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ON

THE NOMINATION OF DAVID S. BLACK TO BE UNDER SECRETARY OF THE INTERIOR

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NOMINATION OF DAVID S. BLACK TO BE UNDER SECRETARY OF THE INTERIOR

MONDAY, JULY 17, 1967

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to call, at 10:05 a.m., in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman of the committee) presiding.

Present: Senators Henry M. Jackson, Alan Bible, Frank Church, Frank E. Moss, Thomas H. Kuchel, Len B. Jordan of Idaho, Paul J. Fannin, Clifford P. Hansen, and Mark O. Hatfield.

Also present: Jerry T. Verkler, staff director; Stewart French, chief counsel, and E. Lewis Reid, minority counsel.

The CHAIRMAN. The committee will come to order. The purpose of the meeting this morning is to consider the nomination of David S. Black to be Under Secretary of the Interior. The Chair is very pleased to extend a warm welcome to Mr. Black. The Chair has had the privilege of knowing Mr. Black for most of his life. He comes from a very fine family. His father was one of the outstanding lawyers in the Pacific Northwest and served as judge of the Superior Court in the State of Washington. Up until the time of his death he was U.S. district judge.

Mr. Black, we are pleased to have you with us. If you desire, you may make a brief opening statement and then I will turn to my colleagues for questions.

STATEMENT OF DAVID S. BLACK

Mr. BLACK. Thank you, Mr. Chairman, and members of the committee.

I am deeply honored for this opportunity to appear before this committee. I have filed a biographical statement with the clerk of the committee. I might just briefly summarize.

I presently reside in Vancouver, Wash. The State of Washington is my birthplace. I was born in 1928 in Everett, Wash. I was educated at the University of Washington and at Stanford University. I had 2 years of military service.

I graduated in law in 1954 from the University of Washington, where I was awarded my LL.B. degree.

I practiced law in Seattle, Wash., for a period of about 2½ years, and then went to Olympia, the State capital, where I served as an assistant attorney general for 4½ years.

In 1961 I left the State service and came to Washington, D.C., as general counsel for the Bureau of Public Roads, which was then in the Commerce Department.

I served in that capacity until I was appointed to the Federal Power Commission in the late summer of 1963. I served as a commissioner and as vice chairman and acting chairman until I was appointed by Secretary Udall to serve as Bonneville Power Administrator in September 1966.

I have been in that capacity only for a little more than 10 months. I have had, all told, I guess, about 10½ years of State and Federal public service, but my 10 months in the Department as Bonneville Power Administrator has pretty well restricted my specific activities to the power marketing functions of that great Department, but I have had a fine opportunity to work with Secretary Udall and with my very distinguished and able predecessor, Charles Luce, and I feel I have developed an appreciation and sense of dedication to the broad range of conservation and natural resource responsibilities of the Department.

I am very humbly aware that I have a very intensive educational effort ahead of me if I am confirmed by the Senate, in order to arrive at an understanding of the many wide-ranging responsibilities of the Interior Department.

I am deeply grateful for the President's confidence which has been expressed in this nomination, and I would assure members of this committee that if I am confirmed, I will bend every effort to be a credit to the President, to the Congress, and to the public service.

The CHAIRMAN. Thank you, Mr. Black. I believe it might be well to print your biographical sketch at this time.

(The data referred to follows:)

BIOGRAPHICAL SKETCH OF ADMINISTRATOR DAVID S. BLACK

David S. Black was born in Everett, Washington, July 14, 1928. He attended the University of Washington and Stanford University, where he received his B.A. Degree in 1950. After two years of service in the Army during the Korean conflict, Mr. Black returned to the University of Washington, and received his LL.B. Degree in 1954.

He entered private law practice as an associate with Preston, Thorgrimson and Horowitz, a Seattle, Washington, law firm. Mr. Black remained with that firm until 1957, when he became Assistant Attorney General for the State of Washington and Counsel to the Washington Public Service Commission. He represented the Public Service Commission and the public in proceedings before that agency and as intervener in cases before Federal regulatory agencies.

Mr. Black left his position with the State in April 1961 to accept appointment as General Counsel for the Bureau of Public Roads, Department of Commerce in Washington, D.C. He served in this capacity until his appointment to the Federal Power Commission.

President Kennedy named Mr. Black to the Federal Power Commission on July 22, 1963, for the term expiring June 22, 1968. He took office on August 30, 1963. On August 7, 1964, he was selected to serve as vice chairman. He was re-elected vice chairman for the calendar year 1965, and served as Acting Chairman for a portion of 1966, temporarily filling the vacancy left by the departure of Joseph C. Swidler. Mr. Black also served as Chairman of the Inter-Agency Committee on Water Resources and as a member of the Executive Committee of the National Association of Railroad and Utilities Commissioners.

Mr. Black is married to the former Nancy Haskell of Seattle. They have three children—two sons and a daughter.

Mr. Black was appointed Administrator of the Bonneville Power Administration by Secretary Udall on September 13, 1966.

The CHAIRMAN. I believe you have also submitted a financial statement.

Mr. BLACK. Yes, sir; I have, Mr. Chairman.

