

Editor's note: 80 LD. 7; Appealed – aff'd, Civ. No. C-5105 (D.Colo. Nov. 25, 1975)

JAMES C. GOODWIN

IBLA 71-120

Decided January 23, 1973

Review of recommended decision of Administrative Law Judge Dent D. Dalby, recommending reversal of a Bureau of Land Management decision rejecting applications for coal prospecting permits C-0127891, 0127926 and 0127927.

Affirmed as modified.

Coal Leases and Permits: Permits: Workability

The workability of any coal will ultimately be determined by two offsetting factors—(1) its character and heat-giving quality, whence comes its value, and (2) its accessibility, quantity, thickness, depth, and other conditions that affect the cost of its extraction. It must be considered a workable coal if its value, as determined by its character and heat-giving quality, exceeds the cost of extraction.

Coal Leases and Permits: Permits: Workability

Workability as defined by the USGS is concerned with the economics of the intrinsic factors. Extrinsic factors such as transportation, markets, etc., are not considered. However, the cost of mining must be considered. In its classification of coal lands, USGS has anticipated and assumed the ultimate coming of conditions favorable for mining and marketing of any coal if the coal is workable in terms of the intrinsic factors. In this respect, the test of workability under the Mineral Leasing Act differs from the prudent man rule under the mining laws.

Coal Leases and Permits: Permits: Workability

Although workability is basically a problem of the physical parameters of the coal, the test of workability is dependent upon economic factors. If the value of the coal is greater than the cost of its extraction, the deposit is workable.

Coal Leases and Permits: Permits: Workability

Workability may be established by geologic inference where detailed information is available regarding the existence of a workable deposit in adjacent lands and there are geologic

and other surrounding conditions from which the workability of the deposit can be reasonably inferred. However, geologic inference, as a tool for determining workability, has certain limitations. The mere fact that lands applied for adjoin other lands which contain workable coal deposits does not, per se, permit the inference that they contain coal deposits in workable quality and quantity.

Coal Leases and Permits: Permits

In determining whether lands are of such character as to subject them to leasing rather than prospecting under permits, the Secretary of the Interior is entitled to rely upon the reasoned opinion of his technical expert, the Geological Survey. Only upon a clear showing that the Survey's determination was improperly made, will the Secretary act to disturb the determination.

APPEARANCES: Darrell J. Skelton, Esq., for James C. Goodwin; John F. Hughes, Esq., Office of the Solicitor, U.S. Department of the Interior, for the Bureau of Land Management and the U.S. Geological Survey.

OPINION BY MR. DAY

This matter is before the Board via a long, unusual, and circuitous route. It had its origin on April 20, 1966, when Mr. James C.

Goodwin filed three applications for coal prospecting permits (Colorado 0127891, 0127926 and 0127927) pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. § 201(b)(1970), hereinafter called the "Act". 1/

On June 20, 1966, the Colorado Land Office denied the applications "because the lands are known to contain a workable coal deposit and are more properly subject to the leasing provisions of the Mineral Leasing Act than the prospecting provisions thereof." After Mr. Goodwin's appeal to the Director, Bureau of Land Management, was denied, he appealed to the Secretary. In a letter decision dated December 19, 1969, the Assistant Secretary of the Interior set aside the Bureau's decision and remanded the case for a hearing and a recommended decision by a Hearing Examiner "on the question of the existence and workability of such coal deposits as there may be in the land." 2/

Extensive hearings were held in Denver, Colorado, on April 20, May 1, and June 16, 17 and 18, 1970. In his recommended decision, dated November 3, 1970, the Judge concluded that the prospecting permits should be issued for the lands contained in the amended applications. On November 27, 1970, the Assistant Secretary requested the Board of Land Appeals to consider and decide the

1/ Appendix A contains a description of the original permit application and amendments.

2/ The title "Hearing Examiner" was superseded by "Administrative Law Judge." 37 F.R. 16787 (August 19, 1972).

appeal. ^{3/} Upon request of the Bureau and appellant, oral argument was held on June 2, 1971.

