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HEARING BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-FIRST CONGRESS

FIRST SESSION

ON

THE NOMINATION OF HARRISON LOESCH, OF COLORADO,
TO BE AN ASSISTANT SECRETARY OF THE INTERIOR FOR
PUBLIC LAND MANAGEMENT

APRIL 1, 1969

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UNITED STATES SENATE

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(11)

NOMINATION OF HARRISON LOESCH, OF COLORADO, TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR PUBLIC LAND MANAGEMENT

TUESDAY, APRIL 1, 1969

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

The committee met, at 10:10 a.m., in room 3110, New Senate Office Building, Senator Alan Bible (acting chairman) presiding.

Present: Senators Church, Moss, Metcalf, Allott, Jordan of Idaho, Hansen, Fannin, and Hatfield.

Also present: Jerry T. Verkler, staff director; Stewart French, chief counsel; James H. Gamble, Roy Whitacre, Porter Ward and Denny Miller, professional staff members; William J. Van Ness, special counsel; Charles Cook, minority counsel, and Klaus Wiebe, assistant minority counsel.

Senator BIBLE. Gentlemen, the committee will come to order.

This is the time that we regularly set a notice for a public hearing on the nomination by President Nixon of Harrison Loesch, of Colorado, to be an Assistant Secretary of the Interior for Public Land Management. The chairman of the committee, Senator Jackson, is out of the city and has asked me to chair this hearing in his stead this morning.

We have before us a biographical sketch of Mr. Loesch, and, without objection, I will direct that it appear at this point in the hearing record.

(The data referred to follows:)

DATA: HARRISON LOESCH

Family: Born Chicago, Illinois, March 10, 1916, to Joseph B. Loesch and Constance Harrison Loesch; Married to Louise Mills, June 19, 1940. Children—One son, Jeffrey H. Loesch, born June 14, 1946.

Education: Montrose, Colorado, schools; B.A., Colorado College, 1936; Denver University Law School, 1936-1937; LL. B. Yale University, 1939.

Military service: Enlisted Pvt. AUA, 3-1942; OCS, Field Intelligence training, commission 10-1942, assigned 314th T.C. Gp., 9th A.F., North Africa (1943), Sicily, England, France, Germany. Distinguished Unit Citation, Air Medal (Cluster) Discharged Major, 10-1945.

Bar admissions: Admitted to Bar, Colorado, 1939; United States District Court; United States Court of Appeals, 10th Circuit.

Professional associations: Moynihan & Hughes, Associate, 1930-1942; Strang & Loesch, 1945-1956; Loesch & Kreidler, 1956-1961; Loesch, Kreidler & Durham, 1961 to 1969.

Bar association memberships: Seventh Judicial District (President 1956) Colorado (Board of Governors 1950-1952; 1960-1963; President 1961-1962) American.

Organizations: Rotary, Elks, University Club of Denver, VFW, American Legion, Boy Scouts of America.

Politics: Republican.

Religion: Protestant (Preference—Episcopal).

Public land law experience:

As a Colorado lawyer, I have had extensive representational experience with the Bureau of Land Management and all phases of the Taylor Grazing Act, including process, procedure, administrative appeals and litigation covering rights and duties of permittees, exchanges, sales of isolated tracts, withdrawals, grazing districts, and homestead entries.

During the uranium boom of the 1950's, I became experienced in the AEC procedures involving exploratory permits, leases and claims on withdrawn lands, as well as the ordinary process concerning mining claims on open public lands. These latter are of course the same as lode mining matters which had already been a substantial part of my practice.

In connection with the establishment and enlargement of the Black Canyon National Monument, I have dealt with the hierarchy of the National Park Service on trades, purchases, re-surveys and other administrative procedures, and have been instrumental in effecting compromises which benefited both the public and the land owners.

Of late years, I have handled the procedures provided for granting title to small residential tracts to long-time occupants of invalid (or invalidated) mining or mill-site claims.

I claim expertise in Colorado water law, and have handled all phases of individual and ditch company appropriation procedures, development, and litigation. I have dealt with the Bureau of Reclamation, the Uncompahgre Project Association, and the Tri-County Water Conservancy District on administrative accommodations for development of municipal and rural domestic supply for the entire area. Water matters have become of particular moment with progress of Colorado River development upstream from Glen Canyon, and have intimate connection with the use and disposition of public lands in the entire 5-state area, so acquaintance with Bureau of Reclamation rules, regulations and procedures is pertinent.

I have handled negotiations for access roads to public lands and have participated in litigation concerning them. I have some knowledge of the procedures involved in obtaining licenses for transmission line rights-of-way across public lands, and the rules and regulations involved in the process of building access roads to private lands.

This experience has afforded me a reasonable knowledge of the organization, structure and function of the Bureau of Land Management, the Bureau of Reclamation, the Rural Electrification Administration, the Forest Service, the Geological Survey, the Land Office, the Bureau of Mines, and the state organizations which interact with and supplement them.

Senator BIBLE. Those of us who work on the Interior Committee know of the very great importance that this position has, because it deals with so many of the responsibilities for both the property and the people of the public-domain States.