The CHAIRMAN. The committee will consider your financial statement in executive session. I have reviewed it, and I don't see any problems in connection with it. Each member of the committee has a copy. You do not own any securities of any kind, as I understand it.

Mr. BLACK. None at all, sir.

The CHAIRMAN. Senator Bible?

Senator BIBLE. Thank you, Mr. Chairman.

I simply want to state for the record that I have known Mr. Black practically since he first came to Washington. I have never had many contacts with him until more recently, when he was appointed in place of Chuck Luce as the Administrator of the Bonneville Power Administration.

Since that appointment, and as a member of the Appropriations Committee, Mr. Black has appeared as Administrator before the committee on numerous occasions and I have had the opportunity of observing him. I am tremendously impressed with the thorough manner in which he did his homework. He always came before the Appropriations Committee very, very well prepared.

He had a case to present to the committee, and he presented it ably and well.

I would think, based on my observations of him in my capacity on the Appropriations Committee, that he certainly has the opoprtunity—let's put it this way—of being an outstanding Under Secretary of the Interior.

I have no specific questions at this time. As we move along some might suggest themselves.

Mr. BLACK. Thank you very much, Senator Bible.

The CHAIRMAN. Senator Kuchel.

Senator KUCHEL. Mr. Black, I was delighted to meet you in my office and talk to you, and I want the record to show you have a very unique background reflecting an excellent education and service to your country in wartime and in peacetime.

I think we agreed last week that service such as is contemplated for you in the Department of the Interior is of the highest order, and represents a responsibility to the Nation rather than to any area of the Nation. Surely a citizen of the State of Washington is not disqualified for a responsible position in the Department of the Interior as a few years ago, under the late President Kennedy, a resident of California was deemed not to be disqualified by reason of his home.

Is it not true that one in the position to which you have been nominated by the President must represent the national interest rather than a sectional interest?

Mr. BLACK. Yes, Senator. I think more and more the Interior Department's responsibilities are national in scope rather than western or regional, and I might say that having served on the Federal Power Commission for a period of time and also on the Bureau of Public Roads, both agencies whose national responsibilities transcend regional considerations, I feel I do have an appreciation of that responsibility, and I pledge it.

Senator KUCHEL. The Pacific Northwest in the last several years, through the Bonneville Power Administration, was producing and was capable of producing electric energy somewhat surplus to the needs of the area served by it, is that not so?

Mr. BLACK. Yes, sir.

Senator KUCHEL. And it was deemed to be in the public interest to determine whether that surplus energy might be utilized by the Pacific Southwest under what was contemplated as intertie agreements, is that not correct?

Mr. BLACK. That is correct.

Senator KUCHEL. And so we were able to establish by law a means by which one area of the Pacific coast would serve another, and vice versa, by legislation in the field of electricity in dealing with surplus power.

Mr. BLACK. Yes, sir.

Senator KUCHEL. There is no reason why there should be a different rule with respect to the possibility of the surplus of water, is there?

Mr. BLACK. To the extent that surpluses of anything are established, I believe that that is correct, Senator, assuming, of course, where economics are also established.

Senator KUCHEL. So that you would apply that same philosophy to water where it were found to be surplus to the needs of one region as against needs of another?

Mr. BLACK. To this point, my responsibilities have not developed upon water use as such. The intertie of which you speak, the great Pacific Northwest-Southwest intertie, the first stages of which are nearing completion, is for the sale and exchange of electric power. It has already served a valuable purpose, including support for the Pacific Northwest from the Pacific Southwest in terms of energy when we needed it from California.

Senator KUCHEL. I don't want to try to use this, or misuse this forum as a basis to try to cross-examine you on any current problem, but I do want to ask you: Can you think of any reason to distinguish with respect to the disposal of surplus in electricity and disposal of surplus in water?

Mr. BLACK. Well, the disposal of surpluses as such with respect to electricity is not entirely what we contemplate the use of the intertie for, but to the extent that surpluses, as I indicated earlier, are established, they should be shared.

Senator KUCHEL. And you would apply that rule generally, would you not, with respect to any surplus which you found under your responsibility as a head of the Department of the Interior?

Mr. BLACK. I would certainly believe so, Senator.

Senator KUCHEL. Including water?

Mr. BLACK. I would believe so.

Senator KUCHEL. You testified on Monday, June 5, before a subcommittee of the Senate Appropriations Committee, chaired by our distinguished friend from Nevada, and in part the testimony at that hearing went as follows:

> Senator BIBLE. Now, I note you have established a thermal power planning task force. That is another mouthful to say. And, tell me about it. What is it? What does it do?
>
> Mr. BLACK. Well, if I could just put this in context, Mr. Chairman, the Pacific Northwest will have pretty much developed the feasible hydroelectric generating sites by 1975 and the region is going to have to turn for the first time to thermal generation more and more to supply the base load, steam generation. We will continue to add great quantities of hydroelectric generation, but there is not enough water in the river to run the generators full time. So, our hydroelectric system will become more and more for peaking purposes and more and more our base load, hour in and hour out, requirements will be met by steam generation.

Now, about a million kilowatts a year is going to be needed in the region to meet load growth starting in 1975, and since there are very limited coal deposits within the region, it appears that this thermal generation will largely consist of nuclear, large nuclear power plants.