This matter is novel in a number of ways. To the best of our knowledge, it is the first time a decision regarding the workability of a coal deposit has had the advantage of a hearing on the facts. Further, because the Assistant Secretary recognized "that there are strong differences of views on this subject * * * and as to the proper criteria to be employed in cases of this kind," he permitted two USGS employees to testify as witnesses for the appellant. ^{4/}

In Clear Creek Inn Corporation, 7 IBLA 200, 213, 79 I.D. 571, 577-578 (1972), the Board clearly put cases of this nature in their perspective with respect to Departmental authority to determine workability and the burden of proof.

* * * It has long been accepted that it is for the Secretary or his delegate to determine whether, from the information which he has at the time he considers an application for prospecting permit, prospecting or exploratory work is necessary to determine the existence or workability of coal deposits. D. E. Jenkins, 55 I.D. 13 (1934). Of course, we recognize that the Geological Survey in conducting its field examinations

^{3/} Jurisdiction over appeals to the Director, Bureau of Land Management, was delegated to the Board of Land Appeals, June 18, 1970. Cir. 2273, 35 F.R. 10009, 10012.

^{4/} John P. Storrs, Regional Mining Supervisor, Branch of Mining Operations, and J. D. Turner, Chief of Branch of Mining Operations.

and collection of other data is acting as the Secretary's expert and is providing technical advice so that a proper determination can be made in these matters. In addition, the Director of the Geological Survey has been expressly entrusted by Congress with the "classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain". Act of March 3, 1879, 20 Stat. 377, 394; 43 U.S.C. § 31 (1970). Therefore, when the Geological Survey has concluded from all the available geological data that further exploration is, or is not, needed to determine the existence or workability of coal deposits in a particular area, the Secretary is entitled to rely upon the reasoned opinion of his technical expert in the field. Roland C. Townsend, A-30250 (September 14, 1965); Carl Nyman, 59 I.D. 238 (1946).

This accepted procedure has been followed consistently, placing a burden on the applicant to present a convincing and persuasive argument to rebut the conclusions of the Geological Survey. Absent a clear showing that the Survey's determination was improperly made, the Secretary will not act to disturb a mineral classification or determination made by the Geological Survey, Cf. Lillie Mae Yates, A-26271 (February 8, 1952).

Under section 2(a) of the Act, the Secretary is authorized, in his discretion, to offer coal lands owned by the United States for leasing through competitive bidding. Under section 2(b) of the Act, the Secretary may issue prospecting permits "[w]here prospecting or exploratory work is necessary to determine the existence or workability of coal deposits in any unclaimed, undeveloped area. . . ."

Each of the applications was rejected upon the basis of reports from the U.S. Geological Survey (USGS) that the lands applied for are known to contain a workable coal deposit and are therefore subject to leasing, rather than to prospecting. However, we hold that

the record does not contain sufficient evidence to establish that the lands contain workable coal deposits.

The application lands lie in northwestern Colorado, about 12 miles northeast from Meeker, Colorado, at elevations varying from approximately 6,500 to 9,000 feet above sea level. The terrain is rugged and mountainous, cut by numerous canyons, and heavily vegetated, so that it is difficult to traverse, as well as to trace the continuity of such coal beds as may be exposed. The area is underlain by the coal bearing Williams Fork Formation of the Mesa Verde Group. Detailed geologic mapping of the area by Hancock in 1925 (USGS Bulletin 757), and by Hancock and Eby in 1930 (USGS Bulletin 812c) show many coal occurrences throughout the Williams Fork Formation. Hancock and Eby estimated the multiple beds of coal to have a total of 62 feet under much of the area in T. 3 N., R. 93 and 94 W. in which the permit applications lie, and a total of 2 billion tons of available coal in the two townships.

In the surrounding area of the lands sought by Goodwin there were eleven existing coal leases issued under the Act at the time of the hearing. Several of the existing leases were issued in response to preference rights earned by Goodwin through discovery of commercial coal on previously issued prospecting permits.

