elaboration and thus offer little basis for assuring that all relevant factors are considered in conducting an exchange. BLM draft procedures now being considered provide no clarification for determining public interest or equal value. These procedures seem oriented to surface land exchanges and do not address problems peculiar to coal exchanges. As such, they lack criteria for accepting, rejecting, or evaluating coal exchange proposals.

"Equal value" is defined in the law and regulations as a determination from a fair market value appraisal that the values are equal. Variables such as overburden, quality, seam thickness, transportation, and market location which affect the estimated value of coal, are not specifically addressed. BLM officials told us that such factors will be considered.

Coal management guidance on exchanges

In addition to the exchange regulations, the Federal coal lease management regulations (43 C.F.R. 3400) also contain only limited requirements or references to coal ownership exchanges. Only exchanges of coal leases and ownership in specified areas for environmental protection are discussed. These coal exchanges are authorized by Section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977. Certain other coal lease exchanges are specifically authorized in various other public laws. FLPMA's more general authority for exchanges to improve land management or meet

¹/"How Interior Should Handle Congressionally Authorized Coal Lease Exchanges," EMD-81-87, Aug. 6, 1981.

local needs is regulated separately from Federal coal leasing management.

Further, the proposed Meridian exchange includes lands also being considered for competitive leasing (referred to as the Fort Union Coal Region Lease Sale). Neither the law, the regulations, nor the draft exchange procedures indicate at what stage of planning exchanges should be considered. Interior's Associate Solicitor, Energy and Resources, indicated to us in a letter dated September 29, 1982 that

"The Secretary may quite properly choose to exchange some of those tracts rather than to offer them for "competitive bidding. The exchange act (FLPMA) requires that the Secretary first make the determination that the public interest will be well-served by making the exchange. If he makes that determination, then he may exchange the coal rather than to proceed to competitive leasing."

The project management plan for the Fort Union Coal Lease does not consider any other alternatives, such as completing an exchange prior to a lease sale, that would create a contiguous parcel conducive to development and enhance the value of the coal intended for leasing. Also, although the draft environmental impact statement for the Fort Union Coal Region included the exchange, it does not compare the exchange proposal and the leasing plan originally under consideration with regard to achieving land and resource management objectives or the proposal's effect on the current timeframe for leasing. However, in spite of this unclear relationship of the planned lease and the exchange, BLM advised us that they are handling the exchange so that should they not proceed with the exchange, the lease sale can take place within the planned timeframe.

We also noted that the Meridian project management plan does not address all steps required by the draft exchange procedures. For example, it does not include a preliminary and final review of title documents for the coal which BLM will receive from the company, confirmation of surface owner consent to mining for the private coal, and final determination of equal values as discussed in the draft procedures. Although there is no clear documentation showing that all relevant aspects of the exchange are being considered, BLM told us that these steps are being covered.

KEY DIFFERENCES BETWEEN EXCHANGE AND COAL LEASE MANAGEMENT POLICIES

Legislative requirements for coal ownership exchanges are different from requirements of the Federal coal management program for leasing. The Mineral Leasing Act of 1920, the Federal Coal Leasing Amendments Act of 1976, and the Surface Mining Control and Reclamation Act of 1977 all contain requirements for managing

development of Federal coal by lease. These three laws contain a number of specific requirements to control, direct and insure development of Federal coal, generate revenues, regulate competition, and protect the environment and private surface owners when leasing occurs. However, the legislative history includes no discussion of how coal exchanges relate to other legislative requirements for coal lease management.

Among leasing policies not addressed in exchange policies is the effect of coal disposition on competitiveness in the industry. If the coal included in the Meridian exchange proposal were to be leased, Federal review of the relationship of Meridian Land and Mineral Company to Burlington Northern Railroad and the potential effect of the action on market competitiveness would be required. These reviews will not be required for the proposed exchange.

Section 2(c) of the Mineral Leasing Act of 1920 limits companies that operate common carrier railroads from holding leases for Federal coal for other than their own use. The Justice Department has contended that this prohibition also applies to railroad affiliates, and Interior recently adopted this position. We discussed this issue in a prior GAO report entitled "Cooperative Leasing Offers Increased Competition, Revenues, and Production From Federal Coal Leases in Checkerboard Lands," EMD-82-72, April 28, 1982.

