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GISLATION TO REVISE THE PUBLIC LAND LAWS

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 921

A BILL TO PROVIDE FOR THE PROTECTION, DEVELOPMENT, AND ENHANCEMENT OF THE PUBLIC LANDS; TO PROVIDE FOR THE DEVELOPMENT OF FEDERALLY OWNED MINERALS; AND FOR OTHER PURPOSES

S. 2401

A BILL TO PROVIDE FOR THE MANAGEMENT, PROTECTION, AND DEVELOPMENT OF THE NATIONAL RESOURCE LANDS, AND FOR OTHER PURPOSES

S. 2450

A BILL TO ESTABLISH LAND USE POLICY, TO ESTABLISH GUIDELINES FOR ITS ADMINISTRATION, AND FOR OTHER PURPOSES

S. 2542

A BILL TO ESTABLISH A SYSTEM FOR THE DEVELOPMENT OF MINERAL RESOURCES ON PUBLIC LANDS OF THE UNITED STATES

SEPTEMBER 21 AND 22, 1971

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Printed for the use of the Committee on Interior and Insular Affairs

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U.S. GOVERNMENT PRINTING OFFICE

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LEGISLATION TO REVISE THE PUBLIC LAND LAWS

TUESDAY, SEPTEMBER 21, 1971

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

The committee met at 10:05 a.m., in room 3110, New Senate Office Building, the Honorable Alan Bible, presiding.

Present: Senators Bible, Metcalf, Allott, Hansen, Jordan, Gravel, and Bellmon.

Staff present: Jerry T. Verkler, staff director; Mary Jane Due, staff counsel; Charles Cook, minority counsel; Porter Ward, professional staff member.

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

I was going to wait until other members appeared but apparently they have run into some problems and some delays. Chairman Jackson asked me to open the hearings this morning. He will be running late and I know this is a hearing of great interest. It is one that I am sure will occupy us for many weeks and maybe months and maybe even years ahead.

This is a result of the hearings held by the Public Land Law Review Commission, and a number of legislative bills have already been introduced. More will be introduced, I am sure, and I have just been advised by staff that the Public Land Law Review Commission took between 5 and 6 years for its hearings and its ultimate conclusions.

So we have a big job ahead of us and we will move forward as expeditiously as we can. First, we will make part of the record S. 921, S. 2401, S. 2450, and S. 2542. S. 2542 is the bill introduced by me on September 17, for myself and for Senator Allott and for Senator Moss. That will be part and parcel of this overall hearing.

I realize that many of you have not had the opportunity to have studied this bill, but there will be adequate time for you to do so and make comments as you go along.

Each of the other bills will all be made part of the record at this point.

(The bills and reports follow:)

92D CONGRESS
1ST SESSION

S. 921

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23 (legislative day, FEBRUARY 17), 1971

Mr. JACKSON (for himself, Mr. ANDERSON, Mr. CRANSTON, Mr. HART, Mr. HUMPHREY, Mr. MAGNUSON, Mr. METCALF, and Mr. NELSON) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the protection, development, and enhancement of the public lands; to provide for the development of federally owned minerals; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Domain Lands Organic Act of 1971".

TITLE I—PUBLIC LAND ADMINISTRATION

SEC. 101. The Congress recognizes that (1) the public lands administered by the Secretary of the Interior (hereinafter referred to in this title as the "Secretary"), through the Bureau of Land Management, are vital national assets that contain a wide variety of natural resource values including

soil, minerals, water, air, plants, and animals, and (2) these lands should be administered, used, restored, improved, and protected for multiple use and sustained yield of these resources for the maximum long-term benefit of the general public, and (3) sound ecological management of these lands is vital to maintenance of a livable environment and essential to the well-being of the American people. Therefore, the Congress directs that these lands and resources shall be managed for tangible and intangible uses, including but not limited to (1) food and habitat for domestic and wild animals, (2) minerals and materials, (3) timber products, (4) various forms of outdoor recreation, (5) human occupancy and use, (6) the preservation of natural wilderness values, (7) watershed protection, and (8) other public values.

SEC. 102. As used in this title—

(1) "public lands" means all lands or interests in lands administered by the Secretary through the Bureau of Land Management, which shall be known after enactment of this Act as "national resource lands".

(2) "multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of land for some or all of these re-

sources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment to the environment or the productivity of the land, with consideration being given to the relative values of the various resources and to the ecological relationships involved, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output;

(3) "sustained yield" means the achievement and maintenance of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the quality of the land and its environmental values;

(4) "qualified governmental agency" means any of the following, including their lawful agents and instrumentalities—

(A) the State, county, municipality, or other local government subdivision within which the land is located; and

(B) any municipality within convenient access

to the lands if the lands are within the same State as the municipality.

(5) "qualified individual" means—

(A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged twenty-one years or more;

(B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A); and

(C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

SEC. 103. The Secretary is authorized and directed to permit the use of the nonmineral resources of the public lands to the maximum extent and under such terms and conditions as the Secretary finds consistent with the principles of section 101 of this Act and with the following goals and objectives:

(1) Provision of an adequate supply of resources to meet national, regional, and local requirements at reasonable market prices in a timely fashion.

(2) Protection, development, and enhancement of their outdoor recreational values for the maximum use and benefit

of the general public, within the basic framework of multiple-use management, in a manner consistent with the Act of May 28, 1963 (77 Stat. 49; 16 U.S.C. 4601—4601-3), and in conformity with the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 901; 16 U.S.C. 4601-4, 4601-11).

(3) Preservation of a quality environment for present and future generations of Americans.

(4) Management of Federal lands and resources under principles of multiple use and sustained yield.

(5) Preparation, maintenance, and preservation of the integrity of comprehensive and coordinated national, State, and local land use plans.

(6) Maintenance of an interdisciplinary approach to natural resources programs.

(7) Opportunity for the public to participate fully in the conduct of the public business.

(8) Payment by users of public lands and resources of fair market value.

(9) Adequate tenure and opportunity for resource users to plan and develop use and development operations and to secure a fair return for their risk and investment.

(10) Maintenance of competition in the allocation and development of public resources.

(11) Prevention of undue concentration of ownership of rights to public land resources.

(12) Encouragement of efficiency in resource use and development and in protection and rehabilitation of the environment.

SEC. 104. (a) The Secretary shall develop and promulgate regulations containing criteria by which he will determine and classify which of the public lands under certain conditions and consistent with the goals and objectives of this Act may be disposed of because they are more valuable for residential, commercial, agricultural, industrial, or other public uses or development in non-Federal ownership than for management in Federal ownership. The criteria shall give due consideration to all pertinent factors, including, but not limited to, environmental quality, ecology, priorities of use, and the relative values of the various resources in particular areas.

(b) No such regulation or any amendment thereto promulgated pursuant to this section shall become effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing thereon. A notice of such hearing shall be given at least thirty days in advance through publication in the Federal Register.

(c) The Secretary or his designee shall give appropriate public notice of any proposed classification of lands

for disposal, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected lands at least sixty days in advance of the proposed disposal. No such classification for disposal shall become effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing thereon if the Secretary determines that a timely and responsible request for such a hearing is received.

SEC. 105. Any classification of public lands in effect on the date of enactment of this Act is subject to review for possible reclassification in accordance with the authority granted by this Act.

SEC. 106. The Secretary of the Interior shall review every roadless area of five thousand acres or more on national resource lands under his jurisdiction on the effective date of this Act and shall report to the President his recommendation as to the suitability or nonsuitability of each such area for preservation as wilderness, in accordance with the Wilderness Act of 1964 (78 Stat. 890).

SEC. 107. The Secretary shall as soon as possible establish boundaries for units of the national resource lands and shall provide adequate and appropriate means of public identification, including signs and maps.

SEC. 108. The Secretary is authorized to sell public lands

that have been classified for disposal in accordance with this title. Such sales shall be in tracts not exceeding five thousand one hundred and twenty acres each to qualified governmental agencies at the appraised fair market value thereof as determined by the Secretary or to qualified individuals through competitive bidding at not less than the appraised fair market values as determined by the Secretary.

SEC. 109. At least ninety days prior to offering lands for sale in accordance with this title, the Secretary shall notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located or, in the absence of such political subdivision, the Governor of the State, in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local planning and development. All sales shall be consistent with State and local land use plans and zoning.

SEC. 110. All patents or other evidences of title issued under this title shall contain a reservation to the United States of all mineral deposits. Patents and other evidences of title may contain such reservations and reasonable restrictions as are necessary to achieve the goals and objectives of this Act.

SEC. 111. (a) The Secretary is hereby authorized to acquire by purchase, donation, exchange, or otherwise such lands or interests therein as he deems necessary to provide

access or otherwise facilitate the administration of the public lands.

(b) Notwithstanding any other provision of law, in exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal property or interests therein and in exchange therefor he may convey to the grantor of such property or interest any public lands or interests therein under his jurisdiction and which he classifies as suitable for exchange or other disposal and which is located in the same State as the non-Federal property to be acquired. The values of the land so exchanged either shall be approximately equal, or if they are not approximately equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. The proceeds received from any conveyance under this section shall be credited to the Land and Water Conservation Fund in the Treasury of the United States.

SEC. 112. Violations of the public land laws and regulations of the Secretary relating to protection of the public lands and the uses thereof shall be punishable by a fine of not more than $1,000 or imprisonment for not more than six months, or both. Any person charged with the violation of such laws and regulations may be tried and sentenced by any United States commissioner or magistrate designated

for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18, United States Code.

SEC. 113. The Secretary may authorize such persons who are employed in the Bureau of Land Management as he may designate to make arrests for the violation of the laws and regulations referred to in sections 114 and 116 of this Act. Upon sworn information by any competent person, any United States commissioner or magistrate in the proper jurisdiction shall issue a warrant for the arrest of any person charged with the violation of said laws and regulations, but nothing herein shall be construed as preventing the arrest by any officer of the United States, without warrant, of any person taken in the act of violating such laws and regulations.

SEC. 114. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this title.

SEC. 115. In order that the Secretary shall have the benefit of the advice and assistance of others knowledgeable with respect to matters within the purview of this title, he may establish such multiple use, special use, or ad hoc advisory boards or groups as he deems necessary.

SEC. 116. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this

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title. Any funds so appropriated shall remain available until expended.

SEC. 117. (a) Subject to valid rights and liabilities existing at the date of approval of this title, the following Acts or parts thereof are repealed:

(1) Chapter 7 of title 43, United States Code, sections 161–302, homesteads generally.

(2) Chapter 8 of title 43, United States Code, sections 315f and 315g, Taylor Grazing Act.

(3) Chapter 9 of title 43, United States Code, sections 321–338, desert land entries.

(4) Chapter 16 of title 43, United States Code, sections 671–700, sale and disposal of public lands.

(5) Chapter 17 of title 43, United States Code, sections 711–731, reservation and sale of townsites on public lands.

(6) Chapter 24 of title 43, United States Code, sections 1021–1048, under State laws, Minnesota and Arkansas.

(7) Chapter 26 of title 43, United States Code, sections 1071–1080, abandoned military reservations.

(8) Chapter 27 of title 43, United States Code, sections 1091–1134, public lands in Oklahoma.

(9) Chapter 28 of title 43, United States Code, sections 1153–1156, patents for private claims, Missouri.

(10) Chapter 28 of title 43, United States Code, sections 1171–1177, sale of isolated tracts.

(11) Chapter 28 of title 43, United States Code, sections 1191–1193, evidence of title.

(12) Sections 11 and 16 of the Act of March 3, 1891 (26 Stat. 1099, 1101; 48 U.S.C. 355, 43 U.S.C. 728), townsites, Alaska.

(13) The fourth paragraph of section 1 of the Act of March 12, 1914 (38 Stat. 307; 48 U.S.C. 303), townsites, Alaska.

(14) Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355a–355d), townsites, Alaska.

(15) Act of February 26, 1948 (62 Stat. 35; 48 U.S.C. 355e), townsites, Alaska.

(16) Act of August 30, 1949 (63 Stat. 679; 48 U.S.C. 364a–364e), sale of public domain, Alaska.

(17) Act of July 24, 1947 (61 Stat. 414; 48 U.S.C. 364), zoning of land, Alaska.

(b) The provisions of this title shall prevail over any existing law not consistent with it and such laws or portions thereof are hereby repealed.

SEC. 118. Appointments made on and after the date of the enactment of this Act to the office of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate. The Director shall (1)

have a broad background and experience in public land and natural resource management, (2) be selected from the Federal civil service, and (3) be subject to removal only for cause or disability.

TITLE II—MINERAL LEASING

SEC. 201. This title may be cited as the "Federal Land Mineral Leasing Act of 1971".

SEC. 202. As used in this title—

(1) "Secretary" means the Secretary of the Interior;

(2) "Head of department or agency" means the head of an agency or the Secretary of a department other than the Secretary of the Interior;

(3) "Federal lands" means all federally owned lands except lands—

(A) Held in trust for Indians;

(B) Owned by Indians with Federal restrictions on the title; or

(C) Within units of the national park system; or

(D) Administered pursuant to the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331);

(4) "Federal mineral interests" means mineral deposits in Federal lands and federally owned mineral interests in non-Federal lands;

(5) "Person" means any of the following, including their lawful agents and instrumentalities:

(A) any State, county, municipality, or other local governmental subdivision within which the land is located;

(B) any municipality within convenient access to the lands if the lands are within the same State as the municipality;

(C) any individual who is authorized to enter into a contract for acquisition of title in real property in the United States by himself or through his guardian or trustee;

(D) any partnership or association, each of the members of which is an individual as defined in subparagraph (C); and

(E) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located;

(6) "Mineral lease" means an exclusive right to explore for and develop a mineral deposit or deposits in specified lands under this title;

(7) "Mineral license" is a right to mine and remove a specified amount of minerals from specified public lands; and

(8) "Mineral" is a substance that—

(A) is recognized as mineral, according to its chemical composition, by the standard authorities on the subject, or

(B) is classified as mineral produce in trade or commerce except that helium, water, and geothermal steam are not minerals under this title.

SEC. 203. The Secretary is authorized and directed to permit by the issuance of mineral leases and licenses under this title, any person to prospect for, mine, and develop Federal mineral interests to the maximum extent and under such terms and conditions as the Secretary finds consistent with the following goals and objectives:

(1) Provision of an adequate supply of minerals to meet national, regional, and local requirements at reasonable market prices in a timely fashion.

(2) Preservation of a quality environment for present and future generations of Americans.

(3) Management of Federal lands and resources under principles of multiple use and sustained yield.

(4) Preparation, maintenance, and preservation of the integrity of comprehensive and coordinated national, State, and local land use plans.

(5) Maintenance of an interdisciplinary approach to natural resources programs.

(6) Opportunity for the public to participate fully in the conduct of the public business.

(7) Payment by users of public lands and resources of fair market value.

(8) Adequate tenure and opportunity for mineral prospectors and mining operations to plan and develop prospecting and mining operations and to secure a fair return for their risk and investment.

(9) Maintenance of a competitive environment in the allocation and development of public resources.

(10) Prevention of undue concentration of ownership of rights to Federal mineral interests.

(11) Encouragement of efficiency in prospecting and production of minerals and in protection and rehabilitation of the environment.

SEC. 204. (a) The Secretary may dispose of Federal mineral interests in Federal lands which are not under his jurisdiction only if the head of the department or agency which administers the lands concurs with the proposal to dispose of the Federal mineral interests and in the proposed terms and conditions of disposal insofar as such terms and conditions would affect such head's exercise of his administrative responsibilities.

(b) The Secretary may dispose of Federal mineral interests in non-Federal lands only after he has given the non-

Federal landowner an opportunity to review and comment on the planned terms and conditions of the proposed disposal. Insofar as they relate to conservation of natural resources, the protection of the environment, and protection of and compensation for private improvements on the land, the Secretary shall, to the extent he deems feasible, include in the proposed disposal the same terms and conditions that he would include if the lands were Federal.