There are two coal mines operating in the area. The Reinau mine, located about 5 miles south of C-0127926-7, is a seasonal operation producing between 10 and 20 tons per day for consumption in the Meeker area. The Redwing mine of Colowyo Coal Company, situated about 2 miles north of C-0127927 and 3 miles east of C-0127891, produces about 1,000 tons per day from the Collom bed during the peak season.

The Blue Streak mine, located about 1 and 1/2 miles south of C-0127926 and 1 mile southwest of C-0127927, operated until the late 1950's. Other abandoned mines in the vicinity include the Cornrike or Nine Mile mine, approximately 3 miles south of C-0127927, the Gentry mine, approximately 2 miles south of C-0127926, and the James mines, about 1/2 mile north of C-0127927. An unnamed abandoned mine, in NW 1/4 sec. 3, T. 3 N., R. 94 W., containing seams of coal of 1 foot 3 inches and 5 feet 8 inches separated by 4 inches of bone, was discovered within the area of C-0127891 by USGS engineers while investigating the subject applications. Nothing is known of the abandoned mine, but it is surmised that it was worked by a local rancher for his personal needs.

At least 31 holes have been drilled into or through the Williams Fork Formation in the vicinity of these applications. Almost all have encountered coal of varying character and thickness at different depths.

Goodwin drilled six exploratory holes in connection with other prospecting permits at distances ranging from 1,000 feet to 6 1/2 miles south of C-0127926-7. As a result of his findings in these drill holes, he earned preference rights to coal leases.

A coal bed of 6 feet within 163 feet of the surface was observed in the Taylor well, approximately 1 1/4 miles southwest of C-0127927. The Sun Gossard oil well in SE 1/4 SE 1/4 sec. 17, T. 3 N., R. 93 W., within the original area of C-0127926, showed 79 feet of coal in 10 beds, each greater than 4 feet thick. The Kilroy oil well, over 2 miles north of C-0127926, showed 116 feet of coal in 10 beds, each greater than 4 feet thick. The Van James test hole, approximately 1/4 mile from C-0127926 and C-0127927, showed seams of 4 and 12 feet. The Van James water well, approximate 1/4 mile north of C-0127927, showed seams of 7 and 2 feet.

There are no known outcrops or other exposures of coal in any of the lands remaining in the three applications except the unnamed abandoned mine on C-0127891. Goodwin concedes that coal beds exist within the application areas, but maintains that the existing knowledge is not adequate to permit an inference of workability.

With regard to quality of the coal, the Government demonstrated that coal mined in the vicinity had heating capabilities between 10,500 to 12,000 BTU's and contended that coals having a minimum

value of 8,500 BTU's were workable. Goodwin admitted that coals mined from the Williams Fork Formation meet the test for heating capacity, but was of the opinion that any coal having less than 10,000 BTU's would be difficult to market. However, as we discuss below, marketability is not at issue here.

Goodwin testified that his investigations show errors in the published literature on the Williams Fork Formation and coal beds therein, because of the failure by Hancock and Eby to establish accurate vertical control for their original studies. Goodwin stated that the thickening and thinning of the beds within very short distances precluded accurate inference as to lateral extent of the beds and made any meaningful determination of workability, or correlation between the existing exposures of coal, almost impossible.

Goodwin contends that assumptions by the Government as to correlation of exposed coal beds are shown to be incorrect in light of more recent geological evidence and that the demonstrated errors in correlation limit the lateral extent of any exposed beds. The Government admitted that some assumed correlations it had used may be in error. Goodwin averred that there was no tracement of the Collom bed being mined in the Colowyo Redwing mine, and that the exposures of coal tended to show thickening and thinning within relatively short distances, e.g., Hancock and Eby sites 340 and 345,

where a 10-foot seam of coal went to 10 feet of bone in approximately one mile.