The relationship of the proposed Meridian exchange to this leasing prohibition has been the subject of much of the public comments, because Meridian Land and Mineral Company and Burlington Northern Railroad are both subsidiaries of Burlington Northern, Incorporated, a holding company. Also, Burlington Northern Railroad holds title to the coal which Meridian manages and plans to trade for Federal coal in Montana. The fact that Meridian may acquire Federal coal via an exchange when it could not do so under a lease has contributed to local controversy about the exchange.

Furthermore, Section 15 of the Federal Coal Leasing Amendments Act of 1976 requires review of every new coal lease by the Attorney General for its potential effect on competitiveness and anti-trust matters. This requirement and the Mineral Leasing Act prohibition discussed above indicate a congressional concern for the effects of disposition of Federal coal on the market which has not been extended to coal exchanges.

The Associate Solicitor of the Department of the Interior expressed the opinion that competition concerns are beyond the Department's mandate, which is to achieve better land and resource management, and would not be addressed in administration of Federal coal exchanges. The Department's goal is to trade lands and resources to achieve better management and let individual companies seek remedies under the antitrust laws if they desire.

Coal Exchanges and Competition

As nearly as we could determine, exchanges of coal ownership to enhance value are limited to the Meridian proposal; the Corral Canyon project in Wyoming, which involves Rocky Mountain Energy Company, a company affiliated with Union Pacific Railroad; and the Lee Ranch exchange proposal in New Mexico involving a subsidiary of the Santa Fe Railway. All of these projects involve common-carrier railroad-affiliated companies and are under study in areas of alternate sections of Federal-railroad ownership.

Limitations of development and revenue collections in these checkerboard areas have been discussed in great detail in numerous studies through the years. In its 1980 report on competition in the U.S. coal development industry, the Department of Justice discussed the problems of exchanges in checkerboard areas and related railroad access to Federal coal as follows:

"In addition to problems with the exchange mechanism itself, it should be noted that, to the extent railroad involvement in the coal industry may create competitive problems, the exchange mechanism provides no solution. The exchange idea contemplates the trading of checkerboard sections and the assembly of two logical mining units, one controlled by the Federal Government and one by the railroad. The exchange procedure does not involve third parties and thus cannot be used as a means of shifting coal ownership away from railroads. If it is determined that, for competitive reasons, coal production should be separated from coal transportation, the exchange mechanism provides no way of doing so."

Our point here is simply that congressional concern about the potential effects of Federal coal leasing practices on competition in the coal industry is expressed explicitly in requirements of laws controlling coal leasing. Though coal exchanges offer a non-competitive alternative to leasing, such considerations as potential effect on competitiveness, required for leasing, are not now required for exchanging. Exchanges do, however, offer a means for both BLM and companies managing coal in checkerboard areas to enhance the value and developability of the resource and could be a means of improving revenues and encouraging production.

Since approximately 30 billion tons of coal are in checkerboard areas in the West, and BLM manages about half of this coal, it is reasonable to expect such coal exchange proposals as Meridian's to be considered. On the other hand, the fact that most of the private coal in checkerboard areas is owned and managed by common-carrier railroads and affiliated companies brings competitiveness questions to light. The Congress has, through FLPMA exchanges, authorized companies which are limited in acquiring leases to otherwise acquire the Federal coal.

Other factors influencing
exchange decisions

There are other key effects from the decision of whether to lease checkerboard lands or conduct an exchange first. A major advantage of an exchange is that fragmented parcels can be assembled into blocks of land conducive to development. A short-term disadvantage of an exchange from the Federal viewpoint is that the non-Federal tract is not subject to the various Federal leasing and land management requirements such as rents, royalties, mandatory development schedules, and environmental requirements, although of course it acquires comparable volumes of coal that are subject to Federal control and, in the case of Meridian, the private tract would be subject to the State of Montana's strict environmental controls. If Meridian is able to lease or develop its tract more quickly than the Federal tract, insufficient demand may leave the Federal tract at a short-term competitive disadvantage. However, over the longer term both tracts should theoretically be of increased value.