The use of the very inexpensive hydroelectric capacity and the existing large backbone transmission grid system in the Northwest taken together make for very economical use of these steam-generating facilities which by themselves, of course, are most costly than hydro is. By 1985 we estimate that we will need 13 kilowatts of new steam generation in the Northwest. This will go along with about 20 million kilowatts of new hydro, but again, this will be peaking to make the thermal generation economic.

Senator BIBLE. I understand. Tell me about the task force.

Mr. BLACK. Well, the task force has been created within Bonneville to assist the utility industry in the Northwest to plan for this era. Bonneville will not, of course, build these steam plants. We have not that legal authority. We will, however, play a role in the construction, a very important one, because of our ownership of the transmission lines and the existence of the Federal peaking, so that we would hope to recover in exchange for the use of our facilities a portion of the output of these steam plants built by others.

I give this background to point out the importance of the task force activity, which is simply—it is a name given to a planning group in the Northwest.

Is that generally speaking, Mr. Black, the tenor of what you did say at the Appropriations Committee in June?

Mr. BLACK. Yes, sir. I believe that is exactly what I said.

Senator KUCHEL. Again, without developing the concept of your task forces in detail, was it or is it, in your opinion, to the interest of the Government to enter into agreements with privately owned investor utilities to produce steam under which you then would buy its steam-generated power in part and sell in the same agreement your own hydroelectric peaking energy?

Mr. BLACK. Well, we would enter into agreements and we are contemplating some now with privately owned utilities and publicly owned utilities, to build those very large steamplants, because we feel it is only through the combination of the efforts of the total utility industry in the Northwest that the great economies of scale can be achieved. In exchange for a part of the output of these plants which would be rendered economically feasible by their use of the peaking capabilities of the dams on the Columbia River and by use of the Federal backbone grid system, we would expect to get a percentage of the output of the plants, and we would take it into our system and sell it at Bonneville rates.

The remainder of the power would be available for the immediate and direct needs of the participating utilities, public and private.

Senator KUCHEL. Is it your view that the Government of the United States should not participate directly in the production of steampower?

Mr. BLACK. So far as the Pacific Northwest is concerned, at least—this is the area with which I am most familiar—I am satisfied at the present time that other means can be developed utilizing the existing structure, the existing legal structure and the existing ability of the utility industry to build thermal generation. That is correct, sir.

Senator KUCHEL. Are you acquainted with the provisions of the central Arizona project legislation dealing with the production of steam generation of power by a group of utilities called WEST?

Mr. BLACK. Yes, sir.

Senator KUCHEL. Do you approve that kind of transaction? Is that what you have in mind when you testified as you did before the Appropriations Subcommittee?

Mr. BLACK. This is one possibility which I think is a very good one. The WEST arrangement is the joint ownership of the actual means of production of the power by public and private bodies in a sort of tenancy-in-common arrangement, and I think it has significant promise.

I do not believe it is the only means by which the private and public utilities can plan and work together. It is one possibility that the industry is looking at quite seriously.

Senator KUCHEL. When you say "joint ownership by public and private bodies," you did not include the Government of the United States?

Mr. BLACK. I mean joint ownership among non-Federal utilities.

Senator KUCHEL. Mr. Black, the plan of the Department of the Interior with respect to the central Arizona project contemplated a payment in advance by the United States over a period of half a century of the agreed upon annual charges for the electricity by the WEST group.

Is it your judgment generally that agreements of that type, under which the United States would pay in advance 50 years down the road the cost of electricity it was going to buy, are in the public interest?

Mr. BLACK. Well, Senator Kuchel, my attention has been pretty much focused on the Northwest type of arrangement, and we have not—this is not a kind of arrangement which has been discussed. I am familiar with the prepayment proposition with respect to central Arizona project only in a very general way, and I don't really feel at this point competent to examine it in detail as to what the implications might be.

Senator KUCHEL. I think I would be unfair if I tried to get you to do so. All I want to do with respect to that particular problem of prepayment is to ask you: Do you recall any prepayment agreement by the Federal Government in any field where the Federal Government agreed to pay now what it would not obtain until 50 years have gone by?

Mr. BLACK. I don't personally, Senator; no. But I am not a student——

Senator KUCHEL. I question whether or not the public interest is served in that kind of a transaction. I simply would urge you in your responsibilities, Mr. Black, to consider the far-reaching consequences of that kind of an agreement.

Mr. BLACK. I am aware of the considerable attention which has been focused on this, and this will certainly be one of the first orders of business.

Senator KUCHEL. Thank you very much.

Mr. BLACK. Thank you, Senator.

The CHAIRMAN. Senator Moss?

Senator Moss. Thank you, Mr. Chairman.

I am not sure I have any questions of Mr. Black. In examining his biography and also, in my knowledge of his service, I am very much impressed with the number of very responsible positions that he has filled at a young age in both the State and Federal Governments, and has done so with distinction.

I think he brings to the office for which he is now nominated a wealth of experience, and I would think at this point that he is

eminently qualified. I would look forward to his service as Under Secretary of the Department of the Interior, a most important position.

I welcome him before the committee here today.

Mr. BLACK. Thank you, Senator Moss. I appreciate that very much.