Goodwin also claimed that the stairstepping of geological formations from the transgression-regression break the continuity of the coal beds and that the coal shown in drill holes 35-1, 35-2, 25-1 and 28-1 indicate a thinning trend toward the north, into the area of applications C-0127926-7.

Dr. Robert G. Dickinson, a geologist employed in Branch of Mineral Classification, USGS, admitted the thickening-thinning nature of the beds, but could not tell where the change occurred, or if the changes were abrupt or gradual. He and other Government witnesses agreed that the coal formations could have splits with the bone thickening and thinning.

Goodwin testified, without disagreement from the Government's witnesses, that splits had been encountered in the Reinau mine, as well as in the now-closed Blue Streak mine. Inferentially, it was suggested that the splits were a major factor in the closing of the Blue Streak.

Dr. Russell G. Wayland, Chief Conservation Division, USGS, maintained there were no serious problem due to lenticularity or thickening or thinning in the Williams Fork Formation, because if

one seam pinched out, surely there would be another bed in the vertical series which could be mined.

Evidence of burning was reported by Hancock and Eby on the outcrops both north and south of the area in applications C-0127926-7, with no expression as to depth of burning, but with a comment that it was difficult to trace the lateral exposures of the coal because of the great amount of burning. Goodwin reported clinkered and burned coal in drill holes 25-1 and 28-1. In fact, only clinkered coal was encountered in hole 28-1 to its total depth of 490 feet. The burned coal at the bottom of hole 28-1 was approximately 1,850 feet back from the outcrop. In hole 25-1 the burning was approximately 2,500 feet from the outcrop. This is strong evidence that burning has extended through the entire distance from the outcrop to the drill holes. It was reported that coal was burned to a distance between 100 and 200 feet from the outcrop at the Streeter mine. Goodwin reported other evidence of burned coal in hole 35-2 at a depth of 170 feet and in hole 35-1 at depths of 110, 130 and 250 feet. John P. Storrs, Regional Mining Supervisor, Branch of Mining Operations, USGS, testified that deep burning can be ascertained only by drilling. Dickinson thought the extensive burning to be vertical in extent, rather than lateral, contrary to Storrs' and Goodwin's assertions, but he admitted that closely spaced drill holes are the only method of determining the extent of underground burning. Wayland considered burning an irrelevant issue in these

cases because of the general occurrence of multiple seams of coal in the Williams Fork Formation, and insisted that at least one of the many coal beds would surely be workable.

Goodwin pointed out, without contradiction, that widespread burning seriously affects the overlying rocks so that any attempt to mine through the burned area would be saddled with serious roof problems. He also asserted that the friable sands encountered in several of the drill holes indicate the possibility that the coal may be unworkable because of an inadequate roof or floor.

The appellant has presented specific evidence of discontinuity and lack of lateral extent of the coal beds, shown that there are coals of noncommercial thickness in the area, pointed out errors in the Government's attempted correlations of coal seams, and shown other indications of conditions affecting the cost of extraction.

Goodwin recognizes that geologists may differ in the interpretation of the same data. In contrast to the broader geological approach taken by the Geological Survey, the appellant directed his evidence to the absence of specific data pertaining to the coal beds within the application area. It is his conclusion that the available information does not justify an inference that the deposits are workable because of the lack of continuity of the coal beds due to lenticularity, faulting, intrusion of dikes and splits, bone

and burning. He asserts that the evidence does not establish the lateral extent of any coal bed.

The Government's position is based on generalities and broad inferences. USGS assumes workability where it can be shown that like quality products are being produced elsewhere. The Survey contends that the successful coal mining operations in the Colowyo mine together with the large number of outstanding coal leases and the general geology support its thesis that coal deposits underlying the areas sought by Goodwin are workable by legal definition.