He is the managing agent, so to speak, for more than 400 million acres of the public domain, and these vast acres have tremendous sub-surface values in the form of minerals and also tremendous surface values in the form of grazing and forest areas. Under this post also is the Bureau of Indian Affairs, with its responsibilities for approximately 600,000 first Americans, and the Office of Territories, which administers our offshore dependent areas stretching from the Virgin Islands out in the Atlantic to Guam and the Trust Territories on the edge of the Asiatic continent in the Pacific, and American Samoa in the South Seas.

These duties inevitably bring the Assistant Secretary for Public Land Management into direct "confrontation"—I will use that word because it is highly popular these days—with the Congress and with the public. For example, within the last few weeks this committee held quite intensive hearings on a matter that is directly within the jurisdiction of the post for which Mr. Loesch has been nominated. I

refer to our inquiry late in February this year into the sharp increase in grazing fees on the public lands proposed by the previous administration.

Also, we seem to have periodic confrontations with respect to public land withdrawals. It will be recalled that a few years ago the Department announced a sweeping withdrawal of all lands that might, in the future, become valuable for geothermal steam resources. This withdrawal, it was estimated, embraced some 89 million acres—undefined acres. Likewise, the land withdrawal in Alaska, growing out of native claims, has been the subject of discussion by the public and in the Congress.

So, too, with Indian Affairs, and, to a lesser extent, the territories and other off-shore dependencies. With respect to the latter, a United Nations Trusteeship Committee has taken occasion to find fault with this particular committee for the work it has done in that area.

In sum, Mr. Loesch, you will find that you cannot possibly please all of the people all of the time in your job. No matter what decisions you make, you are bound to displease a great many people, at least some of the time. The most you can hope to do is to "call them as you see them," and follow the law and the principles of equity and the public interest.

As a fellow lawyer, I am delighted to see a lawyer selected for this position. I think the problems you face are involved in law problems. I know your background in many of these areas in the West, in which we have wrestled with mutual problems of concern.

I want at this time to ask the senior Senator from Colorado, a colleague on the committee and ranking minority member, to make a statement and have him introduce to you the members of the committee who are here today.

Senator Allott.

Senator ALLOTT. Thank you, Mr. Chairman.

You have done a very good job of setting out the broad implications of this particular position.

It is my distinct pleasure to present to the committee this morning, and to you, Mr. Harrison Loesch, who has been nominated by President Nixon to be Assistant Secretary of the Interior for Public Land Management.

I have known Mr. Loesch for many years. In fact, it is rather hard for me to remember when I did not know him. He has been the leading citizen of the charming western Colorado community of Montrose since before World War II, in which conflict he served in the Air Corps for this Nation, throughout the North African and the European campaigns.

Mr. Loesch has continuously been engaged in the active practice of law except for 3½ years when he was in the Air Corps, since 1939, the year he received his law degree from Yale University. Mr. Loesch is held in high esteem, not only in his community, but also by his other professional colleagues in Colorado.

In 1956, he served as president of the Bar Association of the Seventh Judicial District of Colorado. In recognition of his professional status, he was elevated to the presidency of the Colorado Bar Association in 1961, and served until 1962. He has been active in many civil and veteran organizations, and, in many ways too numerous to mention here, he has served his community and his Nation well.

After nearly a lifetime of devoted community service, I believe Mr. Loesch will bring those same qualities to the high post to which he has been nominated and will serve the Nation with even greater devotion and energy. But beyond this, he will bring a quality which seems to have become unique in recent years, that is, the experience of having sat on the other side of the table, as his biography shows.

Mr. Loesch's experience has given him a good understanding of how regulations and land laws affect people. To me, perhaps this is his most important qualification, and will be a significant factor in the wise administration of the many responsibilities of this important office.

I am very happy to see here also this morning—and it is more than a happenstance—an old friend of mine, and an old friend of Mr. Loesch, Richard Schmidt, whose presence we note and are happy to see him in support of this nomination.

I am very happy to introduce Mr. Harrison Loesch to this distinguished committee, upon which I have had the honor to serve for the past 12 years, and to unqualifiedly recommend your favorable action upon his nomination.

I want to say, Mr. Chairman, that my acquaintanceship with him extends not only to Mr. Loesch, but to his wife, Louise, and to his son Jeffrey, whom I have known literally since he was born.

Senator BIBLE. Thank you very much, Senator Allott. That was a very fine introduction and I am very delighted to welcome you to the witness chair right here, Mr. Loesch.

It is a real pleasure to have you with us this morning, and we are very pleased to note your broad background and experience in the problems with which you are going to become even more and more interested and involved.

I am always intrigued by a lawyer who is very happy with the great West and wants to come in and tackle the intricacies and the redtape of Washington bureaucracy, and if you have any particular philosophies on that I would be happy to hear you expose them. Say anything you care to say. Your biography has been made a part of the record, and I am sure members of the committee will have some questions they will want to develop as we go along.

I am also intrigued as to why you want to leave this great big Rocky Mountain area and come into the canyons of Washington for service and devotion to duty. You will have your work cut out for you, and if you can straighten out the Indian and land laws, and mining laws of the United States, we will be erecting monuments to you.

So, I hope you are aware of the challenge. Undoubtedly you are, because, as Senator Allott has so well said, you have worked with some of these problems on the other side of the table and you know what some of them are.