CHAPTER 3

PROCEDURAL PROBLEMS IN EVALUATING EXCHANGES

In addition to the broader policy questions discussed in chapter 2, we noted certain procedural actions that we believe the BLM should take to improve its handling of future coal exchanges.

At present, BLM plans to use the Meridian proposal process as a basis for formulating a Federal coal exchange policy. A "Joint Policies and Procedures For Federal Coal Exchanges" document between BLM and MMS was drafted in July 1982 but has never been finalized. This draft document discusses procedures and timing of steps for the evaluation of an exchange. Nobody we talked with, however, knew of plans to finalize the document. In the absence of written policy or guidance, the Montana State Director appointed a steering committee to provide direction and quality control to the project. Also, an exchange agreement between Meridian and BLM was completed, and a project management plan for the exchange was established in the Miles City BLM District Office, near the area proposed for exchange.

Though the authority to make decisions on exchanges has been delegated to BLM's 53 District Managers, the Miles City District Manager will not be the decisionmaker for this proposal. The project management plan indicates the Montana State Director will make the final decision. The actual process is, however, being managed in the District Office, based on a project management plan approved by the steering committee.

COORDINATION PROBLEMS

Although MMS officials in Montana participated in the early planning, representatives of MMS' Casper, Wyoming office--which will be responsible for the economic evaluation--were not actively involved in the preliminary stages of project design and do not participate on the steering committee. In addition, meetings did not take place between officials of MMS and BLM--both of whom have technical responsibilities for evaluating the proposal--to resolve differing views on developability and market assumptions, until we drew management's attention to a lack of agreement between the two offices. We believe this is the primary reason for the delays in completion of the economic evaluation. This breakdown of communications and lack of coordination is similar to the problem we discussed in our previous report on a coal lease exchange, "How Interior Should Handle Congressionally Authorized Coal Lease Exchanges," EMD-81-87, Aug. 6, 1981.

Interior officials believe the recent transfer of functions for onshore revenues from MMS to BLM will help alleviate some of the coordination problems experienced in the Meridian case.

INCOMPLETE PLANNING DOCUMENT

We also noted that BLM's project management plan, which sets forth the steps to be taken in evaluating and processing the exchange proposal lacks a number of characteristics we believe are necessary to make it an effective management tool. The plan consists only of a listing of milestone dates and office responsibility assignments but contains no description of how specific problems or issues will be analyzed. In addition, it does not explain the relationship of the various documents to be prepared (e.g., an MMS tract tonnage delineation, BLM's environmental analysis, the economic evaluation, and the decision paper) even though all documents are important in weighing the decision. It does not identify the overall objective of the proposal, from the public's point of view, and its potential effect on Federal revenues versus such effect if the lands were leased. Also, it does not determine whether other alternatives to the exchange can or should be analyzed. For example, in the decision document which initiated the project, a major outstanding problem was the question of the competitiveness or developability of the Federal tract if the private tract were developed first--which BLM admitted was likely. The project management plan did not identify, however, how this question would be resolved or analyzed and a number of BLM/MMS meetings were later required to address this problem.

Moreover, if the objective for the project is that stated in the decision document--to enhance the value of the Federal coal--consideration of other alternatives such as cooperative leasing seems to be warranted. Neither the decision document nor project plan provides a clear, quantitative analysis of just how and when the exchange might increase the coal lease value. We believe these types of difficulties could be minimized if BLM had formal, written procedures which pinpointed responsibilities and specific steps necessary in considering coal exchanges, identified some basic criteria for use in weighing lease revenue exchange decisions, and grappled with equal value and public benefit factors.

STATUS OF PRIOR RECOMMENDATIONS FOR IMPROVING EXCHANGE MANAGEMENT

In "How Interior Should Handle Congressionally Authorized Federal Coal Lease Exchanges," EMD-81-87, August 6, 1981, we reported similar problems on another exchange then in process--but this one involving a lease exchange--between Utah Power and Light Company and the Federal Government. In that case, we found a number of problems with Interior's determination of the values of the resources being considered for acquisition by exchange as well as with the basic management of the exchange evaluation process itself. These problems included not only a lack of involvement of Geological Survey technical specialists in planning value determinations but also a lack of criteria for determining the minimum level of data on coal quantity necessary to evaluate a proposed exchange and for determining when to use the discounted cash flow evaluation method.