The Government's reports and testimony, based on geologic inference has been successfully refuted by specific testimony and evidence as to the actual conditions. The topography and vegetation on the lands make it difficult to trace a workable coal seam through the area. Hancock and Eby stressed that their correlations were only tentative. Goodwin showed that many of the correlations were in error. The Geological Survey failed to show a correlation of known workable seam of coal into or through the application lands. The Government admitted that its correlations of the James bed for six miles were in error. Stors admitted that his previous correlation of Location 404 with the James mine was incorrect. He would now correlate Locations 408 and 409, crossing the area in C-0127926, but admits that this seam is thin (less than 2 feet thick), dirty and, therefore unworkable.

USGS by its testimony claims that the numerous drill holes and mines, both operating and abandoned, in the area show the presence of workable coal. We cannot agree. The variances in the height and number of seams in the holes and the inability of Dr. Dickinson to correlate the seams to our satisfaction weakens the Government's case when added to the distances of the drill holes and mines from the application lands in the rugged terrain. Therefore, it appears that USGS has failed to show it possessed appropriate information regarding continuity required to determine workability. American Nuclear Corporation, A-30808 (March 5, 1968).

The testimony of the USGS expert witnesses failed to adequately cover "other conditions that affect the cost of extraction," brought out by Goodwin and mentioned in USGS Bulletin 537, Pg. 82.

The cost of mining coal is affected by many factors—such as cost of prospecting, shaft sinking, or other mine opening, surface and underground plant, perhaps community plant, water, supplies, timber, feed, and insurance—all of which vary from place to place or in accordance with the method of working the mine. Within the mine the main factors are mining rate, thickness, depth, and dip or pitch of bed, variations or irregularity in thickness, partings, "sulphur" or other impurities that must be removed, kind of roof or floor, presence of gas or water, provision for drainage and ventilation, haulage and hoisting, faults, and igneous intrusions.

Goodwin and his expert witnesses raised doubts in our minds as to the workability by specifically challenging the lack of knowledge

of the dip or pitch, irregularity in thickness, partings, roof and floor, faults and intrusions. Further, he presented specific findings based on available data contained in the reports, samples, and other evidence, while USGS was generally content to rely on broad inferences. Further, the USGS reports and testimony failed to follow the USGS criteria set out in Bulletin 537 and adopted by the Department in Emil Usibelli, A. Ben Shallitt, A-26277 (October 2, 1951). (Trans. pg. 552.) Therefore, we must conclude that the applicant made a clear enough showing that the USGS determination was improperly made.

By this opinion, we are not requiring USGS to undertake comprehensive drilling programs, or to engage in extensive exploratory investigation in order to determine if a prospecting permit should issue. Clear Creek Inn Corporation, supra. The intent of the Act is to allow exploratory work to determine the existence or workability of a coal deposit when the information is not known.

The Mineral Leasing Act does not define "workability." In the fulfillment of his duties under the Act of March 3, 1879, 20 Stat. 394, 43 U.S.C. § 31 (1970), the Director, Geological Survey, formulated policy guidelines to be followed in the classification of public lands and the examination of the mineral resources of the national domain. In 1913 the then Director, George Otis Smith, authored USGS Bulletin 537, "The Classification of the Public Lands,"

setting forth, inter alia, the factors to be considered in determining the workability of coal deposits.

The workability of any coal will ultimately be determined by two offsetting factors—(1) its character and heat-giving quality, whence comes its value, and (2) its accessibility, quantity, thickness, depth, and other conditions that affect the cost of its extraction. It must be considered a workable coal if its value, as determined by its character and heat-giving quality, exceeds the cost of extraction, either as judged by actual experience at the point where it is found or as judged by actual experience on similar coals similarly situated elsewhere. There are no absolute limits to any of the factors. The mining of 1 inch of coal that may involve the mining of 3 feet of rock is physically possible but would not pay. Most unworkable coal beds lack one or more of three things—quality, thickness, accessibility—that is, they are too poor, too thin, or too deep. USGS Bul. 537, Pg. 67. [Emphasis added.]

This definition of workability was adopted by the Department in Emil Usibelli, A. Ben Shallit, supra, a case which arose under the Alaska Coal Leasing Act, 38 Stat. 742, October 20, 1914, as amended, 41 Stat. 1363, March 4, 1921. The present Manual of the Conservation Division of the Geological Survey has the above definition set forth as its current policy. See Section 671.5.2(b).

