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MEMORANDUM FOR SUELLEN T. KEINER
Acting Associate Solicitor
Department of the Interior

Re : Financial disclosure provisions of Surface
Mining Act.

This responds to your letter to this Office dated December 3, 1980, in which you requested that we withdraw our opinion of April 11, 1980, to former Assistant Attorney General James W. Moorman with regard to the financial reporting requirements of section 201(f) of the Surface Mining Act.

We have reviewed our memorandum to Mr. Moorman in the light of your comments but are unable to find a basis for varying from its conclusion. The difficulties you foresee as the result of our advice to him do not constitute a legal reason for changing our opinion. As we read section 207(c) of the Ethics in Government Act of 1978, it is in effect an express repealer. The arguments that you have derived from 201(f) of the Surface Mining Act do not strike us as evidencing a hidden intent of Congress in that provision that justifies disregarding the language Congress used in the later Ethics Act.

The Ethics Act was the product of long and exhaustive studies and discussions both in Congress and the Executive Branch. The unchallenged statement of the House Committee on Post Office and Civil Service with regard to the supersession of § 201(f) by § 207(c) of the Ethics Act must be given great weight. We are unable to ignore the statement and unable to say that it reflects an erroneous reading of § 207(c).

Our opinion to Mr. Moorman did not aver that an employee of his Division is precluded from filing a financial statement under § 201(f). Accordingly, we see no objection to the voluntary compliance of members of the Land and Natural Resources Division with your reporting requirements. You may wish to suggest that course to Mr. Moorman's successor in office.

Leon Ulman
Deputy Assistant Attorney General
Office of Legal Counsel