In order to (1) clarify procedures for using the expertise of in-house technical specialists in preparing specifications for technical evaluations, (2) clearly delineate and then follow established lines of responsibility for implementing exchange actions, and (3) ensure that sound managerial and technical principles are adhered to in dealing with proposed exchanges, we recommended that the Geological Survey (now MMS)

- set standards for the minimum level of data that is needed to evaluate a proposed exchange and not allow the exchange where that level of data is not available.
- establish definitive criteria for determining when the discounted cash flow economic evaluation method is appropriate for use in exchange evaluations.
- establish separate criteria to clarify guidance on how reserve estimates are to be made for lease sale purposes, particularly in instances where coal deposits reside in complex geologic formations.
- develop explicit procedures under which land exchange applicants could, and should, drill possible exchange tracts--thereby saving Federal expenditures or freeing the Survey's limited resources to satisfy other higher priority drilling requirements.

These recommendations--which Interior agreed with in principle but has not yet fully implemented--remain valid and, although specifically related to lease exchanges, they do address the same kinds of managerial and economic considerations important in evaluating coal exchange proposals.

CHAPTER 4

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

It is difficult under present circumstances to develop coal in checkerboard areas. The question of whether or not to proceed with an exchange is dependent on a number of factors:

- An exchange is the surest way to assemble tracts of land capable of development, and while the coal passing to Meridian would not be subject to Federal controls such as the diligent development requirements of a Federal lease, even greater quantities of coal will be brought under Federal jurisdiction.
- Meridian may be able to develop its coal more quickly than the Federal Government. Early development by Meridian may lessen the near-term marketability of the Federal tract, but may enhance its long-term marketability by developing a contiguous developable parcel that would not otherwise exist.
- Competitive leasing in a checkerboard area would generate Federal revenues sooner and maintain diligence requirements, but would not guarantee production, particularly if someone other than Meridian or Meridian's lessee obtained the lease. Also, as Meridian points out, a lease sale after an exchange to eliminate the checkerboard problem would likely attract more competitive interest and higher bids than would a lease offered prior to such an exchange, because the lessee would still be confronted with obtaining the Meridian coal to assemble a minable parcel.
- Cooperative leasing in a checkerboard area--whereby Meridian and the Federal Government would jointly offer their lands in one combined lease--is a third option but is an essentially unproven approach and would require the cooperation and participation of Meridian.

Policy and procedures for disposition of Federal coal by exchange provide a great deal of discretion to the Secretary of the Interior in processing proposals such as that made by Meridian Land and Mineral Company. Whether public interest is served by such actions and how equal value for acquired and disposed resources is to be established are open to multiple interpretations not discussed in the law or implementing regulations.

Although the proposed exchange of coal mineral rights between Meridian Land and Mineral Company and the Bureau of Land Management in Montana faces a number of policy and procedural problems, there is no sound basis for interrupting BLM's consideration at present. Continued development of information gathering and analysis will be necessary to allow a reliable judgment of the proposal's merits,

and Interior intends to use the experience in formulating specific criteria and procedures for considering future exchanges.

Lack of clear definitions of criteria and workable procedures for coal exchanges now make it uncertain that all relevant issues are fully and consistently considered, particularly with exchanges being administered at decentralized levels. The interplay of other coal management policies with exchange proposals is being developed as the project proceeds and at a low organizational level. Some of the policy questions--the value of the resources to be disposed of, and the precedent-setting nature of the processing of this proposal--are matters of considerable significance. This decentralized management of exchanges could be enhanced and standardized by some basic criteria and procedures on factors encompassing an exchange. We note, for example, that Interior's project management plan for handling the Meridian exchange does not clearly state the Government's objective in pursuing the exchange proposal or consider alternatives to it. In addition, there were coordination problems between BLM and MMS which, among other things, have delayed timely completion of the economic evaluation.