The CHAIRMAN. Senator Jordan?

Senator JORDAN. Thank you, Mr. Chairman. I enjoyed a meeting with Mr. Black earlier in the day, and we went over several things. I told him after our visit that I was going to vote for his confirmation, but there are several questions that I would like to ask for the record.

Mr. Black, what do you understand the duties of the Under Secretary of the Interior to be?

Mr. BLACK. The Under Secretary of the Interior, Senator Jordan, occupies quite a broad range of responsibilities. It is a position in which his duties really develop out of the Secretary's assignments to him. At least this has been the function pretty much in the past.

The statute is very broad with respect to his responsibilities. He is essentially the No. 2 man. He can act as a kind of a general manager or executive assistant.

In the absence of the Secretary, the Under Secretary automatically acts as the Secretary of the Interior. I believe that the relationship between individual Under Secretaries and individual Secretaries will probably differ somewhat from case to case, but I look forward to working with Secretary Udall.

He has discussed this with me in a general sense, that he does not expect to carve out for me particular functions within the Department of the Interior in which I would become a specialist as such, but rather become as intimately familiar with the whole wide-ranging responsibilities of the Department as possible, and work with him.

This is, I realize, a rather vague answer to your question, but I believe that the position itself is somewhat vague of definition.

Senator JORDAN. I can understand how the relationship between the Sectretary and his Under Secretary might differ with individuals, but the possibility I would like to bring out is that this job is for the most part a job of administration, is it not?

Mr. BLACK. I believe that that is perhaps one way it can be characterized, Senator Jordan.

Senator JORDAN. As I looked over your record, Mr. Black, with all due prespect to your fine educational background and your legal and quasi-legal experience, I find it somewhat lacking in administrative experience with the exception of the 10 months you have been with the Bonneville Power Administration.

Have you ever had any administrative duties other than Bonneville?

Mr. BLACK. As general counsel of the Bureau of Public Roads I administered an office which, by comparison, of course, is infinitesimal in size—it consisted of about 50 people—two and a half years. It is true that as Commissioner on the Federal Power Commission administrative responsibility did not devolve upon me.

The Bonneville Power Administration position which I have filled has been a challenging one. I have not found the administrative duties to be onerous. I have not found them to be, if I may say so, beyond my ken. Basically administration requires the exercise of good judgment, and I hope that I possess that qualification.

I have, as you suggest, no long administrative experience as such in running a large department or a large organization, but I don't feel incapable, certainly, of undertaking that responsibility.

Senator JORDAN. The Department of the Interior is a widespread department with many facets, and many employees. How many employees does the Department have now?

Mr. BLACK. I am afraid I cannot tell you, Senator Jordan—many, many thousands.

Senator JORDAN. It is a long way from the 50 that you had the responsibility for in the Bureau of Public Roads, and a long way from the numbers you had under you in the Bonneville Power Administration; isn't it?

Mr. BLACK. The Bonneville personnel roster is in the neighborhood of about 3,000, Senator Jordan.

Senator JORDAN. A jump from that to over a hundred thousand is quite a jump.

Mr. BLACK. It is indeed.

Senator JORDAN. Thank you. I am going to vote for you.

The CHAIRMAN. Thank you, Senator Jordan.

Senator Hansen?

Senator HANSEN. Mr. Black, I share the admiration that Senator Kuchel has already voiced for your training and background. I note among your many activities that you served as Chairman of the Interagency Committee on Water Resources.

Would you tell me a little bit about that job?

Mr. BLACK. I served as Chairman of the Interagency Committee on Water Resources in an ex officio capacity as a member of the Federal Power Commission. It was pretty much, I guess, the predecessor to the Water Resources Council. When the Water Resources Council was formed, the Interagency Committee of Water Resources, familiarly referred to as Ice Water, came to an end.

The chairmanship rotated from agency to agency. The member agencies are pretty much those agencies now that comprise the Water Resources Council.

Senator HANSEN. Was it one of the duties of the water resources group to make an inventory of the water situation insofar as the country generally is concerned, or did it deal just expressly with the West?

Mr. BLACK. No, no; it was national in scope.

Senator HANSEN. Did the committee have any strong feeling about the situation in the West as regards the adequacy of water?

Mr. BLACK. To the best of my recollection, Senator Hansen, the committee did not focus specially on the adequacy-of-water question. We only met, I think, quarterly, and had rather formal agendas. The bulk of the work of the Interagency Committee on Water Resources was carried out through committees and task forces, and I don't recall the problem of water shortage or surplus as being something that we focused on, at least during the year that I——

Senator HANSEN. Were these properly subjects for consideration by the water resources group?

Mr. BLACK. I believe they were.

Senator HANSEN. Were there others that were more important?

Mr. BLACK. Than the problem of water shortages in the West?

Senator HANSEN. No; I don't mean in the West. I spoke about the West, but I wonder, what was the main thrust, what were some of the main objectives?

Mr. BLACK. The main objectives of the interagency committee were to make long-range river basin studies all over the country to determine total water resource needs, impact of changing situations on the ecology of a river basin, the effect of a growing population, and differing uses of water upon the Nation's water resources.

Senator HANSEN. And with that approach, did you say that you don't recall any particular consideration being given to the West insofar as water shortages are concerned?