Welcome.

Mr. LOESCH. Thank you, Mr. Chairman. So far as my philosophies are concerned, I suspect you may go into that with a little greater depth. I may say to begin with, I look on this as a tremendous challenge to me personally.

I have never had any experience with the intricacies and redtape, as you call it, of the Washington scene. I hope that I am a "fast study," as they say in the theater.

Senator BIBLE. You have not had any experience with them in your past?

Mr. LOESCH. Well, in the departments at the lower level, in an adversary position.

Senator BIBLE. Of course, that is where most of us get involved, in the adversary position. But I am glad to see you are a man with a broad base of experiences.

I would be happy to have you proceed and make any statement you want to. If you would rather subject yourself to questions, you are a lawyer, tell us how you wish to proceed.

Mr. LOESCH. Mr. Chairman, I do not believe I have any particular statement to make.

Senator BIBLE. Why not tell us about your experience in the field of public lands.

Mr. LOESCH. My experience in the field has been confined to the mining laws of Colorado, and the departmental hearings and matters in that connection. The Taylor Grazing Act, of course, I grew up with, and many of my clients have been involved in departmental hearings and we have reviews up to the level of the Secretary.

Some of these, of course, have been involved with trespass and grazing matters. Some of them have involved such things as rights-of-way, both to private land across the public domain, and to public domain across private lands, which has been a rather active field of late.

As you know from my résumé, I have handled this sort of thing throughout my professional life. I do think that I have a pretty good understanding of the economy of the entire Mountain States with regard to the livestock industry. And, of course, I am much interested in the Bureau of Land Management rules and regulations, and the statutory basis for those rules and regulations.

Senator BIBLE. Do you have any opinion as to the highly controversial question of the grazing fee raise that was just recently imposed, first by the outgoing Secretary of the Interior, Secretary Udall, and later adopted and continued in operation by the present Secretary? During the time he was questioned on his own nomination, he indicated he was going to make a very thorough study.

Just as a personal observation, the thing that bothered me most with the imposition of that grazing fee, which I thought was too high, frankly, in view of the economy of the livestock industry at the present stage in our history and the difficulty of having and sustaining an operation that was a going concern, at least in my own State, and I think it was true of others as well; but the thing that primarily concerned me was it took such a flat, positive mandate for so many years of gradually stepping up the grazing fee.

I would think no matter who it is, whatever, administration happens to be in office, I cannot see how they can forecast the future that accurately. I want you to know, as you probably do know, that this is presently being reviewed under the statement of the Secretary of the Interior, that he was going to go very carefully into it.

I do not know whether you have any ideas on this or not. I am not trying to put you on the spot; it is a highly delicate and sensitive area.

Do you have any feelings about this particular grazing fee?

Mr. LOESCH. Mr. Chairman, I do. I, of course, subscribe to Secretary Hickel's statement that he was going to make a very deep and as fast a review as he could of this entire situation.

The people that I am acquainted with are more or less of your opinion that the first jump is too high, but as I understand it, part of my job is to follow the law that was the law when I was suggested for this post.

I have already, or I should say my office has already, received instructions from Secretary Hickel that when and if I am confirmed, the study of this grazing fee situation is to be one of my first orders of business. And, believe me, I am all for that.

Senator BIBLE. Well, naturally, that is the type of answer I would think a good lawyer would give, because I cannot expect you to resolve this before you have taken a look at it.

You did say when you came in it was already the law. I think probably what you meant was it was already a matter of regulation, when you were asked the question, rather than the law. This is not written into statutory law.

Mr. LOESCH. Regulation, right.

Senator BIBLE. The only hope I would express, I would urge you to do this at a very early date so it can be resolved, so the people in the industry particularly will know how to govern their future actions. I would certainly hope that you would study this at your very earliest opportunity.

You are familiar with the land classification law which was passed by the Congress 3 years ago?

Mr. LOESCH. Yes, sir.

Senator BIBLE. Do you have any particular feelings on that?

Mr. LOESCH. Only that the classifications should be—and I am certain are—open to necessary revision as the requirements of the mission will determine.

Senator BIBLE. Well, do you have any opinion as to whether or not these classifications are of a temporary basis or permanent basis, under the present law under which we are operating?

Mr. LOESCH. Mr. Chairman, I have an opinion that the theory of land classification—I am not very knowledgeable in this particular area—I have an opinion that land classification should be a continuing study.

I am afraid that is not responsive to your question.

Senator BIBLE. It may be that you do not have complete familiarity in your practice of law in your land problems, that you have never encountered this.

But one of my concerns has been that I have felt the law, and the law is rather clear, when you read it together with the legislative history, this classification law was temporary in nature and it was defined at a time when the Public Land Law Review Commission was just being created to perform a function to try to make some sense out of all the land laws that we have, and that it would not be a permanent thing.

I hope you study this very closely with that in mind, because I think there is something from the opinions of the past administration and

the Interior Department and some legal opinions, that these are to be permanent classifications.

I have never even personally felt that was the case, or that was the law per se, or that is what the legislative history backed it up to say. But I would think in fairness, if you are not familiar with this area, that again you should study it as soon as you can.

Mr. LOESCH. Well, Mr. Chairman, this is what I meant by saying that I thought that the classifications are open to change as the necessities and the development of our Nation require.