SEC. 205. The Secretary shall consult with the Federal, State, and local governments, advisory boards and committees, and the general public to the extent he deems necessary to secure full public participation in decisions related to the disposal of Federal mineral interests. The head of any department or agency may render, without transfer of funds, technical assistance to the Secretary in connection with the Secretary's activities under this title.

SEC. 206. The Secretary shall publicize all proposals to dispose of Federal mineral interests under this title to the extent and by those means which he deems necessary to comply with the goals, objectives, and other provisions of this title. Notices of such proposals shall describe by incorporation or by reference the terms and conditions of disposals so that the general public may knowledgeably comment on the proposal and potential lessees and licensees will be fully in-

formed what their rights and obligations would be under the proposal.

SEC. 207. (a) The Secretary may dispose of Federal mineral interests by mineral lease and license under this title in any manner which in his judgment will meet the goals, objectives, and other provisions of this title. He may utilize competitive means of disposal whenever he finds that competitive interest exists and competition would otherwise be consistent with the requirements and goals and objectives of this title. In competitive disposals, he may reserve the right to reject any and all bids where he finds that acceptance would be inconsistent with the goals and objectives of this title. Where he finds that any person is dependent upon continued access to Federal mineral interests by virtue of the location of their mining and mineral recovery facilities he may accord such person a preference right to meet the terms and conditions of a proposal to issue a mineral lease or license. Such preference right may include, in the discretion of the Secretary, the right to match the highest bid for the contract when Federal mineral interests are disposed of competitively.

(b) Whenever Federal lands are being drained of oil and gas by wells drilled on adjacent lands, the Secretary may negotiate contract agreements with the owners of those wells and of the oil and gas in the adjacent lands to compensate t he United States for such drainage.

SEC. 208. The Secretary shall reserve to the United States the ownership of and right to extract helium from all gas produced under this title, and in the extraction of such helium, he shall cause no substantial delay in the delivery of the gas produced from the well to the purchaser thereof.

SEC. 209. In leases, licenses, and other contracts issued under this title, the Secretary shall incorporate such terms and conditions that he deems necessary or desirable to promote good business practices; to promote the conservation of lands and other natural resources; to preserve and enhance the environment; to maintain ecological balances; to protect the public health, safety, and welfare; to enable the proper use of the lands; and otherwise to promote or be consistent with the goals and objectives and other terms of this title, including, but not limited to, provisions for—

(1) cancellation and forfeitures for cause;

(2) relinquishment of rights and privileges;

(3) bonds, deposits, or other good faith security;

(4) assignments and subleases, in whole or in part;

(5) renewals and extensions;

(6) removal of improvements;

(7) rentals and royalties;

(8) penalties for noncompliance;

(9) reinstatements;

(10) nondiscrimination;

(11) protection of health and safety of workers;

(12) protection and rehabilitation of natural resources;

(13) prevention of air, water, and land pollution;

(14) adjustment of disputes;

(15) payments in kind;

(16) inspection of premises by Federal and State officials;

(17) inspection of business records;

(18) joint enterprises;

(19) suspension, waiver, and reduction of rentals or royalties in order to promote conservation of resources;

(20) reasonable diligence;

(21) workmanlike performance;

(22) disposal of surface estate;

(23) uses of the lands and resources thereon by third parties;

(24) uses of the lands and resources by the contracting parties, including rentals to be paid by the lessee or licensee;

(25) unitization, operating, and other cooperative agreements; and

(26) submittal of plans of exploration, mining, and rehabilitation operations for approval by the Secretary.

SEC. 210. The Secretary is authorized to issue such regulations as he finds necessary or desirable to carry out the goals, objectives, and other purposes of this title, including, but not limited to, regulations to establish—

(1) the area or volume or kind of mineral rights that may be held by any one qualified applicant, and

(2) the area or volume or kind of mineral rights that may be acquired by any one person in any area or at any sale.

SEC. 211. (a) All prior laws which relate to the disposition of Federal mineral deposits covered by this title are hereby repealed except to the extent noted in subsection (c) of this section. These laws include, but are not limited, to—

(1) The Mining Law of 1872, as amended (30 U.S.C. 21–77).

(2) The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181–286).

(3) The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359).

(4) The Act of July 31, 1947, as amended, and the Act of July 23, 1955, as amended (30 U.S.C. 601–615).

(5) The Right-of-Way Leasing Act of 1930 (30 U.S.C. 301–306).

(b) Any valid mining claim, lease, contract, or other right acquired under any laws repealed by this title which existed on the date of enactment of this title shall not be affected by this title but shall remain subject to the provisions of the law under which such rights were derived. The Secretary is authorized in his discretion and upon application to him by the owner of the right to issue a lease or license under this title in exchange for a valid mining claim or valid mineral lease, license, or permit issued under the authorities repealed by subsection (a) of this section.

(c) The following provisions of law shall remain in force and effect:

(1) Section 29 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

(2) Section 35 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 191).

(3) The distribution of receipts provisions of section 3 of the Act of September 1, 1949 (30 U.S.C. 192c).

(4) The distribution of receipts provisions of the Act of June 1, 1948 (30 U.S.C. 286).

(5) The distribution of receipts provisions of the Act of June 12, 1926 (44 Stat. 740).

92D CONGRESS
1ST SESSION

S. 921

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 1971

Referred to the Committee on Interior and Insular Affairs and ordered to be printed

AMENDMENT

Intended to be proposed by Mr. JACKSON to S. 921, a bill to provide for the protection, development, and enhancement of the public lands; to provide for the development of federally owned minerals; and for other purposes, viz: On page 13, line 5, amend title II to read as follows:

TITLE II—MINERAL LEASING

SEC. 201. This title may be cited as the "Federal Hardrock Mineral Leasing Act of 1971".

SEC. 202. As used in this title—

(1) "Secretary" means the Secretary of the Interior;

(2) "Head of department or agency" means the head of an agency or the Secretary of a department other than the Secretary of the Interior;

Amdt. No. 417

(3) "Federal lands" means all federally owned lands except lands—

(A) Held in trust for Indians;

(B) Owned by Indians with Federal restrictions on the title;

(C) Within units of the national park system; or

(D) Administered pursuant to the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331);

(4) "Federal hardrock minerals" means mineral deposits in Federal lands and federally owned mineral deposits in non-Federal lands which immediately prior to the effective date of this Act were subject to location under the Mining Law of 1872 as amended and supplemented, and related Acts (30 U.S.C., chapters 2, 12A, and 16 and sections 161 and 162);

(5) "Person" means any of the following, including their lawful agents and instrumentalities:

(A) any State, county, municipality, or other local governmental subdivision within which the land is located;

(B) any municipality within convenient access to the lands if the lands are within the same State as the municipality;

(C) any individual who is authorized to enter into a contract for acquisition of title in real property in the United States by himself or through his guardian or trustee;

(D) any partnership or association, each of the members of which is an individual as defined in subparagraph (C); and

(E) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located;

SEC. 203. The Secretary is authorized to permit by the issuance of prospecting permits and exploration, development, and production leases under this title, prospecting, exploration, development, and production of Federal hardrock minerals to the maximum extent and under such terms and conditions as the Secretary finds consistent with the following goals and objectives:

(1) Provision of an adequate supply of minerals to meet national, regional, and local requirements at reasonable market prices in a timely fashion.

(2) Preservation of a quality environment for present and future generations of Americans.

(3) Management of Federal lands and resources under principles of multiple use and sustained yield.

(4) Preparation, maintenance, and preservation of the integrity of comprehensive and coordinated National, State, and local land use plans.

(5) Maintenance of an interdisciplinary approach to natural resources programs.

(6) Opportunity for the public to participate fully in the conduct of the public business.

(7) Payment by users of public lands and resources of fair market value.

(8) Adequate tenure and opportunity for mineral prospectors and mining operations to plan and develop prospecting and mining operations and to secure a fair return for their risk and investment.

(9) Maintenance of a competitive environment in the allocation and development of public resources.

(10) Prevention of undue concentration of ownership of rights to Federal mineral interests.

(11) Encouragement of efficiency in prospecting and production of minerals and in protection and rehabilitation of the environment.

SEC. 204. (a) The Secretary may dispose of Federal hardrock minerals in Federal lands which are not under his jurisdiction only if the head of the department or agency which administers the lands concurs with the proposal to dispose of the Federal hardrock minerals and in the proposed

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terms and conditions of disposal insofar as such terms and conditions would affect such head's exercise of his administrative responsibilities.

(b) The Secretary may dispose of Federal hardrock minerals in non-Federal lands only after he has given the non-Federal landowner an opportunity to review and comment on the planned terms and conditions of the proposed disposal. Insofar as they relate to conservation of natural resources, the protection of the environment, and protection of and compensation for private improvements on the land, the Secretary shall, to the extent he deems feasible, include in the proposed disposal the same terms and conditions that he would include if the lands were Federal.

SEC. 205. The Secretary shall consult with the Federal, State, and local governments, advisory boards and committees, and the general public to the extent he deems necessary to secure full public participation in decisions related to the disposal of Federal hardrock minerals. The head of any department or agency may render, without transfer of funds, technical assistance to the Secretary in connection with the Secretary's activities under this title.

SEC. 206. The Secretary shall publicize all proposals to dispose of Federal hardrock minerals under this title to the extent and by those means which he deems necessary to comply with the goals, objectives, and other provisions of this

title. Notices of such proposals shall describe by incorporation or by reference the terms and conditions of disposals so that the general public may knowledgeably comment on the proposal and potential permittees and lessees will be fully informed what their rights and obligations would be under the proposal.

SEC. 207. The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit for Federal hardrock minerals. Such permit will give the permittee the exclusive right to prospect for such minerals in the Federal lands described in the permit. Each permit will contain such terms and conditions as the Secretary deems appropriate to carry out the goals and objectives of this title.

SEC. 208. (a) Upon showing to the satisfaction of the Secretary that valuable deposits of hardrock minerals have been discovered by a permittee in the Federal lands covered by his prospecting permit, the permittee shall be entitled to an exploration, development, and production lease for any or all of the land embraced in the prospecting permit.

(b) The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to lease by competitive bidding, and Federal lands known to contain valuable deposits of hardrock minerals which are not subject to a prospecting permit issued under this title.

(c) Each lease will contain such terms and conditions as the Secretary deems appropriate to carry out the goals and objectives of this title.

SEC. 209. In prospecting permits and exploration, development and production leases under this title, the Secretary shall incorporate such terms and conditions that he deems necessary or desirable to promote good business practices; to promote the conservation of lands and other natural resources; to preserve and enhance the environment; to maintain ecological balances; to protect the public health, safety, and welfare; to enable the proper use of the lands; and otherwise to promote or be consistent with the goals and objectives and other terms of this title, including, but not limited to, provisions for—

(1) cancellation and forfeitures for cause;

(2) relinquishment of rights and privileges;

(3) bonds, deposits, or other good faith security;

(4) assignments and sublease, in whole or in part;

(5) renewals and extensions;

(6) removal of improvements;

(7) rentals and royalties;

(8) penalties for noncompliance;

(9) reinstatements;

(10) nondiscrimination;

(11) protection of health and safety of workers;

(12) protection and rehabilitation of natural resources;

(13) prevention of air, water, and land pollution;

(14) adjustment of disputes;

(15) payments in kind;

(16) inspection of premises by Federal and State officials;

(17) inspection of business records;

(18) joint enterprises;

(19) suspension, waiver, and reduction of rentals or royalties in order to promote conservation of resources;

(20) reasonable diligence;

(21) workmanlike performance;

(22) disposal of surface estate;

(23) uses of the lands and resources thereon by third parties;

(24) uses of the lands and resources by the contracting parties, including rentals to be paid by the lessee or licensee;

(25) unitization, operating, and other cooperative agreements; and

(26) submittal of plans of exploration, mining, and rehabilitation operations for approval by the Secretary.

SEC. 210. The Secretary is authorized to issue such regu-

lations as he finds necessary or desirable to carry out the goals, objectives, and other purposes of this title.

SEC. 211. (a) The mining law of 1872, as amended, and supplemental and related Acts (30 U.S.C., chapters 2, 12A, and 16 and sections 161 and 162) are hereby repealed.

(b) Any claim under the mining law of 1872 existing on the effective date of this Act shall remain subject to the provisions of that law if it is recorded with the Department not more than one year after the issuance by the Secretary of regulations prescribing the manner in which mining claims will be recorded. Any mining claim not so recorded shall be null and void. However, recordation will not render valid any mining claim which is invalid on the effective date of this Act or which becomes invalid thereafter.

(c) Any mining claim on which application for patent has not been filed within three years after recordation shall be null and void.

SEC. 212. All revenues received by the United States from prospecting permits and exploration, development, and production leases issued under this title shall be distributed in the manner prescribed in section 35 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 191).

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 12 1971

Dear Mr. Chairman:

This responds to your request for this Department's views on S. 921 "To provide for the protection, development and enhancement of public lands; to provide for the development of Federal minerals; and for other purposes."

We recommend that the bill not be enacted but that the Administration's proposed "National Resource Land Management Act of 1971" and "Mining Laws of 1971" be enacted instead.

S. 921 contains two titles. The first would provide comprehensive policy guidelines and management authority to the Secretary of the Interior to manage lands administered through the Bureau of Land Management. As such its purpose is the same as the Administration's proposed National Resource Land Management Act which is S. 2401. Many of the provisions of both bills are very similar. There are, however, a number of differences between them and for that reason we urge enactment of S. 2401 in lieu of title I of S. 921.

S. 2401 contains in section 3 a succinct statement of policy and a directive that the Secretary "shall manage the national resource lands under principles of multiple use and sustain yield in a manner which will, using all practicable means and measures, protect the environmental quality of the national resource lands to assure their continued value for present and future generations." It stresses, in addition to environmental protection, the principle that the national interests will best be served by retaining the national resource lands in Federal ownership except in those specific cases where the Act authorizes disposal.

A significant difference between the Administration's proposal and S. 921 is the criteria for disposal. S. 921 authorizes disposal of lands which the Secretary determines are more valuable for residential, commercial, agricultural, industrial or other public uses in non-Federal ownership than for management in Federal ownership. The Administration's bill would authorize disposal only when the Secretary finds that it (1) would significantly improve the management of the land, or (2) would serve important public objectives which cannot be achieved prudently and feasibly on land other than national resource land. We feel that the tighter disposal criteria of the Administration's proposal best express the basic public policy that the bulk of the public lands should be retained and managed for the maximum benefit to the general public, while recognizing the need in specific instances to dispose of public land for specific objectives.

Both bills require that sales be at fair market value, generally as determined by competitive bidding. The Administration's bill, however, recognizes limited exceptions for the sake of equity or public policy.

The Administration's bill requires the Secretary to develop and maintain land use plans for all national resource lands. These plans will provide the basis for land management, and are to give priority to the designation and protection of areas of critical environmental concern. In this way the planning and management of federally owned lands can be coordinated and consistent with land use plans for State and private lands such as would be developed under the Administration's proposed National Land Use Policy Act of 1971.

S. 921 makes no mention of land use planning; nor does it provide for an inventory of the lands and their resources as is contained in section 5 of the Administration's proposal.

The policy set forth in the Administration's proposal would apply to all discretionary activities taken by the Secretary on the national resource lands, including those taken with respect to mineral resources. S. 921 would apply the policy contained in title I to nonmineral resources only. We feel that multiple use management of the public lands, which is the principle embodied in both bills, must consider all the resources values of the land particularly those the development of which tends to exclude other uses.