Although workability is basically a problem of the physical parameters of the coal, the test of workability is dependent upon economic factors. If the value of the coal is greater than the

cost of its extraction, the deposit is workable. It is not enough to show that mining is physically possible. Clear Creek Inn Corporation, supra. The cost of extraction figured in the meaning of workability in Usibelli by reason of inaccessibility due to the prohibitive construction costs of railroad tunnels and bunkers on the mining site.

Workability as defined by the USGS is concerned with the economics of the intrinsic factors. Extrinsic factors such as transportation, markets, etc., are not considered. However, the cost of mining must be considered. In its classification of coal lands, USGS has anticipated and assumed the ultimate coming of conditions favorable for mining and marketing of any coal if the coal is workable in terms of the intrinsic factors. In this respect, the test of workability under the Mineral Leasing Act differs from the prudent man rule under the mining laws.

A further differentiation from the "prudent man" requirement of "a reasonable prospect of success" was made in Atlas Corporation, 74 I.D. 76, 84 (1967).

* * * It is not necessary, in order to sustain a finding that such deposits do exist in workable quantity, that a determination can be made with some degree of assurance that a mining operation will be an economic success. Rather, it is enough that the available data is sufficient to determine that the lands under consideration would require only limited prospecting to project

a program for development but would not require prospecting for the purpose of determining the presence or workability of the deposit. [Emphasis supplied.]

Workability may be established by geologic inference where detailed information is available regarding the existence of a workable deposit in adjacent lands and there are geologic and other surrounding conditions from which the workability of the deposit can be reasonably inferred. Atlas Corp., supra. See Diamond Coal and Coke Co. v. United States, 233 U.S. 236, 249 (1914). However, geologic inference, as a tool for determining workability, has certain limitations. The mere fact that lands applied for adjoin other lands which contain workable coal deposits does not, per se, permit the inference that they contain coal deposits in workable quality and quantity. As pointed out in Atlas, supra, geologic and other surrounding conditions must lead reasonably to the inference of workability. It has been held that a coal prospecting permit may be issued for lands which adjoin other lands containing known workable deposits of coal but which themselves are not known to contain coal in workable quantity and thickness, Clarence E. Felix, A-30197 (January 7, 1965), even where there were known outcrops of coal on the application lands. Usibelli, supra.

USGS and Goodwin agree with the general rule applied by the coal industry that an exposure of coal establishes the inferred existence

of such deposit for a radius of one-half mile, absent known contravening factors such as faults. Goodwin admits that he attempted to include in his applications only lands more than a half-mile from known coal exposures. In cases where he was made aware that he had included lands within a half mile of known exposures, he withdrew all affected lands from the applications.

On past occasions when USGS believed workable coal was present on part, but not all, of the lands under application, it recommended that prospecting permits be issued only on those parts where there was not available sufficient evidence of the presence of workable coal. Clarence E. Felix, supra.

Accordingly, we hold that prospecting permits should be issued for all lands described in the applications with the exception of the following, which lie within one half mile of known deposits of workable coal deposits or regarding which Goodwin has not refuted USGS as to their workability:

- (1) Within the area of inference of the abandoned mine located on C-0127891: N 1/2 section 3 and E 1/2 NE 1/4 section 4;
- (2) Within the area of inference of the Sun Gossard well and the Van James test hole within C-0127926: NE 1/4, E 1/2

NW 1/4 section 20 and all lands in sections 21 and 28; and within C-0127927: all
lands in section 28;

- (3) Within the area of inference of the Van James water well within C-0127927: NE 1/4
NE 1/4 section 22 and NW 1/4 NW 1/4 section 23.

Therefore, pursuant to the authority delegated to the Board, 43 CFR 4.1, the recommended decision of the
Administrative Law Judge is affirmed as modified and the applications are remanded to the Bureau of Land Management for
action consistent herewith.