Management shortcomings being experienced are similar to those we discussed in our report on another coal exchange, "How Interior Should Handle Congressionally Authorized Lease Exchanges," EMD-81-87, August 6, 1981. In that report we recommended improved management practices including delineation of responsibilities and authorities, better use of technical expertise, and adherence to managerial and technical principles in the decisionmaking process. Although these recommendations specifically related to lease exchanges, they do address the same kinds of managerial considerations important in evaluating coal exchanges.

Written procedures that would include some basic criteria for weighing the relative merits of a lease versus an exchange, identifying those factors that reflect equal value and public benefit, and showing the necessary steps and responsibilities involved in evaluating an exchange would help assure that future exchange proposals are handled equitably and consistently, particularly since the responsibility for conducting exchanges is delegated to the State and district levels of BLM.

The involvement of a railroad in a coal ownership exchange is not prohibited by law. However, the Department of Interior may have to confront continuing concerns from various segments of the private sector about the opportunities railroad-affiliated companies have to obtain Federal coal through alternate means such as an exchange.

RECOMMENDATIONS

We believe certain steps should be taken to aid in assessing the merits of future exchanges, and therefore recommend that the Secretary of the Interior establish regulatory requirements to help assure that future coal ownership exchanges are consistently and equitably handled at the State level. These regulations should

include (1) guidelines for measuring public benefit and equal value for coal suitable for exchange, and (2) a requirement that both lease and exchange options are adequately considered when a proposal is received.

In addition, the Secretary should follow through in implementing recommendations previously made by GAO with regard to lease exchanges.

VIEWS OF AGENCY AND INDUSTRY OFFICIALS

BLM officials and the Meridian Land and Mineral company provided their oral and written comments respectively on a draft of this report. Both were in basic agreement with the report.

Bureau of Land Management

BLM, while agreeing with the recommendation and noting that it has made every attempt to involve interested parties to assure that all relevant issues are considered, felt that public benefit and equal value are not quantifiable in most cases. We agree that quantification may be difficult, and that specific instructions encompassing every conceivable exchange situation may not be practical, but believe that these critical factors must be dealt with to the extent possible. Our concern is that with exchanges being managed at a decentralized level, there should be Department-wide criteria assuring to the extent practicable that the desirability of an exchange--as opposed to other alternatives--is first considered, and that if an exchange is deemed appropriate, it is handled consistently and equitably. For example, less than a year before accepting the current exchange proposal, an earlier exchange proposal in the same area was rejected by BLM on the grounds that the lands had been found suitable for leasing, and that the current leasing schedule seemed the most expeditious way to achieve production.

BLM agreed that coal transferred to Meridian will not be subject to diligence requirements, but felt the report should point out that Meridian's current holdings are not under Federal control either. Also, they emphasized that the coal transferred to Meridian will be subject to the State of Montana's very strict environmental controls, and that in any event, BLM will be acquiring about 50 million more tons of coal than it is giving up. They pointed out that BLM is not "disposing" of coal--it is realigning ownership. We agree with BLM in this regard. There is no net disposal of coal, and we have modified this report where appropriate to reflect this understanding.

BLM was also concerned that our discussion on value determination may lead a reader to believe that many key aspects--such as overburden, coal quality, and market location--were being overlooked. They had a similar concern regarding our discussion of omissions from their decision document and project management plan.

BLM told us that although not specifically mentioned, these factors will be addressed, and we have noted their comments in this report. We believe, however, that formalized procedures for conducting an exchange will help assure that these and other aspects are consistently considered in future exchanges.

Meridian Land and Mineral Company

Meridian, like BLM, pointed out that the Federal coal is not being "disposed" of; that BLM is increasing its net coal ownership, and that in any event, Meridian's holdings will be subject to the State of Montana's strict environmental requirements. As indicated above, we agree and have appropriately clarified the report.

Meridian stated that its objectives in consummating an exchange are the same as BLM, including assembling tracts into parcels as conducive to development as possible, and, as a potential lessor itself, to make the coal available for production and receive the highest net revenue possible by offering it in the most competitive market situation. Meridian also stated that the exchange should have a positive effect on market competitiveness because it will give up more coal than it gains. We agree. We note, however, that there are several factors in addition to the volume of coal exchanged which affect market competitiveness, such as overburden, quality, seam thickness, and market location.