Section 106 of S. 921 directs the Secretary to review roadless areas of 5,000 acres or more on national resource lands to determine their suitability for preservation as wilderness under the Wilderness Act of 1964. While we agree that the National Resource Lands contain wilderness values which should be protected, the authority to protect them as "areas of critical environmental concern" is contained in S. 2401. We feel that any expansion of the national wilderness preservation system should be accomplished through an amendment to the Wilderness Act.

Title II of S. 921 provides for revision of the mining laws. As requested by your committee, the comments in this report will be addressed to Amendment 417 printed on September 9, 1971, which amends title II in its entirety.

Both title II of S. 921 and the Administration's proposed Mining Law of 1971 would accomplish a much needed reform of the Mining Law of 1872. The stated objectives of both bills are similar. These are essentially to encourage the production of minerals, to preserve the quality of the environment, and to assure a fair return to the public.

The Administration's proposed bill retains the basic location-patent system with certain major modifications to protect the environment and the public interest. S. 921 substitutes a leasing system for the location system. It provides that the lease will contain such terms and conditions as the Secretary deems necessary to promote certain broad basic objectives including preserving and enhancing the environment.

We feel that the protection of the environment should be a major concern of any legislation to reform the mining laws. The Administration has proposed the "Mined Area Protection Act of 1971" which has been introduced as S. 993, to encourage States to regulate the environmental aspects of mining on State and private land. The proposed "Mining Law of 1971" contains a section which would apply parallel provisions to the public lands. It would require, among others, that the operator file an operation plan with the Secretary for approval before he commences any activity which might cause a significant disturbance of the environment. The plan would be in accord with regulations issued by the Secretary and designed to assure that the operation would not violate air and water quality standards and would control erosion, subsidence and other specified environmental damage. The regulations would require that reclamation be made an integral part of the operation, but would allow the operator maximum flexibility to determine the most economically feasible means of achieving the environmental objectives.

There are six basic differences between the two proposed bills.

(1) Scope. The Administration's bill would exclude lands in the National Wildlife Refuge Preservation System except as otherwise provided by law. It also excludes land in naval petroleum and oil shale reserves. These areas have been set aside for specific uses in the national interest. To open them to the public for mining would be inconsistent with the public interest.

(2) Prospecting license. The Administration's bill requires a prospecting license for nonexclusive prospecting on the public lands. Although this license will be issued to any person for a reasonable fee, it will contain certain conditions and restrictions which will give the Secretary some measure of control over commercial prospecting on Federal lands which under present law he does not have. S. 921 has no similar provision.

(3) Removal. The Administration's bill authorizes the Secretary to remove any land from the application of the Act where the head of the agency administering the land determines that it is necessary in order to provide for a higher use or to protect or enhance the environment. This provides statutory recognition of a management tool which we consider to be essential for the wise management of the Federal lands.

(4) Competitive bidding. Under the Administration's proposal competitive bidding is required where the Secretary has reason to believe the lands contain commercially valuable mineral deposits, or where two applications for a permit are filed on the same day. Under S. 921 the issuance of the permit is noncompetitive, although competitive bidding is authorized for leases on lands not covered by a prospecting permit which are "known to contain valuable deposits of hard rock minerals". The standard for competitive bidding in the Administrative bill therefore appears to be somewhat broader.

(5) Terms and conditions. S. 921 leaves all terms and conditions including rents and royalties, penalties, tenure, cancellation and surface rights to complete discretion of the Secretary, whereas the Administration's proposed bill spells them out in considerable detail. The reform of the mining laws will have a significant impact on a wide range of interests, both public and private. In order to achieve the proper balance between these interests, we feel that the critical terms and conditions under which a mining company will be required to operate should be spelled out in the statute, and not left totally to administrative discretion.

(6) Revenue sharing. The Administration's proposal provides that all revenues produced under this Act shall be divided between the States and Federal Government with each State getting 37-1/2 percent of the revenues from lands in that State. S. 921 would give 37-1/2 percent to every State except Alaska which would get 90 percent. We believe Alaska should be treated the same as the other 49 States.

For the reasons stated in this report we recommend that S. 921 not be enacted but that the Administration's proposals identified herein be enacted instead.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of the Administration's proposals will be in accord with the program of the President.

Sincerely yours,

Rogers C. B. Morton

Secretary of the Interior

Hon. Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

92D CONGRESS
1ST SESSION

S. 2401

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 1971

Mr. JACKSON (for himself and Mr. ALLOTT) (by request) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the management, protection, and development of the national resource lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Resource Land Management Act of 1971".

SEC. 2. DEFINITIONS.—As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secre-

tary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the natural resource lands and their various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of resource uses that takes into account the long-term needs of future generations for nonrenewable resources and the achievement of diversity and balance for renewable resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land or undue damage to irreplaceable values, with consideration being given to the relative values of the resources, and not necessarily the combination of uses that will give the greatest economic return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

(e) "Areas of critical environmental concern" means areas where uncontrolled use or development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes, or life and safety as a result of natural hazards. Such areas shall include:

(1) coastal zones and estuaries. "Coastal zones" means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other, and include areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, channels, and all other coastal wetlands. "Estuary" means the part of the mouth of a river or stream or other body of water having unimpaired natural connection with the open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(2) shorelands and flood plains of rivers, lakes, and streams;

(3) rare or valuable ecosystems;

(4) scenic or historic areas; and

(5) such additional areas of similar valuable or hazardous characteristics which the Secretary determines to be of critical environmental concern.

SEC. 3. DECLARATION OF POLICY.—(a) Congress hereby declares that the national resource lands are a vital national asset containing a wide variety of natural resource values and that the national interest will best be served by retaining the national resource lands in Federal ownership except where the Secretary determines that disposal of particular tracts of national resource lands is consistent with the purposes, terms, and conditions of this Act.

(b) Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the environmental quality of the national resource lands to assure their continued value for present and future generations.

SEC. 4. The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or contrary to any order issued pursuant to any such regulations is unlawful and prohibited.

SEC. 5. INVENTORY.—The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands and their resources, giving priority to areas of critical environmental concern. This inventory shall reflect changes in conditions and in identifications of resource values.

SEC. 6. LAND USE PLANS.—(a) The Secretary shall

with public participation develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act and coordinated so far as he finds feasible and proper, or as may be required by the National Land Use Policy Act of 1971 or other law, with the land use plans of State and local governments and other Federal agencies.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) give priority to the designation of areas of critical environmental concern;

(3) rely, to the extent it is available, on the inventory of the national resource lands and their resources;

(4) consider all present and potential uses of the lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means including the need for recycling and sites for realization of those values;

(6) weigh long-term public benefits against more immediate local or individual benefits; and

(7) consider the requirements of applicable pollu-

tion control laws including State or Federal air or water quality standards and implementation plans.

SEC. 7. MANAGEMENT.—(a) The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any applicable land use plans which he has prepared except to the extent that other applicable law requires the Secretary to take specific actions. Such management shall include:

(1) the regulation of all use, occupancy, or development, through permits, licenses, or such other form of authorization as the Secretary deems appropriate;

(2) requiring land reclamation as a condition of use, and requiring performance bonds guaranteeing such reclamation of any person permitted to engage in extractive or other activity likely to entail significant disturbance to or alteration of the land;

(3) inserting in permits, licenses, or other authorizations to use, occupy, or develop the national resource lands provision authorizing revocation or suspension upon violation of any regulations issued by the Secretary under this Act or upon violation of any applicable State or Federal air or water quality standard and implementation plans; and

(4) the prompt development of regulations for the protection of areas of critical environmental concern.

SEC. 8. SALE OF LAND.—(a) Except as otherwise provided by law, the Secretary is authorized to sell national resource lands when he finds that such sale will (1) lead to a significant improvement in the management of the national resource lands, or (2) serve important public objectives which cannot be achieved prudently and feasibly on land other than national resource lands. Sales of national resource lands under this Act shall be at not less than the appraised fair market value and shall be in accord with land use plans when such plans have been prepared.

(b) The Secretary shall determine and establish the size of tracts to be sold on the basis of the land use capabilities and development requirements of the lands.

(c) Sales of land under this Act shall be conducted under competitive bidding procedures to be established by the Secretary, except that where he determines it necessary and proper (1) to assure fair distribution among purchasers of national resource lands, or (2) to recognize equitable considerations or public policies, including but not limited to a preference right to users, he is authorized to sell national resource lands without competitive bidding, or with modified competitive bidding. In no event shall the lands be sold for less than the appraised fair market value as determined by the Secretary.

(d) Until the Secretary has accepted an offer to pur-

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chase, he may refuse to accept any offer or may withdraw any land from sale under this Act when he determines that consummation of the sale would not be in the public interest.

(e) At the end of each fiscal year the Secretary shall report to Congress all sales of national resource lands conducted by him during such fiscal year.

SEC. 9. CONDITIONS IN CONVEYANCES.—(a) Except where the Secretary finds that (1) there are no mineral values in the land or (2) reservation of the mineral rights in the United States would interfere with or preclude the appropriate development of the land and that such development is a more beneficial use of the land than mineral development, all conveyances of title issued by the Secretary under this Act shall reserve to the United States all mineral deposits in the lands, together with the right to prospect for, mine, and remove the deposits under applicable law and such regulations as the Secretary may prescribe.

(b) The Secretary shall insert in any patent or other documents of conveyance he issues under this Act such terms, covenants, and conditions as he deems necessary to insure proper land use, environmental integrity, and protection of the public interest. In the event any area which the Secretary has identified as an area of critical environmental concern is conveyed out of Federal ownership, the Secretary shall provide for the continued protection of such area in the patent or other document of conveyance.

SEC. 10. ACQUISITION OF LAND.—(a) When public interests will be benefited thereby, the Secretary is authorized to acquire by purchase, exchange, donation, or otherwise such lands or interests therein including, but not limited to, the provision of access by the general public to national resource lands. Such acquisitions shall be consistent with such land use plans as may apply to the area involved.

(b) Purchases designed primarily to provide outdoor recreation opportunities shall be made by the Secretary with funds from the land and water conservation fund.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal land or interests therein and in exchange therefor he may convey to the grantor of such land or interests any national resource lands or interests therein which, under the terms and conditions of this Act, he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land to be acquired. The values of the lands so exchanged either shall be equal, or if they are not equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. When a land use plan has been prepared, exchanges under this Act shall be in accordance with such plans.

(d) Lands acquired by exchange under this section

within the boundaries of the national forest system may be transferred to the Secretary of Agriculture for administration as a part of, and in accordance with laws, rules, and regulations applicable to, the national forest system.

SEC. 11. ENFORCEMENT AUTHORITY.—(a) Violations of regulations which may be adopted for the purpose of protecting the national resource lands, other public property, and the public health, safety, and welfare and identified by the Secretary as being subject to the sanctions provided for by this section shall be deemed to be a misdemeanor and shall be punishable by a fine of not more than $10,000 or imprisonment for not more than one year, or both. Any person charged with the violation of such regulations may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18, United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in a district court of the United States or the highest court in a United States territory for an injunction or other appropriate order to prevent any person from utilizing the national resource lands in violation of regulations issued under this Act.

(c) The Secretary may designate and authorize em-

ployees as special officers who may make arrests or serve citations for acts committed on the public lands which are in violation of regulations identified pursuant to subsection 11(a).

(d) Upon the sworn information by a competent person, any United States commissioner, magistrate, or court of competent jurisdiction may issue process for the arrest of any person charged with the violation of law or the designated regulations. Nothing herein shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating the law or the designated regulations.

SEC. 12. STATE'S RIGHTS NOT CURTAILED.—(a) Nothing in this Act shall be construed as a limitation upon any State criminal statute, nor on the police power of the respective States.

(b) Nothing in this section shall be construed to derogate the authority of a local police officer in the performance of his duties.

SEC. 13. FEDERAL RIGHTS NOT CURTAILED.—Nothing in this section shall be construed as limiting or restricting the power and authority of the United States, or as affecting in any way any law governing appropriations or use of, or Federal right to, water on national resource lands.

SEC. 14. All actions by the Secretary under this Act

shall be subject to valid existing rights. The Secretary shall not impair or diminish any valid existing rights except under due process and upon payment of just compensation.

SEC. 15. PUBLIC HEARINGS.—(a) In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria in the preparation and execution of plans and programs and in the management of the national resource lands.

(b) Any proposed significant change in land use plans and regulations pertaining to areas of critical environmental concern shall be the subject of a public hearing.

SEC. 16. In providing for public participation in planning and programing for the national resource lands, the Secretary may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities.

SEC. 17. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedures Act (5 U.S.C. 553).

SEC. 18. There is hereby authorized to be appropriated

such sums as are necessary to carry out the purposes of this Act.

SEC. 19. REPEAL OF PRIOR LAWS.—(a) Subject to valid rights existing at the date of approval of this Act, the following statutes or parts of statutes as amended are repealed:

1.—HOMESTEAD LAWS

Act of—	Sections	Statute	43 U.S.C.
Revised Statutes: 2288–2298, 2300–2302, 2304, 2311			161–164, 169, 171, 173–175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, 278.
Mar. 3, 1875	15	18:420 ch. 131	189.
June 3, 1878		20:91	253.
Mar. 3, 1879		20:472 ch. 191	204.
Mar. 3, 1879		20:472 ch. 192	251.
July 1, 1879		21:46	205.
July 1, 1879	1	21:48	235.
May 14, 1880		21:140	166, 185, 202, 223.
June 8, 1880		21:166	172.
June 16, 1880		21:287	263.
July 4, 1884—last paragraph of section 1 only		23:96	190.
May 6, 1886		24:22	206.
Mar. 2, 1889	1, 3, 4, 6, 7	25:854	214, 234, 252, 681, 700.
Aug. 30, 1890—The following words of section 1 only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement is validated by this Act."		26:391	212.
Sept. 30, 1890		26:684	261.
Mar. 3, 1893—The following words only: "And provided further, That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate." * * * * * * * "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."		27:593	275, 1076.
Aug. 18, 1894—Last paragraph of section headed "Surveying the Public Lands" only.		28:397	276.
Mar. 2, 1895		28:744	176.
June 16, 1898		30:473 ch. 458	240.
May 17, 1900	1	31:179	179.
June 5, 1900	2, 3	31:269	188, 217.
Jan. 26, 1901		31:740	180.
May 22, 1902	2	32:203 ch. 821	187b.
June 13, 1902		32:384 ch. 1080	203.
Apr. 28, 1904		33:527 ch. 1776	213.
Apr. 28, 1904		33:547	224.
Feb. 19, 1909		35:639	218.
June 17, 1910		36:531 ch. 298	219.
Mar. 4, 1913—Last paragraph of section 1 headed "Public Land Service" only		37:925	256.
Apr. 6, 1914		38:312	167.
Aug. 22, 1914		38:704 ch. 270	231.
Sept. 5, 1914		38:712	182.
Oct. 17, 1914		38:740	168.
Oct. 22, 1914		38:766 ch. 335	170.
Mar. 4, 1915	1	38:1162	220.
July 3, 1916		39:341 ch. 214	232.
Aug. 21, 1916		39:518 ch. 361	207, 1075.
Dec. 29, 1916	1–9, 11	39:862	291–299, 301.
Feb. 20, 1917		39:925	215.
Dec. 20, 1917		40:430 ch. 6	236.
Feb. 25, 1919		40:1161 ch. 37	272a.
July 24, 1919—Next to last paragraph only		41:271	237.
Sept. 29, 1919		41:288 ch. 64	233.
Feb. 14, 1920		41:434	186.
Mar. 1, 1921		41:1193	167.

