GENERAL
UT 2
FG 17-14

APR 24 1970

MEMORANDUM FOR

Honorable Peter M. Flanigan
Assistant to the President
The White House
Washington, D. C.

Re: American Public Assn. Complaint of Coal Shortages and Rising Prices

We have studied the March 23, 1970 letter to the President from Alex Radin, General Manager of American Public Power Assn., which you forwarded to the Attorney General for review and comment. Mr. Radin urges, among other things, that the Attorney General investigate whether or not increasing oil company control of coal companies has resulted in coal supply or pricing practices which are in violation of the antitrust laws.

As background, several of the non-captive coal companies have been acquired between 1963-1968 by major oil companies, as well as by other mineral or energy firms. Oil firms are also buying extensive coal reserve properties. The intent appears to be to diversify as energy companies and to prepare for the day when the process of conversion of coal to gasoline and pipeline gas becomes economically practicable.

In particular, the largest and third-ranked independent coal companies, Consolidation and Island Creek, have been acquired by Continental Oil and Occidental Petroleum, respectively. The Conoco-Consolidation merger was submitted to the Antitrust Division in 1966 for informal business review clearance. No objection to it was raised, basically on the fairly narrow ground that the two firms did not sell directly competing energy products in the same geographical markets to any significant extent. Though I have not studied the matter fully, I am not sure that I would reach the same conclusion if the case were to arise _de novo_ at this time. The 1968

Occidental-Island Creek merger is currently under study by the FTC pursuant to our liaison arrangements. No formal investigations were undertaken in the case of smaller coal company acquisitions.

In addition, we have received a lengthy memorandum on the trend of coal acquisitions by the petroleum industry from Mr. S. David Freeman, Director, Energy Policy Staff, Office of Science and Technology. When the staff has completed its review I expect to discuss the problem with him. As a result, we would, at the least, give more intensive scrutiny to new merger proposals in this field. I should note, finally, that the question of coal-oil mergers is one of the subjects for tesimony on May 6th by Mr. Comegys of my staff in hearings before Senator Hart's subcommittee.

As for current coal supply and pricing practices, neither we nor FTC have any investigations pending. Staff consensus is that a coal shortage and rising prices may stem from a variety of factors: (1) earlier underestimates of electricity demand and coal requirements to fuel the generating plants; (2) anticipation that atomic energy would gradually diminish coal's utility markets; (3) wage increases and increased overhead from new mine-safety requirements; (4) increased anti-pollution emphasis on lower-sulphur coal and more stringent ash requirements, which tends to narrow available supply; and (5) an upsurge in oil product prices, which coal firms may be tempted to equal for themselves on an energy output basis. As for the merged coal-oil firms in particular, it is conjectured that some price rises and delays in negotiating long-term coal supply contracts may stem from the fact that oil company managements are accustomed to a higher rate of return on investment than coal firms traditionally obtain. However we have no information as yet to suggest that violation of the antitrust laws by the new oil company owners may be involved in the current situation.

Mr. Radin also called for review of U.S. policies on export of coal and import of fuel oil in an effort to relieve the problem. As for coal, we have a case pending against the Anthracite Export Assn., charging conspiracy and combination in unreasonable restraint and to monopolize trade and commerce in the sale of anthracite to U.S. Army installations in Europe. But anthracite, primarily used for space heating not utility fuel, is only a minor fraction of coal exports -- only about 2 million tons of the 50-51 million exported each year from 1963 to 1968. Interior advises that only about 30 percent of these annual exports is non-metallurgical grade coal which goes to utility markets.

However, 1969 saw an upsurge in exports to almost 57 million tons and forecasts for 1970 are even higher. Since the supply shortages reported by utilities are only of recent origin, they should more logically be related to this upsurge rather than the earlier steady export rate. But the difficulty is, according to Interior, that most of the upsurge stems from a big growth in demand from Japan. In turn, most of this is attributable to demand for premium low-volatile metallurgical-grade coal for coke in steel production. Accordingly, it would appear unlikely that shortages in utility grade coal could be accounted for by this sudden growth in exports, though it might be a factor if any coal shortages are reported by domestic steel producers.

As for oil import policies, this relates specifically to residual fuel oil used in utility generation. The majority of the Cabinet Task Force on Crude Oil Imports recommended substantial decontrol of residual fuel oil imports, subject only to tariff charges against Mideast oil to offset desulphurization costs of Venezuelan products. The minority also noted the need for increased low-sulphur residual oil imports.

Recently, the Oil Import Appeals Board recognized an electric utility fuel problem in the Midwest in a particular situation by granting a substantial allocation for import of residual fuel oil to Commonwealth Edison, Chicago. The Oil Policy Committee is actively engaged in devising appropriate mechanisms for decontrol or substantial liberalization of residual oil imports on a general basis.