Senator BIBLE. Yes. One of the things I think all of the Members of Congress, no matter what side of the political aisle at all, will find this true. Maybe in other departments, but I think it is particularly true of the Interior Department, there is a tendency on the part of whoever is in charge of the Interior Department to try to legislate by regulation, rather than coming to the Congress and seeking guidance when you have problems that really require hearings and require some statutory law and require some congressional guidance, rather than trying to move in to controversial things by regulation.

That was my feeling, and I hope it is one which you share, because I think many, many times that those of us who are elected here to serve and represent our constituency, represent the people of the Nation, are constantly confronted with law by regulation, rather than by the statutory enactment. I think that is a bad tendency. I hope you will be very careful in moving into that direction.

I think you know what I am saying.

Do you have any feeling as to land withdrawals? You know what I mean?

Mr. LOESCH. Yes, I do.

Senator BIBLE. It has been in the headlines and I am not going to tell you what I feel. I do not want you to agree with me; say what you think.

Mr. LOESCH. Regarding land withdrawals, of course, I guess the big area in which I have a little knowledge at present with regard to land withdrawals is the Alaskan situation. But, of course, we have been faced in western Colorado with land withdrawals for various purposes in the past, and I have no quarrel with the theory that for temporary purposes lands might be withdrawn for some particular reason.

I have in the past, let me say, had some quarrel with particular instances or particular attitudes with regard to particular land. So far as the idea of withdrawing a territory for study purposes is concerned, and then a determination of the proper use of that land, I think it is required.

Senator BIBLE. Very well.

Based on your experience as a lawyer, do you have any feelings as to the mining laws under which we operate today? Do they need change? Should they be worked over? A good deal of your practice, as I understand your experience statement here, was in the mining law.

Mr. LOESCH. Yes, Mr. Chairman. I have done considerable work in that field. And I think that while I am not too aware of what is presently going on—if there is a plan to overhaul mining laws in general—I can say that in my own experience the Colorado mining law,

with which I am much more familiar than I am with the Federal provisions, has worked very well on the whole.

It does need some bringing up to date, and I would suppose that the entire relation between the States and the Federal Government in this area could use some streamlining.

Senator BIBLE. Well, I suppose that is generally true in my State of Nevada, in which we have a fine mining State undergoing a great boom at the present time.

It does seem to me my own basic philosophy is the general mining laws of the United States have worked very well. We have not only statutory law amending the Federal statutes, but we have case law built up by the court system of the country. So that the man who is locating the claim knows exactly what the rules of the game are.

I think, in general, that has worked very, very well. There have been some abuses that possibly the Congress itself has been a little slow in remedying. For example, where a man holds a cabin site on a mining claim. I am sure you have had that happen in Colorado. I know it has happened in Nevada, where the fellow has located with no intention to validate his claim or make it a producer.

It is a nice cabin site and located on a mining claim. That type of thing was never foreseen when the mining law was designed and I think there is an abuse of the mining law. But I think in general it has worked very, very well.

Mr. LOESCH. Mr. Chairman, you have the opposite side of that coin sometimes. I have dealt with problems in which a family thinking it owned the property has lived on a mining site, for example, for 50 years or more. True, it was not handled properly to begin with, but once in a while—I am not suggesting that people should go out and locate such an area for a cabin site—but once in a while you come across a situation where you have an old settler who is living on an unpatented mining claim and in that case, you have to have enough flexibility, I think, so that you can do what is fair with that man and allow him, if it is really a long-time matter, to purchase the property. Of course, we have provisions for that.

Senator BIBLE. Correct. I do not know whether the problems of Lower Colorado have been resolved or not, but that was a somewhat similar problem where they had all of these squatters who developed ranches and developed valuable property and had no title to it. That presented a very pathetic type of problem, one of which the title was very shaky. So that is one of the problems.

I think I have no further questions at this time.

Senator Allott.

Senator ALLOTT. I have one or two matters. They are along the general line of the chairman's, on this matter of grazing fees under the Taylor Grazing Act, et cetera, and livestock leases.

The change in the regulation was made quite recently. My recollection is January 14.

What is your feeling, Mr. Loesch, with respect to such a matter, as to whether such a change should be made by regulation or by the Congress?

Mr. LOESCH. Senator Allott, I have to say that I believe this should be a matter of congressional action.

Senator ALLOTT. Well, on that matter—and we have had rather excellent hearings before this committee on that matter—there are three things that affect this, as I see it.

One, there is a case now pending in New Mexico which has the possibility—I will not say it will but it has the possibility—of completely vitiating the Secretary's action in January; No. 2, there is the commitment of the Secretary when he appeared before this committee for confirmation, to institute very quickly a rapid survey or re-survey of this whole question, and the chairman referred to that; and No. 3, there is the situation where the Public Land Law Review Commission will review this matter and report fully on this matter when it files its final report in the summer of 1970.

I am not asking for a commitment from you, but do you not think in the resolution of this matter that some consideration ought to be given to holding this matter in abeyance until the Public Land Law Review Commission has an opportunity to report on it and make its recommendations to Congress?

Mr. LOESCH. Yes. I do not believe that it is possible to just stop the merry-go-round completely and not take action to fully administer the public lands in the interim.