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1.—HOMESTEAD LAWS—Continued

Act of—	Sections	Statute	43 U.S.C.
Mar. 1, 1921		41:1202 ch. 102	238, 331.
Mar. 4, 1921	1	41:1433 ch. 162	216.
April 6, 1922		42:491 ch. 122	273.
Mar. 4, 1923		42:1445 ch. 245	222, 302.
June 3, 1924		43:357 ch. 240	208.
Feb. 25, 1925		43:981 ch. 326	187.
June 8, 1926		44:709 ch. 501	177.
April 7, 1930		46:144 ch. 108	243.
Feb. 23, 1932		47:53 ch. 52	178.
Mar. 2, 1932		47:59	237a.
May 13, 1932		47:153 ch. 178	256a.
Mar. 1, 1933—The following words of section 1 only "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homestead be made in said county under the Act of July 4, 1884 (23 Stat. 96: U.S.C., title 43, sec. 190)."		47:1418 ch. 160	190a.
Mar. 3, 1933		47:1424	243a.
May 21, 1934		48:787 ch. 320	237b.
June 21, 1934		48:1185 ch. 690	187a.
May 22, 1935		49:286	237c.
Aug. 19, 1935		49:659 ch. 560	237d.
Aug. 27, 1935		49:909 ch. 770	256b.
April 20, 1936		49:1235 ch. 239	237e.
Aug. 28, 1937		50:575	1181c.
Sept. 27, 1944		58:747 ch. 421	279–284.
June 22, 1948		62:576	209, 210.
July 30, 1956		70:715, 716 ch. 778.	237 f, g, h, 336a–d.

2.—EXCHANGE OF LAND

June 28, 1934	8	48:1272	315g.
August 24, 1937		50:748	315p.

3.—DESERT LAND ENTRIES

Mar. 28, 1908		35:52 ch. 112	324, 326, 333.
Apr. 30, 1912		37:106 ch. 101	334.
Mar. 4, 1915	5	38:1161 ch. 147	335, 337, 338.
Feb. 27, 1917		39:946 ch. 134	330.
Aug. 7, 1917		40:250	332.
Feb. 25, 1925		43:982 ch. 329	336.
Mar. 4, 1929		45:1548 ch. 687	339.

4.—SALE AND DISPOSAL LAWS:

Revised Statutes: 2354, 2355, 2357, 2361–2363, 2365, 2366, 2368–2372, 2374–2376.			673, 674, 676, 678, 688–699.
June 15, 1880	34	21:238	679, 680.
Mar. 3, 1891	9, 16	26:1099, 1101	671, 728.
May 18, 1898		30:418 ch. 344	675.
Mar. 1, 1907		34:1052 ch. 2286.	682.
June 1, 1938		52:609 ch. 317	682a–e.

5.—TOWN SITE RESERVATION AND SALE

Revised Statutes: 2380–2384, 2386–2389, 2391–2394			711–715, 717–721, 722–724.
Mar. 3, 1877	1, 3, 4	19:392 ch. 113	725–727.
Feb. 9, 1903		32:820 ch. 531	731.
July 9, 1914		38:454	730.

6.—DRAINAGE UNDER STATE LAWS

May 20, 1908	1–7	35:169 ch. 181	1021–1027.
Mar. 3, 1919		40:1321 ch. 113	1028.
Jan. 17, 1920		41:392 ch. 47	1041–1048.
May 1, 1958		72:99	1029–1034.

7.—ABANDONED MILITARY RESERVATIONS

July 5, 1884	5	23:104 ch. 214	1074.
Aug. 23, 1894		28:491 ch. 314	1077, 1078, 1081.
Feb. 15, 1895		28:664	1080.
Feb. 11, 1903		32:822 ch. 543	1079.

8.—PUBLIC LANDS IN OKLAHOMA

May 2, 1890—Last paragraph of section 18 and sections 20–24, 27 only		26:89–93	1091–1097.
May 14, 1890		26:109	1111–1117.
Mar. 3, 1891	16, 37	26:1026	1098, 1099.
Sept. 1, 1893		28:11	1118.
May 11, 1896		29:116	1119.
Jan. 18, 1897	1, 2, 3, 7	29:490	1131–1134.
Aug. 7, 1946		60:872 ch. 772	1100–1101.
Aug. 3, 1955		69:445 ch. 498	1102, 1102a–g.

9.—PATENTS FOR PRIVATE CLAIMS

Act of—	Sections	Statute	43 U.S.C.
Revised Statutes: 2447–2448			1151, 1152.
June 6, 1874	1, 2	18:62 ch. 223	1153, 1154.
Jan. 28, 1879		20:274	1155.
May 30, 1894		28:84 ch. 87	1156.

10.—SALES OF ISOLATED TRACTS

Revised Statute: 2455, as amended			1171.
Feb. 4, 1919		40:1055	1172.
May 10, 1920		41:595 ch. 178	1173.
Aug. 11, 1921		42:159 ch. 62	1175.
May 19, 1926		44:566 ch. 337	1176.
Apr. 24, 1928		45:457 ch. 428	1171a.
May 23, 1930		46:377 ch. 313	1171b.
Feb. 14, 1931		46:1105 ch. 170	1177.

11.—EVIDENCE OF TITLE

Revised Statutes: 2471–2473			1191–1193.

12.—LANDS IN ALASKA

Mar. 3, 1891	11	26:1099	732–738.
Mar. 12, 1914—Fourth paragraph of section 1 only		38:305	
May 25, 1926		44:629	732–738.
Feb. 26, 1948		62:35 ch. 72	
Aug. 30, 1949		63:679 ch. 521	
July 24, 1947		61:414 ch. 305	
May 14, 1898		30:413	270–270–17.

13.—PITTMAN ACT GRANTS

Sept. 22, 1922		42:1012	356.

14.—INDIAN ALLOTMENTS

Feb. 8, 1887		24:389	334.
Feb. 28, 1891		26:795	336.

(b) Section 7 of the Act of June 28, 1934, as amended (43 U.S.C. 315f), is revised to read as follows:

"The Secretary of the Interior is authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for

any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lien, exchange, or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal."

(c) The Act of March 3, 1877, as amended (19 Stat. 377; 43 U.S.C. 321, 322, 323, 325, 327–329), is further amended to read as follows:

"All surplus water over and above water actually appropriated and used by persons on entries made under this Act, together with the water of all lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights."

(d) This Act shall not be construed as repealing any law not listed in this section.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 20 1971

Dear Mr. President:

Enclosed is a draft bill "To provide for the management, protection, and development of the national resource lands and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

In his message to Congress on the environment early this year, President Nixon stated:

> "The Federal public lands comprise approximately one-third of the Nation's land area. This vast domain contains land with spectacular scenery, mineral and timber resources, major wildlife habitat, ecological significance, and tremendous recreational importance. In a sense, it is the 'breathing space' of the Nation.
>
> "The public lands belong to all Americans. They are part of the heritage and the birthright of every citizen. It is important, therefore, that these lands be managed wisely, that their environmental values be carefully safeguarded, and that we deal with these lands as trustees for the future. They have an important place in national land use considerations."

This bill represents an historic proposal. The Department is proposing legislation which, for the first time, would state the national policies governing the use and management of 450 million acres of the public domain and provides specific guidelines for the management of these vast lands.

Simply put the bill declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of the environment. It is also declared in the national interest that these lands be held in Federal ownership and that disposal be authorized only when the management of the public domain would be significantly improved, or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on non-Federal lands. This then sets a guiding principle for management in perpetuity.

In a very real sense the story of this country's growth and development is the story of the public domain. At one time the Federal government owned 80% of the present land mass of the United States. Thirty-one States were created out of public domain, railroads, schools, and other public works built, and much of the west was settled by grants of public land. For these and other purposes 1.1 billion acres of some of the richest land in this country was transferred out of Federal ownership.

Although the primary objective of Congress was to get Federal land into private ownership, it also recognized at an early date that certain natural resources should be preserved for the enjoyment of the Nation as a whole and generations to come. In 1872 Yellowstone National Park was created. In succeeding years, 18 million acres of public land became National Parks, 160 million acres became National Forests, and 2.3 million acres became wildlife refuges.

Today roughly 450 million acres of public domain remain without specific statutory designation. And while the Nation has come to regard this land as a permanent national asset to be, for the most part, retained and managed on a multiple use, sustained yield basis, the basic management tools available for this purpose remain those that were forged when Federal ownership was expected to be short-lived, and when the Federal role was that of a temporary custodian.

From 1812 to 1946 the principal custodian of the public land was the General Land Office. Its job was primarily to survey the land and convey it to successful applicants.

In 1934, the Taylor Grazing Act brought a measure of protection and management to the unreserved public domain. Among other things, this Act authorized the establishment of grazing districts to provide more orderly use of the public range lands. The Grazing Service was created to administer the grazing district management program. The General Land Office was given authority to classify public lands for disposal.

In 1946 by executive reorganization, the General Land Office and the Grazing Service were merged into the Bureau of Land Management.

Within the Department of the Interior the Bureau of Land Management has the responsibility to manage the 450 million acres of unreserved public land. In addition, BLM has some surface management responsibilities on millions of acres withdrawn for programs of other Federal agencies such as the Bureau of Reclamation, the Bureau of Sport Fisheries and Wildlife, and the Department of Defense. BLM and the Geological Survey have joint responsibilities for administration of the mineral laws on all public domain and acquired lands (including national forests and wildlife refuges), reserved mineral interests -- more than 800,000,000 acres in total -- and on the Outer Continental Shelf. BLM also keeps the basic public land records and does land boundary surveys for most Federal lands. Lands administered by BLM amount to about 60% of all Federal lands.

Despite the enormous responsibilities of the BLM, the definition of its mission and the authority to accomplish it have never been comprehensively enunciated by Congress. Rather its mission and authority must be gleaned from some three thousand land laws which have accumulated over some 170 years and which are often at cross purposes.

In 1964 Congress passed three laws as a first step in the process of placing public land management on an up-to-date, rational basis. The Public Land Law Review Commission Act established a commission to review the entire body of the land laws and administrative practices and recommend modifications in them to best enable the public land to be retained and managed, or disposed of, all for the maximum benefit to the general public. The Classification and Multiple Use Act authorized BLM to classify the public lands for disposal or retention for multiple use management. The Public Land Sale Act allowed sale of public land which was chiefly valuable for certain specified uses. The latter two Acts expired on December 23, 1970.

The Classification and Multiple Use Act and the Public Land Sale Act were intended as interim measures, pending evaluation and possible implementation of the PLLRC recommendations. When they expired on December 23, 1970, the Bureau of Land Management returned to the Taylor Grazing Act of 1934 for its basic classification authority. Since the Taylor Grazing Act does not apply to public lands in Alaska, the Department is without that essential management authority in that State.

During the six year life of the Classification and Multiple Use Act, 177 million acres were classified for multiple use management while roughly 3.5 million acres of land were classified for disposal. Two hundred and sixty two million acres remain unclassified, almost all of which is in Alaska.

The comprehensive management authority we are proposing for the public lands is in accord with many of the recommendations of the Public Land Law Review Commission, and would continue on a permanent basis the concepts approved by Congress in the two Acts which expired on December 23, 1970. It would provide for the first time a clear and comprehensive definition of the Department's mission with respect to these lands.

The proposed act would apply to all lands administered by the Department through the Bureau of Land Management including the revested Oregon and California Railroad lands and reconveyed Coos Bay Wagon Road lands in Oregon. It would adopt the name National Resource lands to designate adequately their importance.

The proposed act is designed to provide a broad framework for any legislative proposals dealing with specific uses or resources which may be made in the future. For this reason, it should be an initial step in any legislative program to reform the land laws.

It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such lands giving priority to lands in critical environmental areas, which is defined to include among others flood plains, coastal zones and scenic or historic areas. The inventory will give priority to such critical resources as clean burning fossil fuels to assist this Nation's efforts to combat pollution. The identification of the most critical environmental areas will be given a high priority by this Department so that those areas may be given the protection they so urgently need. A thorough knowledge of the resources we possess and purposeful plans for their use will greatly assist us to arrest the destruction we have too long and too carelessly inflicted on our natural resources. The national resource lands are in a real sense our last frontier. We cannot afford to squander their riches.

The proposed bill would repeal the hodge-podge of land disposal laws and replace them with a modern disposal law authorizing the Secretary to sell for fair market value those lands meeting the standards set forth in the proposed bill.

The Mining and Mineral Leasing Laws and certain special purpose land disposal laws, including the Recreation and Public Purposes Act, would not be repealed, although this Act would govern the exercise of Secretarial discretion under those and any other laws.

Equally important to land management is the authority to acquire lands necessary for authorized programs, or for blocking up existing land holdings. One traditional method of doing this, land exchanges, is retained with the modification that where the lands are not of equal value, the value may be equalized by cash payment. This acquisition authority is not intended to initiate a major acquisition program.

The proposed bill would significantly enhance the management of the national resource lands by making violation of laws or regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees.

The authority granted by the Act would pass to the Secretary of Natural Resources upon establishment of the Department of Natural Resources as proposed by President Nixon. The Act would not affect the present funding of operations on or the distribution of receipts from the national resource lands.

The national resource lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

Rogers C. B. Morton

Secretary of the Interior

Hon. Spiro T. Agnew
President of the Senate
Washington, D.C. 20510

Enclosure

92D CONGRESS
1ST SESSION

S. 2450

IN THE SENATE OF THE UNITED STATES

AUGUST 5 (legislative day, AUGUST 3), 1971

Mr. ALLOTT (for himself and Mr. JORDAN of Idaho) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To establish land use policy, to establish guidelines for its administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Land Policy Act of 1971".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the lands and their resources owned by the United States constitute a national asset of inestimable value;

(2) the public land policies and laws of the United

States are inadequate to meet the current and future needs of the American people;

(3) such policies and laws are in many instances inconsistent with other national policies as well as being inconsistent with each other;

(4) the continuing growth of the population and the economy of the United States and the economy and welfare of its citizens require extraordinary care in the use of the public lands and their resources in order to assure their maximum contribution for the benefit of the present and future generations;

(5) it is necessary to examine and reexamine at this time, and periodically hereafter, the uses of all public lands;

(6) among the actions that have contributed considerably to the inadequacy of existing public land policy and law has been the failure of Congress to exercise its constitutional authority over the retention, management, and disposition of public land and that, where Congress has delegated such authority to the executive branch, such delegations have frequently been broad and without adequate guidelines to assure protection of the public interest;

(7) public land management agencies have promulgated rules and regulations which were developed

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without proper consultation with, and participation by, interested parties and the general public, and are cumbersome, and therefore inadequate to fulfill the purpose;

(8) the absence of statutory guidelines and inadequacy of rules and regulations, coupled with the absence of long-range goals and objectives for the use of the public lands, make it possible that the public lands may not contribute the maximum benefit for the general public at a particular time that a specific service or use is required;

(9) the absence of statutory guidelines has resulted in no provision being made to assure that the quality of life would not be endangered by reason of activities on federally owned lands or that public lands would be used so as to at least maintain if not enhance the environment of such lands and others in their vicinity;

(10) the absence of statutory guidelines, and failure of uniformity where guidelines exist, have resulted in a variety of fee structures for the various goods and services derived from the public lands with no assurance of equitable treatment for either the users or the general public and that it is essential that statutory guidelines be established to assure equitable fees and charges;

(11) that individuals, firms, and communities

depending on public lands and public land resources are, because of the absence of long-range policies, goals, and objectives, uncertain of the future while it would be in the national interest to provide them with some guidelines to permit planning for the future;

(12) some States have not received title to all lands granted by their respective Statehood Acts despite the passage of more than a century, in some cases, satisfaction of these obligations should be expedited;

(13) the sharing with States and counties of receipts derived from the sale of public lands or the products of public lands bears no relationship to the burdens imposed on State and local governments by the retention of public lands in Federal ownership; and that the expansion of the policy of retention of additional public lands in Federal ownership requires that the national public bear the burden of Federal ownership and generally replace the programs of sharing receipts by a program or programs to make payments to States that will compensate State and local governments for the burdens imposed by such continued Federal ownership of public lands;

(14) an adequate survey is a basic management tool and a necessity for orderly disposition of land, yet large blocks of land in the Western States remain unsur-

veyed, it is in the public interest that completion of original surveys be expedited;

(15) the projected need for new cities is such that a separate effort should be made to identify and, if determined to be in the public interest, utilize public lands for such purposes;

(16) procedures for the exchange of public for non-Federal lands are cumbersome, unnecessarily expensive for all involved, inordinately time consuming, and sometimes result in the acquisition by the United States of land for which it has no need;

(17) it is in the national interest to encourage State and local government units to carry out programs that they are equipped to provide and that it is therefore in the national interest to dispose of lands for such purposes to State and local governments;

(18) since most federally owned lands fall within the jurisdictional limits of other levels of government, which have responsibility for health, safety, and welfare of those who use the lands, it is essential that there be the highest degree of coordination between Federal public land management agencies and units of State and local governments;

(19) proper use of public lands, either in continued

Federal ownership or in non-Federal ownership, depends upon proper planning for such use and that in planning the use of public lands the uses of nonpublic lands in the vicinity of the Federal lands must also be given consideration;

(20) it is in the national interest to assure that regional, State, and local government agencies are authorized to plan the use of non-Federal lands so that the planned use of public lands can be coordinated with them toward an ultimate objective of establishing a national land use policy.