Mr. BLACK. There were certainly important river basin studies underway in the West, and are now, in which this would have been a significant consideration.

Senator HANSEN. You served as Chairman for how long?

Mr. BLACK. During 1 year, in which time I believe we had four meetings.

Senator HANSEN. You don't recall anything of particular concern about the Southwest insofar as shortages are concerned?

Mr. BLACK. I would have to refresh my recollection to determine what emphasis was directed toward this problem, but I could easily recover the agendas for those meetings, and I would be happy to do so, Senator, if it would be of interest.

Senator HANSEN. Well, I appreciate your willingness to dig back into the record. Certainly that won't be necessary. I was just interested in what you recalled about it. I, too, happen to live in that large area that is known as the Pacific Northwest. Waters from my home State, Wyoming, drain into the Columbia River Basin.

Some of the studies on water resources, I think, have taken into account the total resources in river basin areas. Was this the case with this Commission on which you served?

Mr. BLACK. The total impact?

Senator HANSEN. The watershed, what is grown on it, the minerals contained therein, and that sort of thing?

Mr. BLACK. Yes, sir.

Senator HANSEN. What is your feeling generally as regards the future growth of this country and the development of the resources found in and under the public lands?

Mr. BLACK. I believe that there will be great growth, of course, in the population, and in the need for proper development and utilization of our resources, and the Department of the Interior's responsibilities are certainly great in this area, to seek the fullest, most optimum, and most economic use of our resources while maintaining the broader scope of proper conservation, and this is, of course, the main thrust of the Department's efforts.

Senator HANSEN. Would it be your feeling, Mr. Black, that a national policy can be evolved which will provide significant satisfaction of the public's demand for recreational opportunities and at the same time afford nearly full development of the resources contained in the public lands so as best to assure full growth of the country?

Mr. BLACK. This would be a principal objective, certainly, of the efforts of the Department.

Senator HANSEN. From what you know—not necessarily from your experience as a member of the Interagency Committee on Water

Resources—would it be your feeling that one of the critical needs of the West is the solution of a problem that results from growing demand for water on the one hand, and a rather static supply, or perhaps even a diminishing supply, on the other, with respect to the Pacific Southwest specifically?

Mr. BLACK. I am not quite sure that I understand your question, Senator Hansen.

Again, this is a problem of the wisest utilization of our resources whether in the Northwest or the Southwest, and we will be keenly and greatly interested in assisting toward the solution of that problem.

Senator HANSEN. Well, if I could rephrase it, let me say this: Would you agree that the problem that results from the growing populations and expanding needs for water in the Southwest vis-a-vis a rather constant or even diminishing water supply in the Southwest, is a very real problem, and one that we must come to grips with shortly if we are not to do real injury to the growth of that area?

Mr. BLACK. Yes, sir; I am sure it is a matter for very serious consideration.

Senator HANSEN. Would it be in keeping with your philosophy to work aggressively and quickly in seeking a solution to this problem?

Mr. BLACK. Yes, sir.

Senator HANSEN. I have no further questions, Mr. Chairman.

The CHAIRMAN. Senator Hatfield?

Senator HATFIELD. Mr. Black, I have followed some of your comments, particularly as they relate to questions put to you by Senator Kuchel and Senator Hansen.

I would like to go back a moment and ask you: When you were discussing with Senator Kuchel the electrical surplus that was being sent to the Pacific Southwest by the intertie, how did you answer the question as to whether or not there existed a surplus in this energy?

Mr. BLACK. Well, the surplus energy has resulted from spilling water over the dams on occasion in the Pacific Northwest, and we have felt that it made very good economic sense to utilize the energy which could be produced by putting this water through turbines, and to the extent the power can be sold in the markets in the Southwest, this will go a long way toward eliminating that surplus of power.

Senator HATFIELD. But all of the needs of the Pacific Northwest were being met?

Mr. BLACK. Water years, of course, vary, and so we are interested in selling surplus power when we happen to have good water years, but the needs of the Northwest must be met before the power is considered surplus.

That is the definition of surplus so far as the Northwest regional preference provision treats it.

Senator HATFIELD. Surplus to the existing needs?

Mr. BLACK. Surplus to the needs.

Senator HATFIELD. What about the matter of future needs of hydroelectric energy?

Mr. BLACK. Future need for power in the Northwest?

Senator HATFIELD. As it relates to this whole intertie concept.

Mr. BLACK. As it relates to the intertie, as the markets grow in the Northwest and require greater electricity, then the power is withdrawn, and is no longer surplus. It is only when all of the needs of the Pacific Northwest markets are met that that power is surplus, and it can be withdrawn, as you know——

Senator HATFIELD. Both for present and for future development?

Mr. BLACK. That is correct.

Senator HATFIELD. Now, Mr. Black, with respect to water, Senator Kuchel led you down a certain path of questioning, and then he inquired whether this philosophy would apply to the transfer of water in the Southwest. How do you measure the term "water surplus?"

Mr. BLACK. I don't know that I am qualified at this moment to identify or define water surplus, but again it would be to what the needs of the residents of the area are. Of course the water cannot be withdrawn easily once it moves south, and in this sense the flow of electricity and the flow of water differ, because electricity can flow both directions.