Meridian also correctly emphasized that BLM is not generally faced with a "lease" vs. "exchange" option, but rather a "lease" vs. "exchange followed by a lease." It pointed out that as potential lessors, both Meridian and BLM have the option of direct leasing, but that in the case of checkerboard lands each party would likely draw little interest from anyone except the other party's lessee, and that this situation detracts from the value (and bid) of a potential lessee. Establishing logical mining units prior to lease would enhance competition and net revenue potential. Again, we agree and have incorporated this thought in the final report.

Meridian also expressed doubts over whether Federal coal leasing in checkerboard ownership areas is ever truly competitive leasing at fair market value. Meridian maintains that if they lease their coal in advance of the Federal coal leasing, then it is unlikely that anyone other than their lessee will bid on the Federal coal. On the other hand, Meridian asserts that if the Federal Government leases its coal in advance of their coal being leased, then the bids for the Federal coal will be reduced below fair market value in order to compensate for the risk of negotiating a lease for their coal. In summary, Meridian believes Federal coal leasing in checkerboard areas is neither truly competitive nor at fair market value. We agree, as stated in our report, that development of checkerboard lands is a problem, and

that ownership exchanges seem a promising means of alleviating much of the difficulty.

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Other comments of BLM and Meridian have been incorporated in the report as appropriate, and those of Meridian are reprinted as Appendix II.



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NATIONAL PARKS
ENERGY AND ENVIRONMENT

July 14, 1982

The Honorable Charles Bowsher
Comptroller General of the
United States
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Bowsher:

I request the General Accounting Office to review and analyze the proposed coal exchange in Eastern Montana between the Bureau of Land Management and Meridian Land and Mineral Co., a subsidiary of Burlington Northern, Inc. I envision a review and analysis similar to the one that resulted in last year's GAO report, "How Interior Should Handle Congressionally Authorized Federal Coal Lease Exchanges," (August 6, 1981, EMD-81-87).

This proposed coal exchange near Circle, Montana, would result in each party receiving sufficient tracts of land to block up an area currently owned in checkerboard fashion. Each resulting contiguous block of land is estimated to hold approximately 350 million tons of recoverable lignite coal, thus making it, by description of the parties involved, an "equal value" exchange.

Many questions about the proposed exchange have emerged, some of which are the same as questions that arose during GAO's review of the Utah Power and Light Co. exchange. In fact, the four key issues GAO identified in the Utah exchange as needing resolution before Interior consideration of future exchanges are among the very issues under question in the Montana exchange. They are: 1) the basis and appropriateness of the exchange; 2) whether the exchange is one of truly equal value; 3) potential competitive interest in the exchange lands; and 4) Interior and BLM's policies and procedures for managing the exchange.

Please examine the proposed exchange and BLM's handling of it to determine, first, if BLM and Interior have implemented GAO's previous recommendations; and second, if this proposed exchange should proceed immediately, proceed after resolution of certain problems, or not proceed. I also would like your review to include, but not be limited to, the following specific question:

--Who owns the coal to be traded to the government and, to the extent that it is owned by Burlington Northern Railroad Co., is the exchange appropriate given the 1920 Mineral Lands Leasing Act provision barring railroads from receiving federal coal leases?

Mr. Bowsher
Page 2

--Is the exchange one of equal value? In considering this question, you ought to review the data on quantity, quality and accessibility of the coal involved; whether environmental concerns and/or potential surface owner opposition can be expected to deter or preclude development of any of the coal and thus affect the true value of the mineable coal; whether potentially more rapid development of Burlington Northern's resulting block of land may affect the marketability of the government's block and thus affect its real value; whether development of BN's block would effectively preclude or delay development of the government's block and thus affect its immediate value; and such other questions as you deem appropriate, and which would affect the real value of the coal and its marketability.

--Is it more lucrative for the government to proceed with the exchange and then, presumably, lease an entire logical mining unit, than to not proceed with the exchange and simply lease all of its individual sections to someone else who could then develop a logical mining unit? I note that much of the area the government may convey to BN is scheduled to be included in the 1983 Fort Union Coal Sale by Interior. You should take into consideration reasonable estimates of revenues from the two options and the associated costs of pursuing each option.