(b) The purposes of this Act are—

(1) to provide a system for the planning of public land use that will eliminate the inadequacies and inefficiencies of existing public land policy and law;

(2) to further eliminate inadequacies and inefficiencies by establishing other administrative procedures supplementary to the planning process; and

(3) to provide technical and financial assistance to regional, State, and local governments within whose geographic boundaries public lands are significant, in order to assure the development and execution of State and local planning with which public land planning can be coordinated.

DECLARATION OF POLICY

SEC. 3. The Congress affirms its policy that the public lands of the United States shall be—

(1) retained and managed, or

(2) disposed of, all in a manner to provide the maximum benefit for the general public.

DEFINITIONS

SEC. 4. As used in this Act—

(a) PUBLIC LANDS.—"Public lands" means any land owned by the United States within any of the States of the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof.

(b) CLASSIFICATION.—"Classification" means the determination of the use or combination of uses of a given parcel of public land that will result in the maximum benefit for the general public, indicating at the same time those uses that would be barred as being detrimental to the maximum benefit for the general public.

(c) WITHDRAWAL.—"Withdrawal" means the setting aside of land for public purposes for use by an agency.

(d) AGENCY.—The term "agency" means each authority (whether designated in the Act or order establishing it as a "department", "bureau", or by other title, and whether or not within or subject to review by another agency) of the

Government of the United States other than the Congress, the courts, or the governments of the possessions, territories, or the District of Columbia and the Commonwealth of Puerto Rico that has or exercises jurisdiction over the management of any land owned by the United States.

(e) PERSON AND PARTY.—"Person" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies. "Party" includes any person or any agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party in any agency proceeding; but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes.

(f) RULE AND RULEMAKING.—"Rule" means the whole or any part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of any agency regarding the use, future use, or disposition of land owned by the United States and all aspects thereof such as proposed terms of use or disposition, including price. "Rulemaking" means agency process for the formulation, amendment, or repeal of a rule.

(g) ORDER AND ADJUDICATION.—"Order" means the

whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency in any matter other than rulemaking but including the granting of licenses or permits. "Adjudication" means agency process for the formulation of an order.

(h) LICENSE AND LICENSING.—"License" includes the whole or part of any agency permit, certificate, or other form of permission. "Licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.

(i) SANCTION AND RELIEF.—"Sanction" includes the whole or part of any agency (1) withholding of relief; (2) imposition of any form of penalty or fine; (3) destruction, taking, seizure, or withholding of property; (4) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; (5) requirement, revocation, or suspension of a license; or (6) taking of other compulsory or restrictive action. "Relief" includes the whole or part of any agency (1) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; (2) recognition of any claim, right, immunity, privilege, exemption, or exception; or (3) taking of any other action upon the application or petition of, and beneficial to, any person.

(j) AGENCY PROCEEDING AND ACTION.—"Agency pro-

ceeding" means any agency process as defined above in subsections (c), (d), and (e) of this section. "Agency action" includes the whole or part of every agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(k) MULTIPLE USE.—"Multiple use" means the management of all the various surface and subsurface resources so that they are utilized in the balanced combination that will best meet the needs of the American people now and in future generations; making the most judicious use of the land for some or all of these resources over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other without impairment of the productivity or environment of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output but rather the greatest combination at any one time of the maximum compatible uses.

(l) SUSTAINED YIELD.—"Sustained yield" means the management of renewable and nonrenewable resources to produce a flow of values calculated to meet an appropriate share of the foreseeable needs of the American people

at least cost with action programs adjusted periodically, whether annually or otherwise, to reflect changes in needs, land use capabilities, and production technology.

(m) DOMINANT USE.—"Dominant use" means that use which is determined as being the highest and best use of a tract of land; that is, the use for which the land area is or will be chiefly valuable (not necessarily the use that will provide the greatest dollar return or the greatest unit output), and will therefore take precedence in the event of a conflict between it and other uses or potential uses of the particular tract.

GOALS AND OBJECTIVES

SEC. 5. The Congress further finds and establishes that it is in the public interest, and will serve the maximum benefit for the general public, for the public lands of the United States to be utilized to the end that—

(a) the policies and laws applicable to and governing the use of public lands are administered with fairness and equity to help assure that goods and services are provided to help meet the current and future needs of both renewable and nonrenewable resources of the public lands;

(b) public lands are transferred to non-Federal ownership only for purposes designated by statute for designated uses and in a manner that Congress has de-

termined will in certain circumstances be in the public interest or in furtherance of public policy;

(c) unless public lands have been set aside for some specific use or uses either by Act of Congress or in accordance with the procedures of this Act their use shall be planned so as to assure multiple use and sustained yield management;

(d) Federal public lands are managed so as not to endanger the quality of the environment and, where feasible, to enhance the quality of the environment both on and off the public lands;

(e) public land management programs be designed and carried out in accordance with plans therefor that are coordinated with and, to the extent feasible, in harmony with regional, State, and local land management plans developed by non-Federal agencies;

(f) in providing for current and future needs of the American people due consideration is given to having the public lands make available a proportionate share of the projected increased demand by the American people for both passive and active recreation, including hunting and fishing and preservation of both land and resources, including the preservation of game and non-game wildlife; for food and fiber, including domestic livestock, timber, minerals, and agricultural products;

and for residential, commercial, and industrial use, including the development of self-sufficient cities or towns;

(g) incentives be furnished for the discovery and development of additional domestic sources of mineral supply, including offshore sources;

(h) unless there is no overriding national need to the contrary, to maintain community stability by continuing to make available the use of public lands and their resources to persons and communities that are or have been dependent thereon;

(i) provide equitable treatment for States and their subdivisions in whose jurisdiction public lands are located, with the police powers and legislative jurisdiction over the public lands to be exercised generally by such State and local governments or concurrently by them and the Federal Government;

(j) equity is afforded to each user who pays fair market value by assuring that he receives a grant assuring (1) occupancy for a period commensurate with his projected investment, and (2) equitable compensation in the event that his permit, lease, or other grant of use is terminated by the Government before the expiration of the term of such permit, lease, or other grant based on the understanding that no user of public land shall acquire any right in the land except as specifically au-

thorized by statute and set forth in the permit, lease, or other grant and then only for the term of such permit, lease, or other grant;

(k) equity is assured to the general public, users, and potential users by providing (1) for participation by all in rulemaking and all procedures leading up to the classification of any area of public land, (2) with administration carried out so that the United States, solely because it is the sovereign, never takes advantage of its position as landowner, and (3) with the right of judicial review as expeditiously as possible after the parties involved have utilized statutorily established reasonable administrative procedures.

ADMINISTRATIVE PROCEDURES

SEC. 6. Each agency, unless there is a formal finding by the head of the agency that the security of the United States would thereby be impaired, shall adhere to the following procedures:

(a) Within ninety days of the effective date of this Act and currently thereafter as soon as feasible and thereafter as required, initiate formal rulemaking procedures by publishing in the Federal Register proposed rules with (1) description of its central and field organization including delegation by the agency of final authority and the established place at which, and methods whereby, the public may

secure information or make submittals, requests, or applications for the use of public lands; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public. No person shall in any manner be required to resort to organization or procedure not so published.

(b) Every agency shall publish or, in accordance with published rules, make available to public inspection all final opinions or orders in the adjudication of cases and all rules.

(c) Unless specifically excepted by statute, matters of official record shall in accordance with published rule be made available to any person or persons in accordance with reasonable procedures established by the agency.

(d) Prior to formulating a proposed rule and giving the notice required hereinafter, the agency shall consult with such advisory council or councils hereinafter established as appropriate to the particular proposed rule; and, in those instances where a proposed rule applies to a specific tract of land, consultation shall also include representatives of

State and local governments within whose geographic boundaries the land is located, and the Interstate Regional Land Use Coordinating Commission, in areas where such bodies are established, authorized users of the land, applicants, or others known to be interested in the use of the land, and those owning land immediately adjacent to the public land involved.

(e) Notice of proposed rulemaking shall be furnished to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register. The notice shall include as a minimum (1) a statement of the time, place, and nature of public rulemaking proceedings; (2) reference to the authority under which the rule is proposed; (3) either the terms or substance of the proposed rule or description of the subjects and issues involved including in either event the projected impact of the proposed rule on users, potential users, and the general public. In addition, when the proposed rule applies to specific lands, notice thereof shall be published in at least one newspaper of general circulation in the area.

(f) The notice required by this section shall include provision by the agency for anyone interested to participate in the rulemaking, within not less than thirty days or more than ninety days thereafter, through submission of written data, views, or arguments with or without opportunity to

present the same orally in any manner; and, after consideration of all relevant matter presented, the agency shall incorporate in any rules adopted a concise general statement of their basis and purpose. Public hearings shall be held on any proposed rule of general application and with regard to any rule of specific application unless there is a formal finding that the proposed rule will have no significant impact on the administration of the public land laws.

(g) On and after one hundred and eighty days from the effective date of this Act no agency may adjudicate any case or otherwise attempt to determine the rights and liabilities of any parties regarding the use of public land except in accordance with standards and interpretations contained in statutes or in regulations published in accordance with the rulemaking procedures of this Act. When statutory rights are provided, no agency may deny such right or rights on any ground not stated in either the statute or such published regulations. Deviation from published standards and interpretations contained in published regulations may be accomplished only through the rulemaking procedures of this Act designed to establish new standards and interpretations.

(h) The rulemaking procedures of this Act may be modified or dispensed with in emergency situations when the head of the agency involved makes a formal finding that an emergency exists and that notice and publication procedures

therefore are impracticable, unnecessary, or contrary to the public interest.

(i) Determinations that the security of the United States will be impaired through the rulemaking procedure required by this section, that there need be no hearing on a proposed rule because it will have no significant impact on the administration of the public land laws, or that an emergency exists making it impracticable, unnecessary, or contrary to the public interest to follow the rulemaking procedures of this Act, will be communicated to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register at least thirty days before the effective date of the rule, together with the text of the rule, except that in emergency situations the period of notice may be reduced along with publication of the justification for such reduced period.

ADVISORY BOARDS

SEC. 7. There are hereby established advisory boards and committees that shall furnish advice and counsel to the head of each department or independent agency and to the head of each subsidiary agency—

(a) NATIONAL ADVISORY BOARDS.—The head of each department or independent agency having responsibility for public land management shall establish and receive advice from an advisory board comprised of twenty-five mem-

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bers appointed by him representative of a cross section of groups interested in the retention, management, and disposition of the category or categories of public lands under his jurisdiction. Individuals designated by the heads of other departments and independent agencies with similar interests shall also be members of such national boards.

(b) In each department and independent agency where the administration of public lands is divided between more than one subsidiary agency, the head of each such subsidiary agency shall establish and receive advice from an advisory board composed of a membership based on the same qualifications as the board advising the head of the department or independent agency. An individual serving on a board advising the head of the department or independent agency shall not by reason thereof be barred from serving on a board advising the head of a subsidiary agency except that, of the twenty-five non-Federal members of the advisory board, not more than fifteen shall serve on two boards at the same time.

(c) The head of each agency involved shall designate from among the non-Federal members a chairman of each advisory board or committee who shall serve as chairman for the duration of his term of appointment.

(d) Each advisory board or committee shall meet at least twice a year and take up matters on the agenda estab-

lished by the chairman after consultation with the head of the agency involved or his representative. Agency heads are encouraged to have the advisory boards and committees meet more frequently as the need therefor may require and to utilize the board or committee as a source of advice and counsel in written communication between meetings when specific matters arise that do not warrant having a formal meeting. In any event no proposed rulemaking procedure will be initiated without having first given the appropriate advisory board or committee an opportunity to comment thereon at either a formal meeting or through written communication.

(e) The meetings of each advisory board or committee shall be subject to the following rules:

(1) No meeting shall be held unless the call therefor has received the advance approval of the head of the agency involved except that if no meeting has been held for six months or more, the chairman may issue the call for the meeting without such approval.

(2) It will be the responsibility of each agency head to be present or represented at each advisory board or committee meeting.

(3) Minutes of each meeting shall be kept containing as a minimum a record of those in attendance, a description of matters discussed and conclusions

reached, and copies of all reports received, issued, or approved by the board or committee. The minutes shall be signed by the chairman and accuracy attested to by the head of the agency involved or his representative. A copy of each set of minutes of each advisory board shall be furnished to the President of the Senate and the Speaker of the House of Representatives within forty-five days after the meeting involved with a narrative report on any consultation with the advisory board since the last previous formal meeting.

(f) Each member of any advisory board or committee shall be appointed for a term of four years except that, in order to assure continuity, one-half of the members appointed to the first board or committee established under this Act shall serve terms of two years each as designated by the head of the agency involved.

(g) Nothing herein shall be construed to limit the scope, authorization, and jurisdiction of any advisory board or committee established by any other statute unless such statute or portion thereof is specifically repealed by this Act. Further, the head of each public land management agency may on his own initiative establish an advisory committee composed of the number of people he deems appropriate for the purpose for a period not to exceed two years, but otherwise subject

to the provisions of this Act concerning the composition of the committee and the rules under which it operates.

(h) Unless specifically authorized by law to the contrary, the function of each advisory board or committee shall be solely advisory and the determination of action to be taken with respect to matters upon which an advisory board or committee advises or recommends shall be made solely by the head of the public land management agency or the individual to whom he has delegated such authority in accordance with the rulemaking procedures of this Act.

(i) Each department or independent agency having public land management responsibilities shall publish annually, in its annual report or otherwise, a list of all advisory boards and committees utilized by it or any of its subsidiary agencies, including the names and affiliations of the members of such boards or committees, a description of the functions of each board or committee, and a statement of the dates of its meetings. Each such publication shall be furnished to the President of the Senate and the Speaker of the House of Representatives within forty-five days after the end of each calendar year.

(j) The President and the head of each public land management agency are respectively authorized to issue regulations in accordance with the rulemaking procedures of this Act as they deem necessary to govern the functioning

of advisory boards and committees including enumeration of the qualifications for membership therein by non-Federal members.

(1) When traveling to or from and attending official meetings, each member of an advisory board or committee shall be entitled to receive per diem and reimbursement for transportation costs in the same amount as authorized at that time by applicable law and regulation for employees of the Federal Government.