Senator HATFIELD. Precisely, but also is it not true that you can measure an electrical energy surplus at this time because we have the data, we have the statistics, we have all the evidence that can give us this kind of information and bring us to this kind of conclusion?

But is it not also true that we do not have at this time the data, the statistics and the evidence to define water surplus?

Mr. BLACK. I believe that this is true, Senator.

Senator HATFIELD. Is this not also the reason we have given the support we have to such things as the Western Governors Council on Water Study and Inventory, why various States such as Oregon are undertaking extensive water study programs, why there is the basin program with the Federal-State joint effort going on and why there is cause for a national water study program?

Are these not all reasons why, because we do not have such definitions to determine water surplus?

Mr. BLACK. This is my understanding; yes, sir.

Senator HATFIELD. I assume that with your background in this Interagency Committee on Water Resources that you will give continued leadership and push for the development of this kind of data so that we will know what we talk about when we blandly and, as I think many times, blithely use the term "water surplus."

Mr. BLACK. Yes, sir.

Senator HATFIELD. I also want to ask you one or two other questions.

Do you believe that it is in the public interest to prorate water and distribute it on a current basis, of current need and not of future need without certain protections for the areas of origin if we develop the concept that there is water surplus?

Mr. BLACK. Senator, this is, of course, an area in which the implications are very significant, and I don't know that I can give you a considered answer at this time.

Senator HATFIELD. I see.

Mr. BLACK. I would like to go into this position, if I am confirmed, with a completely flexible and open mind as to what the immediately current and long-range future treatment of our water resources should be.

Senator HATFIELD. I can assure you, Mr. Black, and to my water-hungry Senator colleague from California, that I am not approaching these questions from a regional viewpoint, but I feel if we are going to deal with this great issue of water and specifically as it relates to the Pacific Northwest, which has surface illusions that there is surplus water there, unless we move on the basis of what I call "water states-

manship" instead of political muscle, we are not going to solve it for all areas, and that is why I am keenly interested in pursuing the various studies to get the data, to get the information, so we can make our determinations on a scientific basis.

I am hopeful with your exposure and your background to Pacific Northwest problems that it not become a matter of parochial viewpoint that you would bring to the new position to which you have been appointed, but rather a unique background from which you can help solve this problem from a national viewpoint.

I have given support to the proposition that it is immoral to waste a surplus if there is an area of need. By the same token, I think we have to have this information before we move on any diversion programs or on any proposals that have been offered by at least 10 California engineering firms, and I don't believe this is the basis to approach the subject on—strictly on illusions or apparent ideas that there is a surplus, when there isn't. We need the definition of surplus.

I am delighted to welcome you here, and say we regret the loss of your services at Bonneville. And I hope you will bring your experience to bear in your new responsibilities.

Mr. BLACK. Thank you, Senator Hatfield.

The CHAIRMAN. Thank you, Senator Hatfield.

The Chair would like to observe that the House and Senate have passed the National Water Commission bill. We hope all of the Nation's water problems and policies will be thoroughly reviewed and investigated by the Commission. There are no limitations on what this Commission can do.

The Chair would further like to observe that even if there is a surplus water situation in one area, it does not follow that you necessarily commence a diversion program. I think that it is necessary to look at the economic aspects of these proposals. There might be alternative solutions. We might have a surplus in a given area, but the mere existence of the surplus in itself would not warrant the conclusion that you start building a multimillion dollar diversion scheme.

Senator KUCHEL. Would the Chairman yield for a very brief comment?

The CHAIRMAN. I know it will be brief.

Senator KUCHEL. I think, Mr. Black, you are going to want to use a phrase that is well known in the State Department "fuzz-up" in one of your answers to my able friend from Oregon.

My recollection is that you said, without qualification, that there was no means available now to determine whether in a given instance there was a water surplus or not.

If you did say that, I urge you to indicate to the members of this committee that that is not quite what you had in mind. California, in may respects—if my able friend from Oregon will let me say so—is a microcosm of the Pacific Northwest and Southwest together, and we have surplus waters on occasion in the South, and we have, as part of the constitution of our State, provisions which deal with the use of surplus for the public good with protection, with what is deemed reasonable protection to areas of origin. So I simply say to you that, in my judgment, there are techniques which can determine whether or not 106 million acre-feet of water a year——

The CHAIRMAN. 180 million.

Senator KUCHEL (continuing). Yes; 180 million acre-feet of water a year rushing into the Pacific Ocean could, with God's good grace, be determined to be surplus to the area from which it flows.

Do you not believe that it is possible to come up with a reasonably and substantially correct judgment on whether there are water surpluses for the area of Oregon?

Mr. BLACK. I believe eventually that will be the case, Senator Kuchel.

My response with regard to the determination of surplus looks toward the determination of electrical surplus which has become a much more exact science. The load and resource studies which Bonneville and the Northwest utilities conduct on a year-to-year basis are pretty accurate, and they are using the kind of parameters and kind of guidelines that lend themselves to that.

I am not a water expert. I am not a student at this moment of the myriad considerations of whether a surplus exists or even what a surplus exists or even what a surplus means. A surplus of water can, as I understand it, mean a great many things, and the bare fact that water flows into the Pacific Ocean does not make it surplus.