--Does it present any legal problems for BLM to propose trading away lands that it has already effectively offered for sale by competitive lease?

--Is either leasing or exchanging in this instance more in the public interest than the other?

I would also welcome any other comments relevant to the exchange and to BLM's policy--or lack of it--on exchanges, regardless of whether your additional comments are related to issues I or other parties have raised.

It is necessary to have your report before the BLM makes a final decision on this exchange. Essentially, you should coordinate your schedule with that of the BLM so that we do not reach the point of no return on the exchange before we have the benefit of your analysis. Please keep your findings confidential for 10 calendar days after you have presented them to me, except for whatever consultations are necessary to obtain the views of the BLM or other involved federal agencies. Please provide me with status reports from time to time as warranted by the progress of your work. My staff assistant on this project is Randy Mills, who can be reached at 225-8553.

I look forward to working with you on this very important matter that affects the disposition of the public's coal.

Best regards.

Sincerely,



Pat Williams



MERIDIAN LAND & MINERAL COMPANY

First Northwestern Bank Center
Post Office Box 2521
Billings, MT 59103-2521
406 256-4500

February 14, 1983

Mr. J. Dexter Peach
U.S. General Accounting Office
Energy and Minerals Division
441 G Street N.W.
Room 4484
Washington, D.C. 20548

Dear Mr. Peach:

Attached is a copy of Meridian Land & Mineral Company's comments on GAO's draft proposed report regarding the proposed coal exchange between Meridian and the Bureau of Land Management.

Please direct any questions to me at 406/256-4568.

Thank you for the opportunity to comment on the GAO draft report.

Sincerely,

C. Wm. Rech
Land Manager

1217I/CWR/eks
Attachment

MERIDIAN LAND & MINERAL COMPANY

COMMENTS ON
DRAFT PROPOSED REPORT
COAL EXCHANGE MANAGEMENT CONTINUES TO NEED ATTENTION
(GAO/RCED-83-58)GENERAL COMMENTS

Meridian's first general comment is that the draft report provides an excellent summary of the content and shortcomings of the existing legislation and regulations relating to mineral exchanges. However, because we were not sent GAO's conclusions and recommendations drawn from this summary, it is difficult for us to comment on many of the report's implied findings. For that reason, we have chosen not to comment on many aspects of the report.

Meridian's primary concern with the draft report is its failure to recognize adequately all the considerations which go into both Meridian's and the BLM's decision to lease or exchange. Specifically, Meridian would like to see the following changes made in the final report:

1. Recognition that a mineral exchange is not a "disposal" of federal lands. While the federal lands which leave federal ownership as a result of an exchange could be considered "disposed of," it is essential also to recognize that the government is acquiring in return lands of equal value, and that the government controls the decision as to whether the value is equal. Thus, the federal stock of a resource is in no way decreased by an exchange and, in fact in this case, the federal stock will be increased in quantity and also increased in value by the consolidation of a logical mining unit.
2. Recognition that the essential decision in this process is not "lease or exchange," but rather "lease or exchange followed by lease." This is a critical concept in the decision for both the government and Meridian. The decision to exchange must not be viewed as an end unto itself. Both the BLM and Meridian view the exchange option in terms of whether it will enhance their leasing option by accomplishing their longer term objectives of managing their coal resource. For both parties, the objectives are to make their resource available for production and to receive the highest net revenue possible by offering the resource in the most competitive market situation. Both Meridian and BLM have the option of outright lease. However, in the case of checkerboard ownership, both parties face the certainty of either leasing to the other party's lessee (not a truly competitive situation) or leasing at a rate discounted for the risk involved in trying to obtain access to the other party's lands (not the highest net revenue). Both parties also have the option of an exchange followed by leasing. In the case of checkerboard, this allows both parties to consolidate logical mining units by exchanging and then to lease them under more competitive circumstances at fair market value. In this way, both parties control the availability of their resource for production and are guaranteed the highest net revenue possible for the existing market conditions. It would be unlikely that either the BLM or Meridian would exclude the enhanced leasing benefits following an exchange from their cost/benefit analysis of whether to lease or exchange.