REGIONAL LAND-USE COORDINATION

SEC. 8. In furtherance of the purpose and policy of this Act, it is necessary to authorize the establishment of an Interstate Land Use Coordinating Commission to represent regional, State, and local governments within a geographic area composed of two or more States or portions thereof, which shall be established and function as follows:

(a) When more than one-half of the States within a geographic area have decided, in accordance with the law of each State, that they desire to join together in a commission for this purpose and the Governor of each consenting State in writing so advises the Secretary of the Interior, defining the geographic limits of the area to be included together with a statement of the reasons therefor, the commission shall then be deemed to be created and its creation shall be announced by the Secretary of the Interior.

(b) Each interstate commission shall establish its own rules, choose its own chairman, be available for coordination with the Federal advisory boards as provided by this Act or by such regulations as may be adopted in furtherance of this Act, and independently recommend to the appropriate Federal department or agency public land actions deemed by the commission to be in the public interest.

(c) Each interstate commission shall decide on the number of members comprising each commission but there shall be an equal number from each State which lies wholly or partially within the geographic area for which the commission has been created with each such member having been appointed in accordance with the laws of the State which he represents.

SEC. 9. (a) There are hereby authorized to be appropriated to assist in financing the regional interstate land use coordinating commissions not more than $5,000,000 annually.

(b) The Secretary of the Interior is authorized to make grants to any State that has or hereafter establishes a land use planning commission and joins or indicates its willingness to join a regional interstate land use coordinating commission. The Secretary is further authorized to make grants to assist in the operation and functioning of any such interstate commission. Such grants shall not exceed two-

thirds of the cost of the amount required to plan, develop, establish, and operate the State or regional planning commission.

(1) The Secretary shall, after consultation with representatives of State and local governments, provide, by regulations adopted in accordance with the rule-making procedures of this Act, procedures for the States and regional commissions to make applications for grants. Such regulations shall explicitly indicate the items of cost or expense that will be considered appropriate by the Secretary as a basis for arriving at the total cost and form the basis of the Federal grant.

SEC. 10. An interstate commission may accept for any of its purposes or functions donations, and grants of money, equipment, supplies, materials, and services. Any donations or grants so received shall be set forth in the annual budget.

SEC. 11. Each interstate commission shall at the end of each calendar year submit to the President of the Senate and the Speaker of the House of Representatives a report on its activities for the preceding year including a listing of the membership and the record of their attendance at each of the meetings held during the year.

PLANNING PUBLIC LAND USE

SEC. 12. In order to assure fulfillment of the purposes and policy set forth in this Act and the achievement of its

goals and objectives, it is essential that each public land management agency pursue a systematic program of land use planning. Accordingly, the following actions will be taken—

(a) Within sixty days of the effective date of this Act the head of each department and independent agency having responsibility for retention, management, or disposition of public land will publish proposed rules in accordance with the rulemaking procedures of this Act setting forth specific procedures by which that agency will establish and pursue its land use planning. If the head of any such department or independent agency makes a formal finding that all or some of the lands under this jurisdiction are not suitable for planning as hereinafter set forth, or cannot be the subject of planning because of reasons of national security, a proposed rule to this effect shall within sixty days of the effective date of this Act be published in the Federal Register. Copies of all rules promulgated under this section shall be furnished to the President of the Senate and the Speaker of the House of Representatives simultaneously with their submission to the Federal Register.

(b) Each agency shall, as expeditiously as possible, at each echelon, that is, departmental or national level, division or regional level, and district or local level, consult with persons interested in the retention, management, and

disposition of public lands, including but not limited to the Advisory Board or Committee created by this Act and representatives of the State and local governments within whose boundaries the public lands are situated, concerning the development of both general and specific land management plans. A copy of this Act shall be furnished to each such individual consulted so that all will understand congressional policy and objectives.

(c) As expeditiously as possible and on a recurring basis thereafter each agency shall initiate the development or review of land use plans. The objective of each land use plan shall be to classify the land involved in order to obtain the best net public benefit; that is, the maximum benefit for the general public, through the management or disposition of the public lands. Management plans or new management plans, will be developed for all public lands, regardless of whether such lands have previously been "classified," "withdrawn," "set aside," or otherwise designated for one or more uses, focusing each plan on the smallest unit of public lands deemed by the agency to constitute a manageable entity, utilizing the following criteria—

(1) No lands shall be classified as being chiefly valuable for transfer out of Federal ownership if important public values that should be enjoyed by the general public would be lost thereby.

(2) Land managed by the Bureau of Land Management and the Forest Service shall be managed in accordance with the principle of multiple use unless such lands have been set aside specifically for some use by statute or administratively in accordance with the terms of this Act, except that lands classified by the Forest Service as "primitive" shall be managed and their status reviewed in accordance with the Wilderness Act of 1964 (78 Stat. 890). Land that has been designated or set aside by statute for management by other agencies shall be managed for the principles and purposes set forth in such statute except that, unless expressly prohibited by statute, management plans shall encourage compatible secondary uses.

(3) Public lands that heretofore have been designated, classified, reserved, or set aside by administrative action for a specific purpose or multiple purposes shall continue to be managed in accordance with such action except that, unless expressly prohibited by the action establishing the unit management plans shall provide maximum multiple use or compatible secondary uses for all such areas at least until such time as the area has been reviewed, if so required, by the provisions of this Act.

(4) All lands managed under the principle of multiple use shall be examined to determine whether the area or any subareas are chiefly valuable for some particular use and, if so, such area or subareas shall be classified to indicate their highest and best uses, it being recognized that not every acre of every area can be fully utilized to the same degree for each and every use. In those instances where an area or a subarea is classified to indicate that it is chiefly valuable for one particular use that use shall be referred to as the dominant use. Each area or subarea having a dominant use shall be managed under the principle of multiple use with as many compatible uses being carried on as possible except that, in the event of a conflict between uses, the dominant use shall, during the period of conflict only, prevail unless there is in the interim a reclassification of the area or subarea in accordance with the procedures of this Act for initial classification.

(d) Each public land management plan will indicate areas or subareas that will serve the maximum benefit for the general public in non-Federal ownership, based on the following criteria:

(1) The land involved is isolated, difficult to manage as part of any agency's responsibility in the area, or, having been acquired for some specific purpose, is no

longer required for that purpose or any other Federal use.

(2) Land is best suited to meet the goals and objectives of this Act in non-Federal ownership, or is best suited for the production of resources under non-Federal ownership, or will otherwise serve the maximum benefit for the general public in non-Federal ownership.

(3) The use of a specific parcel of land is required as an integral part of an approved statewide outdoor recreation plan or is needed in conjunction with the use of adjacent non-Federal lands in accordance with land use plans approved by the State or local government having jurisdiction thereover.

(e) Following tentative adoption of a land management plan, the agency shall again consult with and request the views of the appropriate interstate commission and the appropriate advisory committee and shall consult with the representatives of the State and local governments within whose boundaries the land is located. Within thirty days of receipt of views from groups with whom consultation is required but no later than sixty days after submission of the proposed plans to such boards and committees, the agencies shall offer the land management plan for consideration by all concerned in accordance with the rulemaking procedures of this Act.

(f) Land management plans shall be consistent with State and local government programs to the extent possible and no public land shall be designated for a use inconsistent with State or local zoning unless the head of the department or independent agency involved makes a formal finding that there is an overriding national need therefor.

(g) In addition to land management plans described above, each agency shall, in accordance with the same procedures provided above, establish long-range comprehensive land use plans for each State and for each area in which an Interstate land use coordinating commission has been established, except that the time limit specified in section 12(e) for consideration of management plans shall not be applicable. Within one year after the effective date of this Act, and at the end of each calendar year thereafter, the head of each department and independent agency shall advise the President of the Senate and the Speaker of the House of Representatives of the progress being made and the scheduled program for the accomplishment of long-range State and regional public land use plans.

WITHDRAWALS AND RESERVATIONS

SEC. 13. (a) The Secretary of the Interior is authorized to withdraw for the public purposes under Federal management, in accordance with the rulemaking procedures of this Act, any portion of land under his jurisdiction not exceeding

in the aggregate five thousand acres and set such land aside for a specified government use or uses. The Secretary is further authorized, upon application of the head of any other agency, to similarly withdraw or set aside land under the administrative jurisdiction of the requesting agency. A withdrawal shall have the effect of excluding the public from all uses as specified in the withdrawal order. No withdrawal order shall be issued without consideration of the following factors which shall be included in the statement published in the Federal Register as part of the rulemaking procedures:

(1) Proposed use of land involved.

(2) Inventory and evaluation of the current and natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed withdrawal. Particular attention will be given to aspects of use that might cause degradation of the environment.

(3) Identification of present users of land proposed to be withdrawn and how they will be affected by the withdrawal if it is consummated.

(4) Analysis of the manner in which existing and potential resource uses and users are incompatible with or in conflict with the proposed use together with a statement of provision being made for continuation or termination of existing uses.

(5) Comparative analysis of manner in which the acreage proposed for withdrawal will be used with relation to the specific requirements for the proposed use.

(6) Statement as to whether any alternate sites have been considered and if not the reasons why alternate sites cannot be considered.

(7) Comparison of costs and suitability of possible alternate sites and the land area proposed for withdrawal.

(8) Statement that consultation has been had previously with other Federal agencies, with regional, State, and local government bodies, and with appropriate advisory boards or committees together with an identification of all with such coordination has been had and advice as to location where any exchange of communications between the proposed using agency and such other groups may be examined. A general statement indicating the effect, if any, on State and local government interests and the projected impact on the regional economy will be included.

(9) Narrative statement of the need for the withdrawal for length of time proposed.

(10) Notification of time and place of hearing or hearings on proposed withdrawal, if hearing or hearings are deemed appropriate because of the nature of the withdrawal.

(b) If the proposed withdrawal notice has not established that a hearing or hearings will be held hearings shall nonetheless thereafter be held if request therefor is made by or on behalf of a State within which the land is situated and such request for a hearing is made within the period permitted for submission of comments on the proposed withdrawal.

(c) Following receipt of comments in response to publication of the proposed withdrawal, the Secretary of the Interior or his designee shall again consult with the interstate commission, the representatives of State and local governments, and with appropriate advisory boards or committees. Thereafter, if the Secretary or his designee determines that the withdrawal of the land involved is necessary to achieve the maximum benefit for the general public an order to that effect shall be published in the Federal Register containing, as a minimum, the information required by section 13(a), (1), (2), (3), and (4), modifications, if any, between area proposed for withdrawal and the area withdrawn, discussion of need for withdrawn area instead of an alternate site, and conditions of the withdrawal order that will maintain if not enhance the environment of the withdrawn and adjacent land areas.

(d) Withdrawals accomplished in accordance with section 13(a) shall be limited to a period not to exceed ten

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years except that withdrawals in aid of prospective legislation or for emergency purposes may not exceed five years subject, however, to a renewal in either instance for another five-year period by submitting to the President of the Senate and the Speaker of the House of Representatives justification for such extension at least six months before the end of the initial five-year term.

(e) The Congress reserves to itself authority to withdraw lands (1) which exceed in the aggregate five thousand acres in either one parcel or when one or more parcels are combined with withdrawn adjacent acreage, (2) for periods in excess of ten years, and (3) of unique and value for incorporation into the national park system, the national forest system, the scenic and wild rivers system, the national trails system, the national wildlife refuge and game range system, the wilderness preservation system, and other areas envisioned as being set aside for long term or permanent use for limited purposes such as national riverways or for the protection of birds or animals. Proposals submitted to the Congress requesting the withdrawal of lands shall contain the information set forth in section 13 (a) to be included in the publication of the Federal Register except that instead of setting a date for a hearing or hearings on the proposed withdrawal the requesting agency will indicate whether any

public hearings have been held and, if so, a summary thereof shall accompany such proposal.

(f) Upon notation on the land office records that an application has been made for a proposed withdrawal, the land affected shall thereby be segregated and restricted from the public uses set forth in the proposed withdrawal for a period of six months. Upon publication in the Federal Register of a notice of proposed withdrawal, or upon submission to the Congress of an application for a legislative withdrawal, the segregative effect shall continue for a period or additional period of six months from the date of such publication or application. In the event that an administrative withdrawal is not completed within six months from the date of publication of the proposal in the Federal Register, and the administrative agencies have diligently taken action as required herein in furtherance of the proposed withdrawal, the Secretary of the Interior may, by publication in the Federal Register, continue the segregative effect for one additional six-month period; where application has been made for a legislative withdrawal, the introduction of a bill in either House of Congress shall have the effect of continuing the segregation of the land until the adjournment sine die of that Congress unless application was submitted less than six months before such adjournment in which case the segregative effect shall continue for six months or until thirty

days after the convening of the next Congress, whichever is the longer period.

(g) Within six months of the effective date of this Act the Secretary of the Interior, after consultation with the heads of other Federal departments and independent agencies, shall initiate, in accordance with the procedures of this Act, rulemaking for the establishment of procedures of this Act, rulemaking for the establishment of regulations whereby the Secretary or his designee shall, within ten years after the effective date of this Act, review all land withdrawals since January 1, 1956, not affected by statute with a program for future review at least every five years of all withdrawals made in accordance with section 13 (a) of this Act. Each agency having administrative jurisdiction over withdrawal lands affected by this review procedure shall at the time required by the Secretary of the Interior furnish to the Secretary information concerning the need for continuing each withdrawal and supply in support thereof, as a minimum the information required by section 13 (a) of this Act. After review, if the Secretary or his designee determines that there is ample justification for continuing the withdrawal, he is authorized, after complying with all the procedures required by this Act for new withdrawals, to extend the then existing withdrawal for such period as

may be necessary but not to exceed ten years from the date of the initial withdrawal; if the Secretary or his designee determines that the withdrawal should continue for a period in excess of a total of ten years he shall so advise the Congress and recommend a legislative withdrawal in the same manner that proposals for legislative withdrawals will be made under section 13(d) of this Act except that, where lands were withdrawn prior to the effective date of this Act, the Secretary may, contemporaneously with his recommendation to Congress for an extension of the withdrawal, provide administratively for a continuance of the withdrawal for a period not to exceed two years from that date. At the end of each calendar year the Secretary of the Interior shall advise the President of the Senate and the Speaker of the House of Representatives concerning all actions taken in connection with the review program; with regard to existing withdrawals such advise will be given with respect to not less than one-third thereof within three years after the effective date of this Act, not less than two-thirds within seven years after the effective date of this Act, and the remaining areas within ten years after the effective date of this Act.

(h) If the Secretary finds that an existing withdrawal cannot be justified he shall so advise the requesting agency that a withdrawal for which a new application has been filed

cannot be justified he shall so advise the requesting agency or the agency having the administrative jurisdiction over the lands involved, submit a copy of such advice to the President of the Senate and the Speaker of the House of Representatives, and establish a date not more than six months thereafter by which time the withdrawal or the segregative effect of the application for withdrawal will be rescinded by the Secretary and the lands involved restored for full use in accordance with plans and classifications developed in accordance with section 12 of this Act.

(i) The Secretary of the Interior may delegate all or any part of the authority to effect administrative withdrawals to any officer or official of the Department of the Interior appointed to his position by the President.

(j) Subject to valid existing rights the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141 (1964)), as amended, is repealed effective as of the effective date of this Act. Valid withdrawals made pursuant to the provisions of the Act of June 25, 1910, shall continue in full force and effect until otherwise terminated.

JUDICIAL REVIEW

SEC. 14. (a) Any person or party who submitted views to the agency involved in the course of any rulemaking or any procedure required by this Act to be accomplished in accordance with the rulemaking procedures, may, if he

is dissatisfied with the decision of or order in the particular proceeding, and any person suffering legal wrong because of any agency order, or adversely affected or aggrieved by such order within the meaning of any relevant statute, or who has a sanction applied by any agency order, shall be entitled to judicial review thereof. Such action may be brought in the district court of the United States in and for the district where the head of the agency issuing the order is located or, if the order involves specific lands, in the district court in and for the district wherein the lands involved are situated.