At the same time, it does appear to me that where the Public Land Law Review Commission is making an in-depth study of the entire matter, there is not all that hurry about the fee situation.

Now, of course, Secretary Hickel has already made his stand very clear before this committee on what he intends to do about it. I am under his direction and I may say that the office in which, if I am confirmed, I will spend my time, is getting pretty well stacked up with directives and so on, to get busy on this very thing and advise the Secretary what should be done prior to the report of the Land Law Review Commission.

I, certainly, as I told the chairman, intend to bend my best efforts in that direction as quickly as possible, if this committee sees fit to confirm me.

Senator ALLOTT. I have one question I would like to ask you about the oil shale, and I am not going to ask you what you would do about it, because I am not sure that I know exactly which step I would take first if I were going to resolve it. But I believe you told me privately you had never been involved in any oil shale questions; is that correct?

Mr. LOESCH. That is correct, Senator. I never have.

Senator ALLOTT. There is this situation, as you know, where thousands of acres of land have a questionable title. There are many people who have made locations or whose antecedents made locations and who have not been able to procure a patent, while there are many people who sit in exactly the same factual situation who have secured patents.

I do not know whether you are aware of that.

Then, of course, more recently, in the last 2 or 3 years, we have had the applications for sodium leases under the Mineral Leasing Act, for nahcolite and dawsonite which were not acted upon, and when they were not acted upon various individuals overfiled and attempted to make locations for dawsonite and nahcolite as minerals.

This is a very complex and most difficult situation, and the only ones that I know who have ready answers to it are those who know nothing

about it. However, I would like your assurance that you realize that the solution of this—the clearing up of these titles—is not only necessary for the individuals, but it is also necessary for the Federal Government if there is ever going to be any possibility of shale development, and that within the appropriations that are provided for by the Congress of the United States, you will push this with all possible speed to help clear up this fantastic legal tangle.

Mr. LOESCH. Senator Allott, of course, it behooves me not to have a ready answer to the question, except that you do have my assurance that I will do so to the best of my ability in my position.

Senator ALLOTT. Thank you very much.

Senator BIBLE. Senator Church.

Senator CHURCH. Mr. Loesch, 2 or 3 weeks ago the Public Land Subcommittee, of which I am the chairman, held 2 days of hearings on the matter of the proposed increase in grazing fees. During those hearings, we heard from many affected cattle and sheep owners in the Western States, and several questions concerning the propriety of the increase and its legality under the standards set down by the Congress arose. These questions we have sent to the Solicitor for his legal opinion and we were assured by representatives of the Department that the whole matter would be taken under advisement and that the record of these hearings would be looked at very carefully in a general reappraisal of the proposed increases.

Now, that record is presently being compiled and will soon be submitted to you. I would like to know what chance you have to look into this question and what your own attitude is concerning the ongoing review of the matter, particularly in the light of the hearings that we have just recently had?

Mr. LOESCH. Senator Church, I must tell you that I arrived in the Nation's Capital only some 6 days ago, and unfortunately have not seen the record of your hearings.

My responses to the chairman's and Senator Allott's questions on the fee situation are the result of my own ideas and my examination of Secretary Hickel's commitments before this committee. However, I may say that my own ideas appear to jibe very well, as indeed they must, with the Secretary's.

As I said, I intend to give fast and as able study as I am capable of to this question as one of my first orders of business. I think it is vital to our livestock industry, quite frankly.

Senator CHURCH. I think that is all we can ask of you at this point. But I do call your attention to the fact that the printed hearings will soon be available. I would hope that you and those under your direction would look very carefully at this testimony, and that we can soon have the benefit of the Solicitor's opinion on the legal questions that have arisen. I sincerely hope that you will work closely with the subcommittee in attempting to resolve this problem.

Mr. LOESCH. Senator, I will see how I can influence the Solicitor, and I will cooperate with the committee.

Senator CHURCH. Very well.

That is all I have.

Senator BIBLE. Senator Moss.

Senator MOSS. Thank you, Mr. Chairman.

Mr. Loesch, the Trust Territories would come under your supervision; is that correct?

Mr. LOESCH. So I am informed, Senator Moss.

But let me continue by stating that at this moment I have no competence about the Trust Territories, and all I know is that we have a very severe question with regard to them.

Senator Moss. One of my prime concerns that I would make a brief inquiry about is your attitude toward expediting consideration of the status of the Trust Territory, a matter that has been rather festering and needs attention, in my opinion, very promptly.

Mr. LOESCH. Senator, of course, I am already beginning to become concerned that I will not be able to do everything at once. But I assure you that the matter of the problems in the Trust Territory is already receiving attention in that office. Now, I have not been able to review it myself, I do not really know anything about it, except that we have received severe criticism from the United Nations, and something ought to be done. I trust that we will be able to get something done as soon as possible.

Senator Moss. It is your intention to move as expeditiously as possible in resolving this matter of the status of the Trust Territory?

Mr. LOESCH. Yes, sir; I understand from the little I do know that it is what I would call a hotspot, and I think perhaps the first duty of an administrator is to take care of the hotspots.