(As a note to the above comment, we hasten to point out that Meridian recognizes many situations where an outright lease will achieve management objectives better than an exchange followed by a lease. We discussed several such cases in the mineral exchange policy we submitted to the Secretary of Interior. We are convinced, however, that exchanges enhance the leasing option in checkerboard ownership areas.)

3. Recognition that federal coal leasing in checkerboard ownership areas is rarely, if ever, truly competitive leasing at fair market values. As we have tried to point out above, if we lease our coal in advance of the federal coal leasing, then it is very unlikely that anyone other than our lessee will bid on the federal coal. While this may occur in the context of a "competitive sale," it is not competition when only one company bids as has happened in the past. On the other hand, if the federal government leases its coal in advance of our coal being leased, then the bids for the federal coal will be reduced below fair market value in order to compensate for the risk of negotiating a lease for our coal. Thus, federal coal leasing in checkerboard areas is neither truly competitive nor at fair market value. It is essential that your report fully recognize these realities and thus, the impossibility of meeting the federal coal program's objectives in checkerboard areas.

4. Recognition that the above considerations and all of those listed in the second paragraph beginning on page 5 apply to both Meridian's and BLM's decisions. Competition for a lease, short-term and long term revenue generation, production schedules, payment of rents and royalties, monopoly potential, and conduciveness to development are considerations equally important to Meridian and the BLM. Both of us want:

- a) the largest possible number of competitors for a lease;
- b) the highest possible net revenue;
- c) a guarantee that the leased coal will reach production as soon as is reasonably possible;
- d) the highest possible rents and royalties and the use of these payments as compensation in lieu of production;
- e) the prevention of a situation where only one or a few companies control a production region; and,
- f) the configuration of tracts into parcels as conducive to development as possible.

All of these factors contribute to a strongly competitive leasing market and a guaranteed revenue stream. Meridian and BLM are both royalty owners, not producers, and thus these factors have equal importance to both of us.

SPECIFIC COMMENTS

1. The Meridian exchange should have a positive effect on market competitiveness because Meridian will actually lose more coal than it gains in the exchange. On pages 12 and 13, the report implies that the exchange will have a negative effect on market competitiveness and thus should be reviewed by the Justice Department. It is very hard for us to understand how we can decrease our coal ownership and have that action considered anti-competitive.

2. The non-federal Meridian tract resulting from the exchange will be subject to the same environmental requirements as the federal tract. In the last paragraph on page 15, the report states that the non-federal tract will be subject to less stringent environmental requirements. This cannot occur because in order to be eligible for exchange, the BLM must first apply the same unsuitability criteria to both tracts. Then, during mine permitting, the non-federal tract will be regulated by the Montana State Program authorized under the Surface Mine Control and Reclamation Act (SMCRA). SMCRA requires that the state program must be as stringent as the federal program, and may be more stringent. In actual fact, the Montana program is more stringent than the federal program so it is likely that the environmental requirements will be equal or greater for the non-federal tract.

3. One additional suggestion is that the report should contain footnotes which bring the report up-to-date. Specifically on page 2, second paragraph, the acreage and tonnage figures should be updated. Meridian would acquire approximately 173.6 million tons of coal on 8,128 acres, and BLM would acquire 223.3 million tons of coal on 11,553 acres. This would give Meridian a block of about 420.4 million tons of coal on 20,075 acres and BLM 435.7 million tons on 24,466 acres. These figures are contained in the BLM EA document on the Meridian Coal Exchange (December 1983). And finally, on page 2, last paragraph, it should be mentioned that Santa Fe Mining, Inc., a subsidiary of Santa Fe Industries Company, presently has a coal exchange proposal undergoing evaluation by BLM in Albuquerque, New Mexico. It is called the Lee Ranch Coal Exchange proposal, and it was proposed to BLM in the fall of 1982. The same reference should be made under Coal Exchanges and Competition on page 14.

Meridian appreciates this opportunity to comment on the draft report. We hope the General Accounting Office will give our comments serious consideration.

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