(b) Pending judicial review any agency is authorized where it finds that it will serve the public interest, to postpone the effective date of the action involved. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court (including every court to which a case may be taken on appeal from or upon application for certiorari or other writ to a reviewing court) is authorized to issue, as necessary and appropriate, process to postpone the effective date of any agency action or to preserve status or rights pending conclusion of the review proceedings. Judicial review shall be initiated within sixty days after announcement by the agency of the adoption of a land management plan, classification of lands, or the issuance of a final order of withdrawal or rejection or rescission of a withdrawal, by the filing of a written

petition with the appropriate court praying that the action involved be modified or set aside in whole or in part. A copy of the petition shall forthwith be transmitted by the clerk of the court to the head of the agency involved who shall thereupon file with the court the complete record upon which the decision complained of was entered. No objection to the order complained of shall be considered by the court unless such objective shall have been urged before the agency involved unless the court finds that there is reasonable ground for failure to have done so.

AGENCY ENFORCEMENT

SEC. 15. On and after one year after the effective date of this Act, determinations by agencies based on any rules, regulations, practices, or procedures covered by this Act shall be unenforceable unless procedures required by this Act have been followed.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 1 1971

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 2450, a bill "To establish land use policy, to establish guidelines for its administration, and for other purposes."

We recommend that the bill not be enacted for the reasons set out in this report, and that S. 2401 the Administration's proposed bill "To provide for the management, protection and development of the national resource lands" be enacted instead.

Scope

A principal difference between the Administration bill, which is titled "The National Resource Land Management Act of 1971", and S. 2450 is that the former applies only to lands managed by the Bureau of Land Management while S. 2450 would apply to all federally owned lands.

Where public lands are set aside by law for a specific purpose such as lands held in trust for Indians, or lands in the National Parks, National Wildlife Refuge or National Wilderness Preservation Systems, multiple use management would generally be inconsistent with their statutory purpose. This would also be true of most Federal property other than that managed by the Bureau of Land Management, such as land underlying Federal office buildings, military bases, and the like.

Policy

S. 2450 contains in separate sections "Findings and Purposes" (section 2), "Declaration of Policy" (section 3), and "Goals and Objectives" (section 5). The Administration's proposal contains much of the content of these sections in a single "Declaration of Policy", and in separate "planning", "management","sale" and "acquisition" sections. The Administration's proposed declaration of policy contains a presumption that the national interest will best be served by retaining the lands administered by BIM in Federal ownership, and they be managed "under principles of multiple use and sustained yield, in a manner which will, using all practicable means and measures protect the environmental quality of the lands to assure their continued values for present and future generations."

We feel that the Administration's proposed structure provides greater clarity. In addition, we take exception to certain of the findings and objectives of S. 2450. Some of the findings, for example, are phrased in negative terms suggesting an attempt to assign blame for inadequacies in existing public land policy. We feel that a Congressional pronouncement should be phrased in positive terms to provide guidance as to how this precious "national resource" should be administered to achieve the maximum benefit to the American public and not in terms of a catalog of past failures.

Paragraphs 19 and 20 point out the importance of coordinated planning for public and non-public lands. The Administration's proposed "National Land Use Policy Act of 1971", pending before your committee as S. 992, is aimed at this objective. It would encourage each state to establish a land use regulatory program coordinated with Federal programs and with land use programs of other states. Once a state program is approved by the Secretary of the Interior, the Administration's bill would require that all Federal actions, including those on public lands, be consistent with the state program.

We are unclear what is meant by "equitable treatment" in subsection 5(i) and its relation to the exercise of state and local police power and legislative jurisdiction. We assume that this subsection is not intended to change existing law with respect to the exercise of state police power on Federal lands. The Administration's proposal covers this more explicitly in section 12.

Subsection 5(k) guarantees that equity be assured to the general public in three areas, the second being "that the United States solely because it is the sovereign, never takes advantage of its position as landowner". The meaning of this provision is not entirely clear. It appears to incorporate recommendation number 98 from the report of the Public Land Law Review Commission, which was illustrated by a case in which the Secretary of the Interior used his right to permit a power line easement across the Chesapeake and Ohio Canal National Monument to prevent the placement of a high voltage powerline near the Antietam Battlefield. The PLLRC report states "We take no position on the merits of (the) objectives... However we are concerned that they were undertaken without clear guidelines or direction from Congress". Where public values are at stake, we believe that this Department should avail itself of all its rights as landowners to protect and preserve them. The Antietam Battlefield case is a good example.

Administrative Procedures

Section 6 of S. 2450 sets forth detailed procedures governing the administration of the public lands. To a large extent, the provisions of section 6 are already either in the law or are established administrative practice, as for example, the publication of a description of each agency's central and field organization. For the most part, however, the section creates an administrative procedure paralleling and in many cases substantially identical to the Administrative Procedure Act, as amended, Act of June 11, 1946 (60 Stat. 237; 5 U.S.C. 551, et seq. (1970 edition)). The definitions of agency, person and party, rule and rulemaking, order and adjudication, license and licensing, sanction and relief, and agency proceeding and action appear to be taken virtually verbatim from the Administrative Procedure Act.

We feel that the Administrative procedures set forth in the Administrative Procedure Act are preferable to the creation of a new and separate set of procedures. The Administrative Procedure Act has the benefit of 25 years of history and case law construing its provisions. It has proven a reasonably efficient and workable law balancing private rights against public rights and presenting an expeditious method for resolving conflicts when they arise.

Advisory, Coordinating and Planning Commissions

Sections 7, 8, 10 and 11 of S. 2450 provide for a number of advisory, coordinating and planning commissions at various levels to assist public land managing agencies. This Department has strongly supported the use of advisory and coordinating committees. Virtually, all of the land and management bureaus within this Department, which includes the Bureau of Land Management, the National Park Service, the Bureau of Sport Fisheries and Wildlife, and the Bureau of Reclamation, employ advisory committees. At the field level the Bureau of Land Management regularly consults with an advisory board in each of its 63 districts.

We do not support, however, the provisions of S. 2450 which make it mandatory that advisory commissions be created at all decision-making levels and encumber them with rigid and costly procedures. We feel, therefore, that the establishment and organization of advisory commissions should be at the complete discretion of the agency head, and that the provisions of S. 2450 calling for an extensive network of mandatory committees and commissions are largely self-defeating.

The "National Resource Land Management Act of 1971" proposed by this Department authorizes the Secretary of the Interior to "establish and consult such advisory boards and committees as he determines necessary to secure full information and advice on the execution of his responsibilities". We feel that this language is preferable to the provisions of S. 2450 regarding advisory boards.

Present coordination problems arise largely out of the fact that jurisdiction for managing Federal lands is dispersed among a number of existing Federal agencies. President Nixon's proposal to reorganize the executive branch by creating a Department of Natural Resources into which most land management responsibilities would be merged is, in our view, a more direct solution to this problem.

Section 9(b) of S. 2450 authorizes the Secretary of the Interior to make grants to any state "that has or hereafter establishes a land planning commission and joins or indicates its willingness to join a regional interstate land use coordinating commission". We assume the grants are to assist the States in land use planning. The Administration's proposed National Land Use Policy Act, S. 992 mentioned above, is, we feel, better suited to achieve this objective. It contains a number of specific criteria which must be met by the states to remain eligible for Federal grants and it contains specific objectives towards which state efforts must be directed with a heavy emphasis on state regulation in areas of critical environmental concern. The Administration's proposed National Land Use Policy Act of 1971 would encourage the states, as a first step towards placing land use decisions on a rational, coordinated and environmentally sound basis, to reform the institutions at the state and local level through which land use decisions are made. The concept of planning is so broad that we feel it is essential that any Federal grants to states for planning purposes contain specific objectives and criteria against which to measure performance.

Section 12 of S. 2450 declares that it is essential that each public land management agency pursue a systematic program of land use planning. Subsections (a), (b), and (e) set forth extensive procedures to be followed in developing these plans.

This Department endorses the prefatory statement in section 12 that systematic land use planning is essential for sound management of the public land. The Department's proposed "National Resource

Land Management Act of 1971" requires the Secretary of the Interior to "develop, maintain, and when appropriate revise land use plans for the national resource lands". It provides further that when such plans have been prepared, the Secretary shall manage the lands in accordance with them. It sets forth seven principles to govern the development and maintenance of land use plans. These are broad goal-oriented principles requiring, among others, consideration of present and potential uses, the relative scarcity of the values involved, priority for critical environmental areas, the availability of alternate means and sites, and the long-term public benefits. It requires coordination with state and local government programs and with Federal programs and policies.

Planning for land use must be a continuing process including long-range objectives as well as accommodating present and short-term uses. An integral part of the planning concept is that the plan must be periodically reviewed and updated as conditions change or as long-term objectives are realized. We oppose, therefore, the provision in subsection 14 (c) which in effect would scrap all existing plans, classifications, etc., and require each agency to start from scratch in developing land use plans.

Proponents of the dominant use concept argue that "not every acre of every area can be fully utilized to the same degree for each and every use". Opponents imagine it to be a vehicle for domination of the public lands by the commercial interest which would exploit them. Whether or not the controversy between multiple use and dominant use is more real than imagined, we feel that the multiple use concept as it is currently practiced by the Bureau of Land Management is sufficiently flexible to accommodate a single use if that use alone "will best meet the present and future needs of the American people". We feel that decisions on the extent to which competing uses can be accommodated on a single piece of land is the essence of land management and that such decisions must depend on the experience and wisdom of the land manager exercised with the benefit of Congressional guidelines and public participation and not on semantics or mechanical formulae.

Criteria for disposal

Section 12(c)(1) of S. 2450 prohibits disposal if "important public values that should be enjoyed by the general public would be lost thereby". Section 14(d) contains additional disposal criteria including the facts that the land involved is isolated and difficult to manage, that it is no longer needed for the purpose for which it was acquired

or any other Federal use, and that disposal will serve the maximum benefit for the general public. Section 14(d)(3) requires disposal in accordance with state outdoor recreation plans and might be construed as giving the States authority to direct the disposal of public lands. We would object strongly to giving the states authority to direct disposal of Federal land.

The Administration's proposal establishes two disposal criteria: first, where it would lead to significant improvement in land management; and second, where important public objectives can not be achieved prudently and feasibly except on Federal land. We feel that these two criteria best achieve a proper balance between the presumption in favor of retention and the need in specific instances to sell land to meet specific objectives.

Withdrawal Authority

Section 13 of S. 2450 authorized the Secretary of the Interior to withdraw up to 5,000 acres of public land and prohibit the public from certain specified uses of the land. Such withdrawals are generally limited to a period of ten years and must be preceded by a rule-making procedure with public hearings if requested by the State. The Secretary must consider in issuing a withdrawal order, a number of factors including the proposed use, an inventory and evaluation of the resources, the effect on existing users, views of various interested groups.

Subsection 13(e) reserves to Congress the exclusive authority to withdraw lands (1) which exceed 5,000 acres, (2) for period of more than 10 years, or (3) for incorporation into specially-protected categories such as the National Park System.

Under the homestead laws and other laws originally designed to encourage settlement of the western frontier, executive withdrawal has been the only way to preserve the remaining public domain for the use and enjoyment of present and future generations of Americans.

As Congress has gradually replaced non-discretionary disposal laws with laws such as the Administration's proposed "National Resource Land Management Act of 1971" which would give the land manager discretion to balance competing uses in order to best meet the present and future needs of all Americans, the use of executive withdrawals has diminished.

Nevertheless, the executive withdrawal is still an important management tool and will continue to be as long as there are the non-discretionary forms of public land appropriation. The Executive Branch must be able to react rapidly to protect public values. Therefore, we do not support the curtailment of this important safeguard for the national resource lands.

In addition to the foregoing objection, we have a serious reservation about subsection (f) which would allow a single Member of Congress to suspend the operation of the public land laws on any public land in the country by introducing a bill proposing their withdrawal for any purpose. The suspension would continue for the duration of the Congress. Under this provision a Congressman could, for example, thwart or delay state land selections, by the simple introduction of a bill in Congress. This would make the administrations of the public lands virtually impossible.

Conclusion

For the reasons set forth above we recommend that the Administration's proposal be enacted instead of S. 2450.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, and that enactment of S. 2401 the Administration's proposed bill "To provide for the management, protection and development of the national resource lands" would be in accord with the program of the President.

Sincerely yours,

Assistant Harrison Loesch
Secretary of the Interior

Hon. Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

92D CONGRESS
1ST SESSION

S. 2542

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 1971

Mr. BIBLE (for himself, Mr. ALLOTT, and Mr. MOSS) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To establish a system for the development of mineral resources on public lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mineral Development Act of 1971".

PURPOSE

SEC. 2. The purpose of this Act is to assist in carrying out the policy of the United States as expressed in the Mining and Minerals Policy Act of 1970 (Public Law 91-631) by establishing a system to provide for and encourage the development of certain mineral resources of the public lands of the United States.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Lands available for mineral location", shall mean surveyed and unsurveyed public lands in the States of Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, including lands in said States in which minerals have been reserved to the United States and lands the title to which was heretofore or is hereafter obtained by the United States pursuant to:

(1) Act of March 20, 1922 (16 U.S.C. 485),

(2) Act of June 28, 1934, section 8 (43 U.S.C. 315g),

and said term shall also mean those certain lands in Oklahoma ceded to the United States which were declared open to location by the Act of March 2, 1895 (ch. 188, 28 Stat. 876, 899) or by the Act of June 6, 1900 (ch. 813, 31 Stat. 672, 680). "Lands available for mineral location": (i) shall include areas of said lands which have been designated for special uses to the same extent and under the same conditions which have heretofore been prescribed by Congress with respect to the availability of such areas for entry under the Mining Law of 1872; (ii) shall not include areas of said lands during any time they are included within an authorized

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classification or withdrawal prohibiting mineral location, or during any time such areas are (a) included in a mining claim perfected with a discovery of a valuable mineral deposit made prior to the effective date of this Act for which a declaration of interest under title II could be filed or the declaration of interest has been filed and the claim is being maintained under title II, (b) included in a mining claim not perfected with a discovery of a valuable mineral deposit for which a declaration of interest has been filed under title II and is being maintained under said title II, (c) during a period of one year after the effective date of this Act, included in a mining claim not perfected with a discovery of a valuable mineral deposit for which a declaration of interest is filed at any time within said one year period or if the ground covered by such mining claim is located by the owner with a title III claim at any time within said one year period, (d) included in a valid mill site for which a declaration of interest has or could be filed, or (e) included in a mining claim located and maintained under title III hereof: *Provided, however,* That so long as a mining claim located prior to the effective date of this Act is maintained under title II hereof, the owner of said claim shall be entitled to locate a mining claim pursuant to title III covering the same lands, and if such mining claim could be maintained under title II hereof, the owner of such claim be entitled to locate

a mining claim pursuant to title III covering the same lands without filing a declaration of interest.

(b) "Mineral deposits covered by this Act," shall mean deposits of all minerals except:

(1) coal, oil and gas, oil shale, native asphalt, solid and semisolid bitumen, bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried);

(2) chlorides, sulphates, corbonates, borates, silicates, and nitrates of potassium and sodium;

(3) phosphates, and associated and related minerals in phosphate deposits;

(4) sulphur in the States of Louisiana and New Mexico;

(5) geothermal steam and associated geothermal resources as those terms are defined in the Geothermal Steam Act of 1970 (84 Stat. 1566); and

(6) those deemed not to be a valuable mineral deposit by the provisions of section 3 of title VI of this Act.

