

REMARKS

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The very fact that the "Third Oil Shale Symposium" is an annual event, not only indicates an interest in the resource itself, but more importantly how it may be developed and make its just contribution to the social and economic welfare of the local areas, the States, and the general public.

As a staff member of the Public Land Law Review Commission, I consider it a privilege to be invited to participate with you in the discussions of oil shale and its utilization and development.

Three weeks ago today and tomorrow, the Public Land Law Review Commission held its third meeting. This was the first meeting however, which brought together members of the Advisory Council and the governors' representatives of the 50 States. The high percentage of attendance was indicative of the keen interest there is in the Federal lands and what the future might be.

The Act of September 19, 1964, P.L. 88-606, established the Public Land Law Review Commission. It provides for three majority and three minority members of the Senate Committee on Interior and Insular Affairs to be appointed by the President of the Senate, and three majority and three minority members of the House Committee on Interior and Insular Affairs to be appointed by the Speaker of the House of Representatives. In addition, six persons to be appointed by the President of the United States plus a Chairman, Congressman Wayne Aspinall, who was named at the first Commission Meeting held July 14, 1965. This same meeting chose a Presidential appointee H. Byron Mock as Vice Chairman and Milton A. Pearl to be Staff Director.

In accordance with the Act the Advisory Council is composed of liaison officers appointed by the heads of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of the public lands. These are the Departments of Defense, Interior, Agriculture, Justice and Housing and Urban Development, with independent agency representatives from the Atomic Energy Commission, Federal Power Commission and General Services Administration. Twenty-five additional persons were appointed by the Commission, in accordance with the Act, to be representative primarily of the various citizens' groups interested in problems relating to the retention, man-

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agement, and disposition of the public lands. They include the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor and public utilities.

I don't believe it is necessary to deal at great length as to why a review is necessary. It might be well to ask however, "where are we," "how did we get here" and "where do we go from here."

About 180 years ago a new republic, the United States of America, came into possession of its first public domain. Seven of the 13 original States ceded their claims to over 230 million acres of land lying to the westward of the original States.

It was evident from the start that this new government did not plan to be a permanent landlord. For most of this land the Ordinance of 1785 provided a rectangular system of cadastral surveys of public lands, in order that lands could be described and title pass to other ownership.

This ordinance had another significance, for it also established important land reservations. In every surveyed township, one section was reserved for future use or support of public elementary education, and four sections were reserved for future disposition by the Government of any mineral resources. The remaining 31 sections were authorized for sale. Another basic Act of this era was the Northwest Ordinance of 1787, which provided the basis for territorial self-government by settlers north of the Ohio River, with future new States in that region to be admitted to the Union on equal terms with other original States.

These two ordinances established principles under which the country was settled and charters were granted to new States entering the Union.

During the past 180 years the United States has acquired about 1.8 billion acres of land through cessions, purchase and treaties. During the same period over 1 billion acres have passed from Federal ownership through grants to States, railroads and veterans, homesteading, desert entries, timber and stone Act, timber culture laws, mineral entries, scrip, etc.

Even though the original intent may have been for the Federal government to divest itself of a landlord role, the fact is that about one third of the U.S. land area is still in Federal ownership. Most of this area comes within the scope of the PLLRC review, as defined by Sec. 10 of P.L. 88-606. It may be of interest that 47 percent of the 740 million acres of Federal land under review is located in the 11 contiguous western States, which themselves comprise about 33 percent of the total land area of the United States. These 740 million acres include National Forests, wildlife refuges, the public domain

under jurisdiction of the Bureau of Land Management, public domain in National Parks and military withdrawals, and smaller acreages administered by other agencies.

Over 98 percent of the 365 million acres in Alaska is Federal land at this time. Alaska's charter of statehood, however, provides that the States may select a little more than 103 million acres. The selection program is underway but to date title to only about a million and a half acres has been transferred. The remaining 38 States have about 28 million acres which come under review.

I do not wish to confuse you with data but some are necessary to understand "where we are now." Of the 740 million acres under review over 480 million are under the administration of the Department of the Interior, Bureau of Land Management. The latter are subject to numerous public land laws which provide for transfer of title to other ownership, such as State selection, homestead and desert entry, Small Tract Act, the Recreation and Public Purposes Act, Public sale of isolated tracts, public sale under Interim Public Sale Act P.L. 88-608 and others. In addition, they are subject to the Mining Laws of 1866 and 1872, the Mineral Leasing Act, Materials Act, Exchanges, Rights of Way, the Taylor Grazing Act, withdrawals and restorations and others. The remainder of the 740 million acres may, or may not, be subject to the application of land and/or mining and mineral leasing, depending upon the terms of the reservation or withdrawal.