All rivers eventually end up in the sea. I really feel somewhat at a disadvantage, as I am sure you have ascertained by now, in discussing in depth the implications and all of the considerations which go into this great problem of water surplus, and water need.

I am really not trying to be evasive. I am simply indicating to the committee that my knowledge is not sufficiently developed on the full range of water-use problems so I can be fully responsive.

Senator KUCHEL. I quite understand. I do want you to understand that there have been instances, and my State is one of them, in which that problem was met by men of good will, men of reason, and an agreement was reached on how to measure water which was surplus to the area in which that water originated.

Mr. BLACK. This was in your State, Senator? Was this an interstate question pending?

Senator KUCHEL. There was no interstate problem involved.

Mr. BLACK. Again, what surplus water is, I am not that persuaded that I know.

Senator KUCHEL. But you would concede, would you not, that there is a means scientifically to determine that fact?

Mr. BLACK. I don't know that all people who were studying the water problem would agree what those scientific means are.

Senator KUCHEL. Right.

Mr. BLACK. I would suspect that eventually that will be agreed upon.

Senator KUCHEL. I do want to say to my friend from Oregon, for whom I would vote for enthusiastically could I be one of his constituents, that I do not understand his use of the term "political muscle," because I didn't observe much political muscle from my point of view here in the last few weeks.

Senator HATFIELD. May I respond?

The CHAIRMAN. On a point of personal privilege?

Senator HATFIELD. Mr. Chairman, I would like the privilege of brief response because I know our colleague from California is terribly sensitive about this matter.

The CHAIRMAN. And modest.

Senator HATFIELD. And modest.

The question of political muscle does not have any application, perhaps, to Senator Kuchel. I am just talking in general terms about resolving interstate problems. We come to the Federal Congress and note that California today has more votes in the House of Representatives than all the other Western States put together. I would hate to see this resolved in a political arena.

The reason I introduced to the Western Governors' Conference in San Francisco when I was Governor a resolution to cause to be created a Western Water Council was to develop the very data which does not now exist so that we can get our definitions. The reason why I caused to be introduced in the Oregon Legislature a provision for, and why we are undertaking, a million dollar water study program is to develop the very data and information so that we can get these kinds of answers rather than resolve the problem through the exercise of political muscle in a political arena.

I think this is something all of us want to accomplish, but we can't do it without the data and the information required to make the study.

I used to say to Pat Brown when he was Governor of California, and in our Governors' conference when he used to jibe us about getting more water, "In time of flood, you can have all the water you want. Come and get it." But you cannot measure that over 365 days of a year. There is a myth that it rains every day in Oregon.

I want to say to you that I never recalled when we were rained out on a Fourth of July celebration in Oregon as we were in Washington.

I never saw so much rain in July until I came to Washington. One major section of Oregon gets less than 10 inches of rainfall a year, and this is true in the State of Washington as well.

I think we have to destroy some of these myths that are based on misinformation, and I think the way to get this information is the procedure I have outlined.

Senator KUCHEL. I agree with my able friend that the procedures are necessary, but I do want to observe when I offered an amendment to the Arizona bill to provide that the Western Water Council, composed of the Governors of the Western States, along the lines developed by my able friend, who initiated it, an amendment which would have them pass judgment on the availability of water from another area, my amendment didn't even get off the ground. It is still on the ground.

The CHAIRMAN. I would like to comment briefly on that.

Senator KUCHEL. And the Chair helped to keep it on the ground.

The CHAIRMAN. For the obvious reason that the last thing we wanted to do was to put a section in the bill that would be completely impotent. The Western Water Council, as I understand it—and my friend from Oregon will correct me if I am in error—can only act on the basis of unanimous consent, and my able friend from California would commit to this commission the futility of trying to carry out an act that obviously they could never carry out. I certainly understood the situation and the circumstances under which the amendment was offered.

Senator KUCHEL. That is very gracious of the Chairman, and all I want to say is that I have much hope, Mr. Black, that as a citizen of the United States you will be undeterred by any sectionalism in making your decisions, but you shall occupy a position of supreme

importance and high sensitivity, and you are going to have to make your judgments in this field of water on the basis of the national interest.

Mr. BLACK. I understand that; and I assure you that that would be my intention.

Senator KUCHEL. I am sure of that.

The CHAIRMAN. The Senator from California is aware that he spent 4 years at Stanford——

Mr. BLACK. Just 1 year, Mr. Chairman.

Senator KUCHEL. Do you want to correct your statement?

The CHAIRMAN. We should have collaborated more before this meeting.

Senator Church?

Senator KUCHEL. Here comes another Stanford——

Senator CHURCH. While the Senator from Oregon was exploding myths, I wonder if he would like to comment on the allegation that the people of Portland have webbed feet?

Senator HATFIELD. No; but they all wear roses.

Senator CHURCH. Mr. Black, we do have some things in common, I am happy to note, Stanford being one of them, and I notice you have no stocks, bonds, or other securities. You and I are equally impecunious.

You will be a wizard, indeed, if you can reconcile the divergent views that exist on the problem of water diversion that exist on the Republican side of this committee when you become Under Secretary, but I am wondering about another question. It is a question that I know is of concern to Idaho, with which you have had some direct dealings as Director of the Bonneville Power Administration.