Senator Moss. Thank you, Mr. Loesch. I have listened to the other questions and your responses and reviewed your biography. It appears to me that you are very well qualified to take over this position, as far as I am concerned, I am satisfied.

Mr. LOESCH. Thank you, Senator.

Senator BIBLE. Senator Jordan.

Senator JORDAN. Thank you, Mr. Chairman.

Mr. Loesch, I, too, want to welcome you before the committee. You come well recommended. Obviously, your experience has been like that of most of us on this committee in the West and on the continent.

The questions I would ask you about now have to do with Alaska, because the Senator from Alaska is not here, and it just happens that more than half of the acreage which has come under your supervision will be in the State of Alaska. A different set of conditions prevail up there than in the western part of the United States, the States with which you are familiar.

First, I would ask you, have you ever been to Alaska?

Mr. LOESCH. No, Senator Jordan, I have never been to Alaska.

Senator JORDAN. It will be a new experience for you, and one you will be doing shortly, I am sure.

Perhaps you know that Senator Jackson, the chairman of this committee, has indicated that extensive hearings will be held this session by this committee on certain native land claims in Alaska in the hope of resolving many of those claims.

It just happens that the native land claims total a greater acreage than is contained in the whole State of Alaska. So, obviously, there is a real problem here, one that, along with the many other problems of an emergent Nation, is in the nature of being an emergency, because many developments in Alaska are being held in status quo until the native land claims are settled. Were you aware of this native land claims situation in Alaska?

Mr. LOESCH. Yes, Senator, I was.

Senator JORDAN. Have you given it any study?

Mr. LOESCH. Very little. I have commenced a reading course, you might say, to acquaint myself with it. I have, of course, read with care the evidence, the testimony of Secretary Hickel before this committee, on the occasion of his rather extensive confirmation hearings. And, of course, I am aware of the commitments that he made in that connection and I am fully in accord with them. At the same time, I recognize that the progress of the State of Alaska is to some extent, perhaps a very, very great extent, dependent upon the resolution of these claims.

Senator JORDAN. It just seems that the various kinds of jobs that you inherit as you take over this agency are all in a more or less critical condition. I do not know how you are going to spend your time, but you have to spread it widely and well because you have a wide area to cover and time is of the essence, not only with respect to Alaska, but with respect to a lot of other matters as well.

I was going to go into the Indian situation, but my colleague from Arizona always covers that with great expertise, so I shall not encroach on his time.

I am happy to welcome you before the committee.

Mr. LOESCH. Thank you.

Senator BIBLE. Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman.

Mr. Loesch, I am certainly pleased to join my colleagues in welcoming you here. You have a very impressive record and I am glad to see you nominated for this position.

I am wondering if you will comment on the statements made in your record about, "Water matters have become of particular moment with progress of Colorado River development upstream from Glen Canyon, and have intimate connection with the use and disposition of public lands in the entire five-State area, so acquaintance with Bureau of Reclamation rules, regulations and procedures is pertinent."

How do you feel about the lower three Colorado River Basin States that are involved in this? We were very concerned about the position you may take on development in the lower basin.

Mr. LOESCH. Senator Fannin, sometimes I think too much is made of rather parochial problems between the Upper Basin States and the Lower Basin States, but I would say that I look upon the development of our Western States as a whole, that is to say, the Western States which are eminently concerned with the development of the Colorado River, as being really in a partnership.

The Congress has, in its wisdom, provided for that development along certain stages. You will recognize that water is not within my bailiwick, except as it may impinge on the administration of public lands.

Senator FANNIN. Yes.

Mr. LOESCH. I do not know whether I am being responsive to you or not, Senator. I feel, for instance, the development of the central Arizona project is a must.

Senator FANNIN. You are being very responsive, thank you.

Mr. LOESCH. I also believe that the development of the other projects on the Colorado River is a must.

Senator FANNIN. Yes; fine. I know you realize how vital it is to the Lower Basin States to have this development go forward.

Along that line, have you expressed any position on the 160-acre limitation in the Pelton Dam Act?

Mr. LOESCH. No, I have expressed no position on it; and, frankly, Senator, I do not know enough about it. I am aware it has caused trouble in my part of Colorado. But I just am not acquainted enough with the overall picture of the United States as a whole to determine whether it should be or should not be changed.

It would be my inclination that, considering the quality of the lands that are left for homestead, perhaps it ought to be changed, but I do not know.

Senator FANNIN. There is a proposal now before the Congress for changes in the acreage limitation law, especially by the California delegation. I imagine that this desire for change will be almost universal throughout the Western States.

Naturally, we realize the necessity for the limitation in the past, but a profitable farming venture in the small acreages is gradually disappearing. So we are, of course, very concerned in the State of Arizona, as they are in California.

Mr. LOESCH. Of course, Senator, I would want to do some study on it before I took a position. I just do not know enough about that.

Senator FANNIN. As the distinguished Senator from Idaho explained, I am very interested in the Indian situation. Since the BIA will be under your jurisdiction, you have probably been involved from a legal standpoint in some case concerning Indian matters.

Mr. LOESCH. Very little, Senator. I have had occasion, on two occasions, as a matter of fact, to be more or less peripherally involved in a situation that concerned the troublesome heirship question that has fractionated the ownership of Indian lands.