The laws have developed over a long period through a series of Acts of Congress, which are not fully correlated with each other. Because some of them may be inadequate to meet the current and future needs of the American people, and because the administration of these lands and the laws relating thereto have been divided among several agencies of the Federal Government, Congress has considered it necessary to have a comprehensive review of the laws and rules and regulations in order to determine whether and to what extent revisions are necessary.

The initial phase of the Commission's study is being directed at determining the existing statute law in each of the principal areas involved in the public lands, e.g., forestry, mining, grazing, oil and gas development, recreation, etc., with a simultaneous examination of the manner in which these statutes have been administered and interpreted by the agencies charged with responsibility for jurisdiction of the lands defined in P.L. 88-606.

Parallel to legal research, there will be undertaken research relative to the manner in which the resources themselves have been treated, giving consideration first to the direction of the laws and, secondly, to an evaluation of the manner in which these resources were given weight by the administering agencies. Simultaneously, studies of a background nature are being undertaken to determine as much as possible, factually, about the lands and the

forces being applied to them. in order to establish data on which later studies pointing to the future can be based.

The staff organization is divided into three parts: (1) a group accomplishing legal research, headed by Elmer Bennett, whom I believe many of you know. He is a native Coloradan and former Solicitor and Under Secretary of the Department of the Interior; (2) A Resources Group, accomplishing the non-legal research, studying the resources themselves, which I head; and (3) a group having responsibility for evaluation, including integrating the results of legal and non-legal research and preparing, or supervising the preparation of, reports, which, in effect, may tell us "where we are and how we got there" in the maze of the public land law jungle as it currently exists. This group is headed by Dennis R. Rapp, who, in addition to having had experience in the field of public land management, has been a senior budget analyst on the staff of the Bureau of the Budget.

The Commission staff this fiscal year will consist of no more than 40 people, 23 planned to be in the executive and professional category and 17 in administrative and clerical. We are using and plan to use in the future the services of consultants and contractors as the primary means of accomplishing our studies. The main function of the in-house staff will be to design study projects and review the work of consultants and contractors. However, of necessity, we may have to accomplish some research within our staff.

The staff of the Resources Group will consist of 8 professionals, including me, and 4 administrative and clerical positions. The work of this group has been divided into three principal areas: renewable resources, non-renewable resources, and services and uses.

As you no doubt realize, the field is broad, ranging from timber, grass, rights of way, land exchanges, outdoor recreation, mining, and mineral leasing, payments in lieu of taxes and revenue sharing and many others.

It may be of interest that the first census in 1790 counted 3.9 million people. Today this number is estimated to be 196 million who are multiplying in such proportions that by the year 2000 our population may approximate or exceed 300 million. There is no doubt that the lands now in Federal ownership will, as they have in the past, be relied on to make a substantial contribution in meeting the needs and wants of the population—including food, fiber, shelter, transportation, fuel and recreation.

The staff of the resources research group is now engaged, among other efforts, in designing a plan to assemble inventory data relative to the land and resources of the Federal holdings within the review responsibility of the Commission. This is no simple task. In some commodity and use areas there are considerable data available, while in other areas such information is sketchy and probably inadequate. We are seeking the best sources of reliable data, and are always open to suggestions. Just as it is necessary to know what

the various resources and uses are, it is also necessary to know what the demand is. In addition we need to know the potentials for increased production, the possibilities for discovery and development and what the demands may be in the foreseeable future.

There is no question but that any comprehensive review and evaluation of public land policy must treat the subject of oil shale in depth. We are, accordingly, planning such study or studies as will give the Commission a broad general view of all the factors involved. At no time has there been as great a need or as great an opportunity to make an unimpassioned and thorough appraisal of all aspects of the oil shale question as it relates to and involves public land policy. This I am certain the Commission will do.

It is unnecessary for me to remind you that not one, but a number of major factors must be taken into account in examining public land oil shale policy if the Commission is to have before it the basis for examining its adequacy for the future. We hope to conduct studies which will bring together a thorough analysis of these factors in total perspective and in their relationship to each other.

There is, of course, the legal-administrative problem which has arisen over the pre-1920 oil shale claims still in contest. This is an example of a need to define the intent of a law clearly. There is a wide range of views concerning interpretation and administration of first, the mining law and later, the Mineral Leasing Act relative to the extraction of oil shale from public lands. The basic issues involved in the claims disputes may be settled by the courts or may require further legislation. Similarly, the further leasing of shale lands—there were two small leases granted before the lands were withdrawn in 1930—may be settled by administrative action or may require further legislation. We must study the claims dispute and the policy which has prevailed since enactment of the Mineral Leasing Act of 1920 to ascertain as accurately as possible the nature of the principal elements which have worked against a free and thorough execution of the oil shale leasing policy reflected in that law, and the reasons why they have produced that result.