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

GENERAL
JL 2-1
BE 5-5
LC/Robeson Co.
FG 17-14
Kauper, John

THE WHITE HOUSE

WASHINGTON

July 12, 1972

Dear Mr. Mangum:

Thank you for your letter of July 6 about the problems of Robeson County. I was impressed with your booklet of facts.

I will look into the anti-trust problem to which you refer, see what the situation is, and be back in touch with you.

Sincerely,

Leonard Garment

Mr. Robert Mangum, Director
Robeson County Church and Community Center
705 South Willow Street
Lumberton, North Carolina 28358

B131

EXECUTIVE
FG17-14/A
FG53/ST13
PR5-1

February 1, 1972

Dear Mr. McLaren:

Your letter of January 9 has come to my attention, and as you have requested, I accept your resignation as Assistant Attorney General, effective February 2, 1972.

My reluctance at seeing you leave this important position is more than compensated by the knowledge that you will continue to serve our nation as United States District Judge for the Northern District of Illinois. Valuing as I have your distinguished contributions as director of the Antitrust Division of the Department of Justice, I am confident that you will bring to your new responsibilities the same measure of both excellence and dedication.

With best wishes for every success in the months and years ahead,

Sincerely,

RICHARD NIXON

Honorable Richard W. McLaren
Assistant Attorney General
Antitrust Division
Department of Justice
Washington, D.C. 20530

RN:Justice:KJenkins:MS:baw

Copy to Jerry Warren, Press Office 2/1/72 for their info.

February 3, 1972

Respectfully referred
for the files of the Department of
Justice.

Noble M. Melencamp

Transmitting a copy of the following:

Ltr, 1/19/72, to the President from Honorable Richard W. McLaren submitting his resignation as an Assistant Attorney General, effective 2/2/72; President's letter of acceptance 2/1/72, effective 2/2/72.

Ltr, 1/13/72, to the President from Honorable Richard K. Burke submitting his resignation as United States Attorney for the District of Arizona, effective at the close of business 1/19/72; President's letter of acceptance 2/2/72, effective cob 1/19/72.

(sent to the attention of Miss Dorothy McLean, Room 4216 Justice)

cmf

THE WHITE HOUSE

WASHINGTON

The original of this letter has been hand-carried to Chicago with a signed picture of the President for presentation to Judge McLaren at a dinner in his honor on February 1, 1972.

OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

JAN 24 1972

MEMORANDUM FOR MR. NOBLE M. MELENCAMP
CHIEF EXECUTIVE CLERK
THE WHITE HOUSE

Attached is a suggested form of reply for the President's convenience in acknowledging the letter of Richard W. McLaren, Assistant Attorney General, Antitrust Division, United States Department of Justice, who is resigning.

Sincerely,

Richard G. Kleindienst

Richard G. Kleindienst
Deputy Attorney General

SUGGESTED FORM OF REPLY

Dear Mr. McLaren:

has come to my attention, and

Your letter of January 19 ~~submitting~~

as you requested, I accept

your resignation as Assistant Attorney General ~~in charge of the Antitrust Division of the~~

effective February 2, 1972

United States Department of Justice, ~~has come~~ to ~~my attent~~ion.

In accepting this resignation, effective February 2, 1972, as you have requested, I want you to know that it was a great pleasure to appoint you as United States District Judge for the Northern District of Illinois.

Valuing as I do your distinguished service as Assistant Attorney General, I am confident you will bring to your new responsibilities the same high measure of dedication and excellence. You have my best wishes for continued success in the months and years ahead.

Sincerely,

<u>Richard W. McLaren</u>

Born:	April 21, 1918	Chicago, Illinois
Education:	1939	Yale University A.B. degree
	1942	Yale Law School LL.B. degree
Bar:	1944 1950	New York Illinois
Employment:	1946 - 1949	Hodges, Reavis, Tantaleoni and Downey (now known as Reavis and McGrath) New York, New York Attorney
	1950 - 1969	Chadwell, Keck, Kayser, Reggles and McLaren Chicago, Illinois Partner
	1969 - Present	Assistant Attorney General Antitrust Division U.S.Department of Justice

ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

Department of Justice
Washington, D.C. 20530

January 19, 1972

The President
The White House

Dear Mr. President:

I hereby tender my resignation as Assistant Attorney General, effective February 2, 1972, if that meets with your pleasure. It has been a most rewarding experience to serve in your Administration over the past three years, and I thank you most sincerely for affording me that privilege.

May I at the same time express my gratitude to you for nominating me to be a judge of the U. S. District Court for the Northern District of Illinois. Conscious, as I am, of the great responsibility which rests upon our courts in these critical times, I pledge to you that I shall bend every effort to be worthy of the confidence you have reposed in me.

Respectfully,

Richard W. McLaren

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division