Senator FANNIN. That is still quite a problem in many areas of the country. The greatest problem that we have in the Western States, since I have been in Congress, has been the deprivation of the Indian people. They are our first Americans, but they are the most deprived of all Americans.

We have been trying to get some school programs carried forward and we have had some people very much involved in junior college programs and schools on the reservations. I think you realize that we have had quite a problem with the boarding schools, and, of course, we know that this cannot be corrected overnight. Have you had any experience at all or are you familiar with the problems we have had in the matter of Indian education?

Mr. LOESCH. Very little, sir. Very little, indeed. In fact, I should really say, nothing, except what amount of reading on the subject I have been able to do in the last 2 or 3 days.

Senator FANNIN. I think you would agree that, if we are going to give these people an opportunity and provide them with confidence, or help motivate them, that education is tremendously important along with the preparation for handling the jobs that might become available to them.

We have isolated the Indians in many instances on the reservation, and I am very hopeful that the new administration will assist in correcting this situation and will have programs that will cultivate the interest of the Indian people and economic programs that are beneficial. We still have a large percentage of the population on the Indian

reservations that are not educated and are probably living under greater deprivation than any of our other citizens. I do hope that you will look into this immediately, so that we can work together in doing something about it. I think it is one of the most serious problems we have in the country.

Mr. LOESCH. Senator, as I told you, I have very little knowledge on this subject. As a person, not a lawyer particularly, but just as a person, I would be inclined to the opinion that education for any person—I do not care what ethnic origin—is a must today, and I would think that a major effort should be made in that direction so far as Indians are concerned. I am aware generally that we have a great many apparently administrative, as well as philosophical, problems in connection with the Indian matters.

I would hope to talk to my people in the Bureau of Indian Affairs to study the whole matter, and as you say, during this administration make progress along the lines you suggest.

Senator FANNIN. We have an immediate problem with the establishment of a community college on the Navajo Indian Reservation. In fact, I was late to this meeting because I was talking to the president of the college, who is trying to obtain funds to go forward with a program whereby the Indian people will be the school board members and will administer the school program to the greatest extent possible.

He is not an Indian, although he is married to an Indian—Dr. Robert Russell, who is the president of the college.

The House Interior and Insular Affairs Committee is having hearings this afternoon and I am hopeful that you will be willing to look into this program because it is something that needs attention and we will either make or break the program with what we do in the next few weeks. I would implore you to inquire about it and see if you can be of assistance. It is the Navajo Community College on the Navajo Reservation. It would be for educating Navajo as well as other Indian tribal children.

Mr. LOESCH. Senator, I do not even know the extent of my authority or what I can do in this connection. But I will do my level best to look into this within the time limits you mention and find out what it is all about anyway.

Senator FANNIN. Thank you. I appreciate that very much.

Senator BIBLE. Senator Metcalf.

Senator METCALF. I have no questions.

Senator BIBLE. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman.

Another area of concern to my State of Wyoming, in addition to those which have already been discussed, is the matter of conflict between State and Federal jurisdiction over waters arising out of public lands. There have been a number of cases before the courts.

One, the *Pelton Dam* decision, takes the position that waters arising on Federal lands are the property of the Federal Government. The States are faced with this dilemma in a number of instances. New communities which have come into being, industry which has taken on some significant proportions and the agricultural economy are all dependent upon water which arises largely on public land.

In order to resolve this very vexing problem, legislation has been introduced and is now before the Congress, which would seek to define

some positive acts that would be required of Federal land administrators, so as to limit or to identify, at least, what the Federal requirement might be.

I would like to have your opinion as to the legitimacy of this sort of legislation.

Mr. LOESCH. Thank you, Senator Hansen.

First, let me say that as a sheer matter of personal training and knowledge and experience in the field, I am oriented toward the State having full control of its water resource. Pioneers came and made little ditches out of the river, used the water. Later they formed little companies that gradually grew and grew.

Later this was not enough, and through the Bureau of Reclamation, the Government got into the picture, so we would have more water in more places and make more of the desert bloom. But when the Government did that, it always had an organization such as my own Uncompahgre Valley reclamation project, which had a water users association which administered the water.

I am frank to tell you that this is the way I think it ought to be. Now, whether it is that way or not, and whether I can have influence on it or not in the national picture, I do not know. However, I am well acquainted, by the way, with the *Pelton Dam* case, and I would certainly subscribe to the type of legislation that you have mentioned, Senator.

Now, of course, I will in every way in my job, if I am confirmed, try to follow the law, whatever I may be best advised that the law is.

Senator HANSEN. I would expect no less of you, and I am sure that you intend to do no less than that. But, of course, what I am talking about is your attitude toward legislation which would hopefully resolve this area of conflict.

Mr. LOESCH. I would support it, Senator.

Senator HANSEN. Under such legislation, the State government would not have to continue operating under the constant threat that the Federal Government might at some time assert its right to waters and do irreparable damage to communities and to regions by upsetting a pattern of water use that has been developed over a number of years.

I think it certainly does require the attention of Congress, and I am delighted with your response.

I have one further question, Mr. Chairman. In the Western States, particularly, the question arises from time to time as to the right of the several States to manage and control the game and wildlife that is presently within a State.