Second, one of the fundamental, and no doubt the broadest, base upon which the future adequacy of present public land oil shale policy may be evaluated is the outlook for national energy needs and the prospect of satisfying those future needs with various energy materials—coal, natural gas, oil from conventional sources, and nuclear fuels—at various price levels and based upon certain assumptions about changes in technology and supply which will directly affect that price. Knowledge of the energy needs of a nation which continues to multiply its industrial output and advance its standard of living will help provide a clearer indication of the effect of oil shale production on the energy market, and therefore of the probable public policy requirements necessary to the development of an industry dependent

upon public land oil shale. The Commission will no doubt need studies which provide such information.

Third, there needs to be an exhaustive review and evaluation of the state of technology for extracting oil from shale. Whether there is now a technology that will yield petroleum and its marketable products from oil shale at a cost which assures reasonable return on investment capital is critical to appraising the prospect of whether, when, and under what conditions a commercial-scale oil shale industry can be expected to materialize.

Prospective transportation, refining, and marketing costs are as much a part of this picture as are basic extraction costs. So is tax policy. Water availability and costs, because it is so important to production in using one of the processes developed to date, must be assessed thoroughly and realistically. The economics of problems related to some of the existing extraction technology, such as spent shale disposal and the effect on the surrounding air and adjacent or nearby waters, must be fully studied and evaluated as part of the consideration of existing and prospective technology and of the economics of production using various processes.

It follows that any study of existing technology should be accompanied by some consideration of emerging technological developments, and the identification of promising areas for new and needed research efforts.

Fourth, consideration of the impact of a prospective oil shale industry upon local and regional growth will weigh significantly in any public land oil shale policy decision. Whether the prosperity in the form of increased employment and income, as well as the increased level of economic activity generally, that would accompany the establishment of so large an industry is complementary to or whether it conflicts with the prospect presented by the national energy outlook would be one of the facts to be weighed here.

Fifth, there has been considerable discussion, and about the same amount of disagreement, over the differing institutional arrangements around which the development of public land oil shale could or should be structured. Proposals have ranged all the way from quick alienation of title and strict dependence on the private sector for development, up to complete development by government, with a number of alternative arrangements in between. A complete and objective analysis of the benefits and drawbacks of each of the several possibilities needs to be undertaken if the one considered most likely to produce the desired results is to be selected.

I have discussed a few of the many facets, and I believe these are the major ones, of the oil shale question which need to be studied and examined in depth to provide the foundation for examining present and propounding a future public land oil shale policy. While some of these subjects seem far removed from the land policy question itself, they and perhaps others I have not mentioned, are quite relevant to informed and intelligent public policy

making for a resource, the development or non-development of which has such far-reaching implications for the nation.

I have sketched for you in broad outline our probable approach to the study of public land oil shale policy. There are a host of other subjects and public land policy areas which exist and which need attention.

There are many competing and, for that matter, conflicting uses of the public lands. All are important to various segments of our society. In contemplating the breadth and scope of the various commodities, services, and uses, it appears as though it will not be possible to study every item in any depth in the time available. I believe you will agree that it will be necessary to be somewhat selective to make sure that the research and studies made will produce the most comprehensive information possible for the Commission to use when considering any recommendations for modification of existing laws, regulations, policies or practices.

At the invitation of Chairman Aspinall to members of the Advisory Council, governors' representatives and others whom he has addressed in speeches, numerous suggestions for subjects and areas of study have been received. These are helpful when considering what studies should be made, in what depth, and by whom. Your ideas and suggestions are invited both as they apply to the subject of this meeting and to the broad spectrum of public land policy and administration.

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For the past 35 years, Neal D. Nelson has been engaged in public land and resource management. Duties have included forest disease and insect control, fire protection, forest development and management, range management, soil and watershed management, wildlife and recreation activities and the administration of public land and mining laws. He has also served as Executive Secretary to a U.S. Senator for almost four years.

Mr. Nelson has a B.S. degree from the University of Idaho and a B.S. degree in forestry from the University of Montana.

Past employment has included the U.S. Department of Agriculture's Bureau of Entomology and Plant Quarantine and Forest Service. He is now Area Administrator and State Director for the U.S. Department of the Interior, Bureau of Land Management.