James M. Day, Ex Officio Member

I concur:

Newton Frishberg, Chairman

I dissent:

Martin Ritvo, Member

APPENDIX A

JAMES C. GOODWIN - Coal Prospecting Permit Applications - Land Description

The original permit applications, dated April 20, 1966, included the following described lands:

C-0127891 (3,926.49 acres):

- T. 3 N., R. 93 W., 6th P.M. -
 Sec. 6: SW 1/4 SW 1/4
 Sec. 7: Lots 1, 2, 3, 4, 5, 10, E 1/2 NW 1/4, E 1/2
- T. 3 N., R. 94 W., 6th P.M. -
 Sec. 1: All
 Sec. 2: All
 Sec. 3: All
 Sec. 4: E 1/2 E 1/2
 Sec. 9: NE 1/4 NE 1/4
 Sec. 10: N 1/2 N 1/2
 Sec. 11: SW 1/4 SE 1/4, N 1/2 SE 1/4 SW 1/4, N 1/2
 Sec. 12: Lots 1, 3, NW 1/4 SE 1/4, N 1/2

C-0127926 (2,097.98 acres):

- T. 3 N., R. 93 W., 6th P.M. -
 Sec. 17: E 1/2 SW 1/4, SE 1/4
 Sec. 20: Lot 1, NE 1/4 SE 1/4, W 1/2 SE 1/4, SW 1/4, E 1/2 NW 1/4, NE
 1/4 Sec. 21: Lots 1, 3, 5, 7, 10 NW 1/4 SE 1/4, N 1/2 SW 1/4, N 1/2
 Sec. 28: Lots 6, 7
 Sec. 29: Lots 2, 3, 5, NW 1/4
 Sec. 30: SW 1/4 SE 1/4, N 1/2 Se 1/4, NE 1/4, W 1/2

C-0127927 (2,703.82 acres):

- T. 3 N., R. 93 W., 6th P.M. -
 Sec. 13: SW 1/4 SE 1/4, S 1/2 SW 1/4
 Sec. 14: SE 1/4
 Sec. 22: Lots 10, 11, 14, 20, 22, SW 1/4 SE 1/4, E 1/2 E 1/2
 Sec. 23: All
 Sec. 24: W 1/2, W 1/2 E 1/2
 Sec. 25: N 1/2 SW 1/4, NW 1/4
 Sec. 26: N 1/2

C-0127927 (2,703.82 acres) (Cont.):

Sec. 27: Lot 1, SW 1/4 NW 1/4, E 1/2 NW 1/4, NE 1/4
Sec. 28: Lots 2, 19

On June 6, 1966, permit C-0127927 was amended to include 320 additional acres described as S 1/2 sec. 26, T. 3 N., R. 93 W., 6th P.M.

On September 25, 1967, the following described lands were deleted from the permit applications:

C-0127891 (777.86 acres deleted, leaving a total of 3,148.63 acres in permit application area):

T. 3 N., R. 93 W., 6th P.M. -
Sec. 6: SW 1/4 SW 1/4
Sec. 7: Lots 1, 2, 3, 4, 5, 10 E 1/2 NW 1/4, E 1/2

T. 3 N., R. 94 W., 6th P.M. -
Sec. 1: SE 1/4 SE 1/4
Sec. 12: Lots 1, 3, E 1/2 NE 1/4

C-0127926 (240.00 acres deleted, leaving a total of 1,857.98 acres in permit application area):

T. 3 N., R. 93 W., 6th P.M. -
Sec. 17: E 1/2 SW 1/4, SE 1/4

DISSENTING OPINION BY MR. RITVO

I dissent from so much of the decision as remands the applications to the Bureau of Land Management for the issuance of coal prospecting permits in part.

I would affirm the decision of the Director, Bureau of Land Management, which affirmed a decision of the Colorado Land Office, Bureau of Land Management, rejecting the applications in their entirety. A statement of my views will be filed later.