Now, I do not think it is indicated that we should get into an abstract discussion of who owns the game. There are a number of people who subscribe to the theory of State management and control, yet do not assert that the State owns the game. The question of ownership may hinge on a number of other legal aspects.

But insofar as the management and control is concerned, let me say this. I do not question the right of the Federal Government on lands under its control, owned by the Federal Government, to take such steps as may be necessary to minimize damage that may result to those lands from excess game populations. But, absent that condition, it is my feeling that the Federal Government ought not try to exercise management and control, excepting in national parks and national monument

areas, where other laws may apply. However, I do realize that there have been some exceptions spelled out in the law from time to time.

This has happened in my State of Wyoming, in the Grand Teton National Park. The validity of some State management was recognized in the public law which created and expanded the Grand Teton complex.

Aside from that, in areas typically under your administration, I would like to know what your attitude is at the present time insofar as the management and control of game is concerned, without the question having been raised if the members are in such excess volume as to constitute a threat to the land itself.

Mr. LOESCH. Senator Hansen, I must admit that from my upbringing and training and experience, I am oriented toward the State control. I am presuming from the question that you are talking about the management and control on ordinary BLM and forest lands that are not more severely regulated like parks, and so on.

I believe that game management is a matter that is rather peculiarly within, should be within, the purview of the State, for many reasons. Just to name a few, the requirement that in different areas, perhaps not geographical areas, but altitude areas, you need different seasons for the harvest of game.

I think it would be a little tough for the Bureau of Land Management and Forest Service, for instance, to get together and have a little season here and a little season here. I mean, they would be inclined to have a nationwide thing that might not fit.

I frankly do not know what the policy is. I have received no instruction on that. If I have, I have forgotten it, if it was in the Secretary's transcript, but I believe the State should manage their game.

I agree with you, I do not think it makes any difference who is the owner of the game, it is the State that should handle it.

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

Senator BIBLE. Senator Hatfield.

Senator HATFIELD. Thank you, Mr. Chairman.

Mr. Loesch, are you familiar with the O. & C. lands in the State of Oregon?

Mr. LOESCH. No, sir.

Senator HATFIELD. As you know, we have a major goal to meet in this country to meet the housing needs of our people. It is going to take a great deal of our timber resource. Do you have any idea as to the timber management programs now underway or now activated in the Bureau of Land Management, how we might increase the resource harvest?

Mr. LOESCH. Senator Hatfield, I do not really know exactly what the timber management programs presently in effect are. I do know that in my particular area, which is a very small lumber-producing area compared to yours, that the Bureau of Land Management has been attempting to harvest more lumber because a great deal of it is going to waste on account of beetle damage and so on.

This is perhaps more in the purview of the Forest Service in my area, but there is a good deal of BLM timber and I know they are trying to get a good bit more of it out.

I would certainly believe, considering the price of lumber these days, as long as we do not invade our savings bank, so to speak, as long as

we are sure that our sustained yield program is not being depleted, we should harvest up to the limit of it.

Senator HATFIELD. Then I understand within the limits of good conservation practice, and committed as we are to these sustained yield management concepts, that you would seek to expedite and to initiate, if necessary, policies and additional budget requirements to meet more harvest with thinning, access roads, other such methods?

Mr. LOESCH. Yes, Senator.

Understand, I do not know all that is involved in what you are speaking about. I do believe it is the best forestry practice, as far as I know, to cut to the sustained yield limit. I think you will then actually come up with the type of forest, perhaps not all over the country, but the type that are so beautiful in Europe, where they perhaps have been growing the same timber on the same lands for many hundreds of years, on a sustained yield basis.

When we need the timber, when it does not interfere with the conservation practices you speak of—and incidentally, I would be very reluctant to do that—I certainly think we should expedite the program.

Senator HATFIELD. Mr. Loesch, since my State has about one-quarter of the Nation's standing timber, we are, of course, very conscious of the timber resource. It is the very heart of our economy and we are deeply involved with management. There are some very definite problems we face in the Federal agencies involved with the management of some of this timber, particularly the Bureau of Land Management and the Forest Service, under the Department of Agriculture. There are differences between these two agencies which control most of the Nation's standing timber.

As you know, there are two harvesting practices, as to cruising methods and other techniques used both to inventory and harvest managed timberlands. So I am hopeful perhaps you will have the opportunity to initiate some kind of interdepartmental activity which could perhaps resolve some of these interagency difficulties and at the same time keep your eye on the resource itself as the objective, because I think we have some real problems here that you may not be aware of that would fall into your lap.

Therefore, you should be alert to this problem when there is this pressure upon the Nation to produce the housing units and at the same time there are these other conflicting pressures and problems that relate between agencies that do not give us the opportunity to produce the resource to meet the housing needs when we have the resource and can do it within the confine of good practice of conservation.

Mr. LOESCH. Thank you, Senator. I will try to do my best on this.

Senator BIBLE. Any further questions?

(No response.)

Senator BIBLE. That concludes your questions, Senator?

Senator HATFIELD. Yes.

Senator BIBLE. Thank you very much.

Any further questions of the witness?

(No response.)

Senator BIBLE. If not, we will stand in recess for an executive session.

(Whereupon, at 11:20 a.m., the committee stood in recess for an executive session.)