I know this is a matter of concern to my colleague, Senator Jordan, too, and that is the prolonged negotiation between the BPA and the Idaho Power Co. looking toward a wheeling contract.

This has been going on 2 years or more. I wonder if you could tell the committee this morning what the status of those negotiations might be, and what the prospects might be for entering into a satisfactory wheeling agreement that would finally put this matter to rest.

Mr. BLACK. Yes, Senator; I would be glad to try to summarize it.

The Department's position, Bonneville's position, has for a long period of time been that the preference customers in the marketing area, whether they are existing or potential future preference customers, must have an opportunity to take Bonneville power, that it should be available to them when they are legally able to take it.

The two alternatives that presented themselves: an agreement with Idaho Power Co. to carry Bonneville power on its lines, or the construction of a Federal line into the area.

Both Appropriations Committees have, on two or three occasions, directed Bonneville to attempt to work out a wheeling agreement satisfactory to meet its obligations and the requirements of preference customers in the area.

Up to a few months ago, there were many problems separating Bonneville and Idaho Power Co. Utah Power & Light Co. is also involved in these negotiations. There were many points separating them.

The principal ones were the companies' refusal to provide more than surplus capacity. They have since agreed to provide firm ca-

pacity. Their refusal to recognize that future preference customers in the area should likewise be entitled to Bonneville service, they have since relinquished their insistence that there is a distinction between existing and future preference customers.

The principal item which now separates Bonneville and the company from agreement is apparently a rather technical one which involves definition of the scope of the marketing area.

We have felt that the Congress in defining the marketing area and providing a very specific definition of what the Pacific Northwest consists of should be the determinant of Bonneville's marketing area for purposes of entering into a contract with Idaho Power Co.

We feel that a wheeling agreement, since it is an alternative to Federal construction, should provide substantially the same benefits that a Federal line would provide.

At the same time, it would give Idaho Power Co. revenues for wheeling and it would save the Federal Government a very substantial investment in facilities, so we feel it is better for everybody concerned if the customers to whom we have the responsibility are included within the scope of the agreement.

Senator CHURCH. Do you think it is going to be possible to reconcile the remaining differences, and are you reasonably optimistic that a contract can be entered into in the near future?

Mr. BLACK. Well, I have expressed optimism in the past as we were making progress, and as both sides made substantial concessions I have each time felt more optimistic.

I do not know whether this is the final sticking point or not. We are still working on it, and I have been in communication with the Chairman of the board of Idaho Power Co. quite recently.

Senator CHURCH. As Under Secretary, familiar as you are with this negotiation and having personally participated in it, will you continue to exercise an oversight and do all within your power to move it along to a final consummation?

Mr. BLACK. Yes. Bonneville and the Department of Interior are very much concerned about this long delay, and I would continue to do what I can to assist in resolving the controversy. It has been very troublesome.

Senator CHURCH. Thank you very much.

The CHAIRMAN. Any further questions?

I have received a statement from my colleague, Senator Magnuson, endorsing Mr. Black's nomination. It will be included in the hearing record at this point.

(The statement referred to follows:)

STATEMENT OF HON. WARREN G. MAGNUSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

I am pleased and proud to add my endorsement to the President's nomination of David S. Black of my home state to be Under Secretary of the Interior.

The Department of the Interior has a mission that is rapidly becoming one of the most important this Nation faces—namely, the preservation and enhancement of the environment. It requires tremendous imagination and vision to perceive the task and superb talents of innovation and administration to meet and master it.

The Northwest is understandably proud of the caliber of men it has made available for this tough assignment. Charles F. Luce, although he served only a short period before being pre-empted by a discerning private industry, demonstrated his firm grasp of the challenging Interior assignment and made a record of real distinction.

Mr. Black, with his legal background and his service as a member of the Federal Power Commission and Administrator of the Bonneville Power Administration, is a worthy successor.

In a Department on which the Nation leans so heavily for enlightened management of natural resources, Mr. Black's understanding and experience weigh heavily in his favor. He began his apprenticeship in public service in the State of Washington as assistant attorney general and counsel to the Public Service Commission.

His Federal service began in 1961, as General Counsel in the Bureau of Public Roads, where his grasp of public affairs and creative abilities prompted his appointment to the Federal Power Commission.

The Northwest was happy to welcome him back last year as the Bonneville Power Administrator and will be sorry to lose him so soon to higher duties. But we are becoming accustomed to this sense of mingled pride and loss, as we see men like Charles Luce and Dave Black moved up into assignments that demand their exceptional talents.

As the administrator of Interior's largest power-marketing agency, Mr. Black has demonstrated the ability to work in close harmony with the Secretary of the Interior. This harmony of minds and personalities is an essential factor to be considered in filling the position of Under Secretary and again, Mr. Black has shown that he has the qualifications.

It is with the greatest satisfaction that I endorse the President's nomination of David S. Black as Under Secretary of the Department of the Interior.

The CHAIRMAN. The committee will go into executive session to act on the nomination.

(Whereupon, at 11:30 a.m. the hearing concluded and the committee went into executive session.)

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