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Secretary of the Interior Cecil D. Andrus announced today that he has decided to take no action on the proposed Navajo-El Paso/Consolidation Coal lease and mining plan until the royalty rate is renegotiated.

In a letter to Peter MacDonald, chairman, of the Navajo Tribal Council, Andrus said: "I have concluded that, as trustee, I cannot approve a lease which would return to the beneficiaries of the trust less than I would be required by law to charge for the trustee's, in this case the Nation's, identical resources."

The final environmental impact statement on the proposed coal lease on the Navajo Reservation in San Juan County, New Mexico, was issued May 18, 1977. The lease negotiated between the Navajo Tribe and a partnership composed of the El Paso Natural Gas Co. and the Consolidation Coal Co. calls for the mining of coal on 40,287 acres of the Reservation. The plan proposes. to remove by surface mining 677,940,000 tons of coal over the next 38 years.

Andrus said that a royalty rate of 12 1/2 percent is now mandated for Federal coal leases under the Federal Coal Leasing Amendments Act of 1975, as compared to an estimated rate of return on the Navajo lease of about 8 percent.

In his letter to MacDonald, Andrus said: "I realize that at the time you were first negotiating this lease that law had not yet been passed. However, it is now the law and in my opinion 12 1/2 percent should be the absolute minimum in any Indian land lease as well."

A complete financial analysis made by the Department's Bureau of Mines indicates a 12 1/2 percent royalty rate would yield a substantially higher return to the Tribe while providing an adequate return to the companies.

Under the terms of the original 1968 lease, the Secretary of the Interior has the authority to review and adjust the royalty terms at the end of 1978. "Were I to approve the proposed renegotiated lease, I would be forfeiting the opportunity to renegotiate for an additional five years," Andrus said.

Andrus called the labor agreement between the Tribe and the companies a great improvement. It was not a part of the Department's financial analysis of the lease because the Department believes that a strong labor agreement should be a non-negotiable accompaniment to any lease and should be external to negotiation of financial terms, Andrus said.

"Although we realize the importance of the $5.6 million advance royalty bonus payment, that must be considered in relation to the total needs of the Navajo Nation, and in light of the substantial benefit to be gained by negotiating a higher royalty, Andrus said. "The advance payment, although it may be delayed somewhat, can still be part of the lease.”