(c) "Smallest legal subdivision" shall mean any tract of land surveyed by the United States consisting of a regular quarter of a quarter section containing forty acres, or an irregular quarter of a quarter section platted as a lot containing more or less than forty acres.

(d) "Work year" shall mean the period of one year commencing at 12 o'clock meridian on the first day of September.

(e) "Remaining interests in land owned by the United States" shall mean all interests in such land including those substances deemed not to be a valuable mineral deposit by the provisions of section 2 of title VI of this Act but not including the Leasing Act minerals defined in section 530 of title 30, United States Code, which would be reserved to the United States from mineral patents pursuant to section 524 of title 30, United States Code.

(f) "Surveyed lands" shall mean lands which have been surveyed by the United States. "Unsurveyed lands" shall mean lands which have not been surveyed by the United States.

(g) "Lands with a found monument" shall mean surveyed or unsurveyed lands on which a United States survey monument or mineral monument is found by a locator of a mining claim within a distance of one mile from any part of such mining claim. "Lands without a found monument" shall mean said lands on which no such monument is found by a locator of a mining claim within said distance.

(h) "Field survey" shall mean a survey at least as accurate as a transit or plane table survey by a person competent to survey mining claims.

(i) "Citizens of the United States" shall mean all persons born or naturalized in the United States, corporations organized under the laws of the United States or any State or territory thereof, and associations of such persons and corporations.

TITLE II—EXISTING MINING CLAIMS AND MILL SITES

RECORDATION

SECTION 1. (a) Notwithstanding any other provisions of law, any unpatented mining claim or mill site located prior to the effective date of this Act, or any unpatented mining claim based on a tunnel site pursuant to section 27 of title 30, United States Code, which may be located after the effective date of this Act in accordance with Federal and State mining laws in effect prior thereto, shall be null and void unless an application for patent or a declaration of interest required by this section has been filed with the Secretary of the Interior on or before the later of (i) three years after the effective date of this Act, or (ii) three months after conclusion of proceedings on appeal from any action of the Secretary of the Interior under this section. A declaration of interest may be filed for a mining claim whether or not there has been a discovery of a valuable mineral deposit on the claim or whether or not it has been maintained as a mining claim: *Provided, however,* That the area

covered by a mining claim located prior to the effective date of this Act is subject to location by any person after the effective date of this Act and such area shall be treated as part of said claim located pursuant to title III unless the prior claim could be maintained under this title II and a discovery of a valuable mineral deposit had been made on such prior claim before the effective date of this Act or unless and until, at any time within one year after the effective date of this Act, a declaration of interest is filed for such prior claim as provided by this section or the ground covered by such claim is located by the owner with a title III claim. A declaration of interest may be filed for a mill site whether or not it is then used or occupied for mining or milling purposes: *Provided, however,* That the area covered by a mill site located prior to the effective date of this Act is subject to location by any person after the effective date of this Act with a mining claim located pursuant to title III unless the mill site is then valid.

A declaration of interest may be filed for one or more mining claims or mill sites by any person claiming an interest therein and will be for the benefit of all persons having an interest therein whether or not they, or their interests, are known to the person filing the declaration.

(b) The declaration of interest shall contain the following:

(i) Name, current mailing address, and interest of the person filing the declaration in the mining claims and mill sites included in the declaration.

(ii) Name, current mailing address, and any asserted interest in the mining claims and mill sites of others known to the person filing the declaration.

(iii) Names of the mining claims and mill sites for which the declaration is filed and book and page of the local record of the location notices or certificates and any amendments thereto.

(iv) The number of acres claimed within and contained by the mining claims and mill sites.

Except in the case of placer mining claims that conform to the legal subdivisions of surveyed public lands, the declaration shall be accompanied by a map with a scale of not less than one inch equals one thousand feet, prepared from a field survey and shall show the following:

(i) The name and address of the person preparing the map.

(ii) The legal subdivisions of the land upon which the mining claims and mill sites are located, if such land be surveyed.

(iii) The positions and dimensions with courses and distances of the mining claims' and mill sites' exterior boundary lines and course and distance from one

corner of each claim and mill site to a public land survey corner or to a United States mineral monument: *Provided,* If neither can be found within one mile from the claim or mill site, then to such a natural object or permanent monument by which such claim or mill site can be identified by a reasonably knowledgeable person conversant with such natural objects and permanent monuments in the vicinity.

If the description of the lands given in the declaration is not sufficient for the Secretary of the Interior to ascertain, with reasonable accuracy, the location of the mining claims and mill sites included in the declaration on maps of lands maintained in the local land office of the Bureau of Land Management having jurisdiction of the land, the Secretary of the Interior may require that the declaration be supplemented by such further description, map, plat, or survey as may be necessary to ascertain the location of the land with reasonable accuracy.

(c) Mining claims and mill sites subject to the provisions of this title II may be amended for the reasons and in the manner heretofore provided by the laws of the State where the land is situated: *Provided, however,* That no such amendment will be effective after a declaration of interest has been filed as provided in this section until an amended

declaration of interest has been filed with the Secretary of the Interior. The provisions in paragraph (b) of this section applicable to a declaration of interest and supplemental data shall be applicable to an amended declaration of interest.

(d) If the United States demonstrates a specific present need for a limited area of land, it may, in a contest proceeding, declare null and void any mining claim or mill site in such area for which a declaration of interest is or could be filed as provided by this title II if at the time the contest complaint is filed the mining claim is not perfected with a discovery of a valuable mineral deposit or if the mill site is not then valid. The filing of a declaration of interest or performance of other acts called for by this section will not render valid any mining claim or mill site which is invalid on the effective date of this Act or which becomes invalid thereafter: *Provided,* Mining claims for which declarations of interest are filed in accordance with the provisions of this title II which lack discovery of a valuable mineral deposit may be perfected by discovery of such a deposit at any time within the five years after the effective date of this Act, and mill sites on nonmineral land for which declarations of interest are filed in accordance with the provisions of this title II may be perfected by use and occupancy for mining or milling purposes at any time within five years after the effective date of this Act. Except in the case of

placer mining claims that conform to the legal subdivisions of surveyed public lands, if the boundaries of a mining claim, as marked on the ground, are inconsistent with those given in the survey filed with the declaration of interest, the boundaries as shown on such survey will control. The boundaries of placer mining claims that conform to the legal subdivisions of surveyed public lands will be determined by the United States survey.

(e) Mining claims located prior to the effective date of this Act shall, after September 1 following the effective date of this Act, be subject to the work and expenditure requirements provided in section 5 of title III except that, until a declaration of interest is filed, the affidavits of annual labor required by section 5 shall be recorded in the county or district recording office where location notices or certificates are recorded under the provisions of the law of the State in which the claim is located. A mining claim for which a declaration of interest is filed as provided in this title II is maintained under said title until (i) there is an abandonment, (ii) there is a failure to comply with the provisions of section 5 of title III, or (iii) the claim becomes void under section 2(a) of this title. Reasonable expenditure incurred in surveying and in the preparation of maps or plats or similar identification data in compliance with the requirements of paragraph (b) of this section may be applied toward the

yearly work and expenditures required by section 5 of title III.

PATENTING OR TERMINATION OF VALIDITY OF MINING CLAIMS AND MILL SITES

SEC. 2. (a) Any unpatented mining claim or mill site for which a declaration of interest has been or may be filed as provided by section 1 of this title shall be null and void five years after the effective date of this Act unless on said date, an application for patent of the mining claim or mill site is pending. Such mining claims and mill sites for which patent applications are pending after the effective date of this Act shall become null and void one hundred and eighty days after said patent application is canceled or disapproved and the final appeal therefrom has been decided adversely to the applicant. Within said one hundred and eighty day period, the owner of such mining claim shall have the exclusive right to locate a mining claim pursuant to title III hereof covering lands for which said mining claim patent application was canceled or disapproved.

(b) If the owner of a mining claim located prior to the effective date of this Act can prove that, at the date of the application for mineral patent, the mining claim contains a valuable mineral deposit and he is in other respects entitled to a mineral patent under the laws in effect immediately prior to the effective date of this Act, he will be entitled

to a mineral patent in accordance with those laws upon following the procedure to obtain patent and paying to the United States the purchase price provided by those laws.

(c) If the owner of a mill site can prove that, at the date of the application for a mill site patent, he is entitled to a mill site patent under the laws in effect immediately prior to the effective date of this Act, he will be entitled to a mill site patent upon following the procedure to obtain patent and paying the purchase price provided by those laws.

TITLE III—PROVISIONS FOR NEW CLAIMS

Sections 2319, 2320, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2332, 2333, 2334, 2335, 2336, 2338, 2343, 2344, 2345, 2347, 2348, 2349, 2350, 2351, and 2352 of the Revised Statutes (30 U.S.C. 22, 23, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 46, 47, 48, 71, 72, 73, 74, 75, and 76); chapter 140 of the Act of March 3, 1881 (30 U.S.C. 32); section 1 of the Act of April 26, 1882 (30 U.S.C. 31); section 1 of the Act of May 5, 1876 (30 U.S.C. 49); section 1 of the Act of August 4, 1892 (30 U.S.C. 161); sections 15, 16, and 26 of the Act of June 6, 1900 (30 U.S.C. 49a, 49c, and 49d); chapter 186 of the Act of January 31, 1901 (30 U.S.C. 162); sections 1 and 2 of the Act of March 2, 1907 (30 U.S.C. 49e and 49f); chapter 87 of the Act of April 23,

1912 (30 U.S.C. 77); sections 2 and 3 of the Act of May 4, 1934 (30 U.S.C. 49b); sections 1, 2, 3, and 4 of the Act of June 21, 1949 (30 U.S.C. 28b, 28c, 28d, and 28e); and sections 1 and 2 of the Act of September 2, 1958 (30 U.S.C. 28–1 and 28–2) are repealed. By this Act, Congress hereby declares its intent to preempt the laws and regulations of the States and mining districts respecting the location and maintenance of mining claims. The following new sections are added:

"MINERALS AND LANDS AVAILABLE FOR MINERAL LOCATION

"SECTION 1. Subject to reserved royalty in the United States provided in section 10 of this title, all mineral deposits covered by this Act in lands available for mineral location shall be open for exploration, development, mining, production, and disposition, and patent, and said lands shall be open to ingress, egress, occupation, and use for mineral purposes, and to patent by citizens of the United States and those who have declared their intention to become such: *Provided, however,* That any land covered by a mining claim located under this title shall not thereafter be located under this title or held by any person who at any time had located or held an interest in such claim, for a period of two years after the date of expiration of rights of such person to such land covered by such mining claim located under this title, unless such person

or his predecessor or successor in interest performs annual labor or makes payments in lieu of labor on or for any such lands in the amounts authorized and required by section 5 of this title. For the purpose of this section 1, an affidavit showing such labor or payments shall be filed in the manner provided by paragraph (e) of section 5 of this title prior to reacquiring any interest in the land. The annual labor or payments in lieu of labor under the provisions of section 5 for a mining claim containing a reacquired interest in land as herein provided shall be in an amount for each work year as it would have been had the reacquired interest in land in such claim been continuously held in the former mining claim. To the extent that any portion of a mining claim purports to cover land not available for mineral location, it shall be void as to said portion: *Provided, however,* That nothing contained herein shall be construed to limit the rights of the holder of a mining claim in that portion of land covered by such claim which is available for mineral location under the provisions of this Act.

"RIGHTS IN MINING CLAIMS, USE, AND SURFACE PROTECTION

"SEC. 2. (a) The locators and their successors of all mining locations made after the effective date of this Act shall, subject to section 6 of the Act of August 13, 1954 (30 U.S.C. 526) and section 4 of the Act of July 23, 1955

(30 U.S.C. 612), have the exclusive right of possession and use of all the surface included within the boundary lines of their locations necessary for exploration, development, mining, and processing operations and uses reasonably incident thereto, and the exclusive right to explore for, develop, mine, produce, and dispose of, and patent all mineral deposits covered by this Act within the vertical planes extended downward along the boundaries of said mining claims. Said exclusive rights of locators of mining claims to the surface and mineral deposits shall be freely alienable and as subject to all encumbrances and transactions as are the rights in other property.

"(b) The exercise of said exclusive rights shall be conditioned upon maintaining in effect a good and sufficient bond or undertaking to secure payment of damages to the surface resources and tangible improvements of the United States or, if the land had been patented with a reservation of minerals to the United States, to secure the payment of such damages to the surface resources and tangible improvements of the owner of the land, as may be agreed upon between the owner of the mining claim and the United States or the surface owner or, if agreement cannot be reached, as determined and fixed in an action brought in a court of competent jurisdiction: *Provided, however,* That in the event said bond or undertaking should cease to remain in

effect or become insufficient or defective, the exercise of said exclusive rights shall not be affected until the owner of such claim receives written notice thereof from the Secretary of the Interior and is given not less than sixty days from such receipt to correct any defect or obtain a new bond or undertaking. Such bond or undertaking shall be in the form and in accordance with rules and regulations prescribed by the Secretary and in a reasonable amount determined by an authorized officer of the local land office of the Bureau of Land Management having jurisdiction of the land, and during the term of any bond its amount may be increased or decreased by the said designated officer, but in no event shall the amount of the bond be greater than the fair market value of the surface resources and tangible improvements. The bond and any increases in the amount thereof shall be subject to appeal to the Secretary or such officer as he may designate and the decision of the Secretary or such officer shall be appealable to the courts: *Provided, however*, That during any such appeals, the owner of the mining claim shall have the right either to continue all activities upon the mining claim authorized by this Act by posting a bond in the amount or in an increased amount prescribed by an authorized officer, or said owner shall be entitled to suspend on his mining claim all activities for which the bond is required

and, in case of such suspension, the annual labor or payment in lieu of labor required under section 5 of this title shall be deferred for each work year during which there is pending any appeal as to any mining claim or group of claims subject to said bond. Such deferred annual labor or payment in lieu of labor shall be performed or paid at the rate provided for in section 6(b) of this title. The owner of the mining claim shall have the right to post a bond in the amount determined by any final appeal. The requirement for bond may be waived by the department head of the Federal agency having jurisdiction over the surface or by the surface owner by filing a waiver with the local land office of the Bureau of Land Management, and the bond for lands owned by the United States shall be waived whenever the owner of mining claims demonstrates that the nature and conduct of his contemplated operations would not under normal cricumstances cause significant or lasting damage to the surface resources or improvements. A bond furnished and maintained pursuant to the requirements of any statute, rule, or regulation other than this section shall be sufficient if it complies with the requirements of this section.

"LOCATING MINING CLAIMS

"SEC. 3. (a) Except as otherwise provided in this section, the area contained within the exterior boundaries of a mining claim may be equal to, but shall not exceed eighty

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acres except that, where the boundary lines of a claim coincide with a tract of land consisting of not more than two contiguous smallest legal subdivisions in one or more sections of surveyed land, which contains more than eighty acres but not more than one hundred acres, such claim may contain the number of acres contained in such tract. A mining claim shall not be located, or created by conveyance of part of another claim, so that it would contain less than twenty acres of land available for mineral location, unless such land is surrounded by lands shown on the Bureau of Land Management records as not available for mineral location: *Provided, however,* That during each full work year any land contiguous to such claim is available for location as shown on the Bureau of Land Management records, the owner of such claim shall expend, to comply with section 5 of this title, whichever is the lesser, the amount required for a mining claim of twenty acres of land available for mineral location or the amount required if the available land had been included in the mining claim.

"(b) Where a mining claim is located on land with a found monument, the description of the position of the mining claim shall be tied by a field survey to any such monument. In all other cases, such description shall be tied by a field survey to some other natural object or permanent monument by which such claim can be identified by a rea-

sonably knowledgeable person conversant with such natural objects and permanent monuments in the vicinity. The exterior boundaries of each mining claim located on surveyed lands with a found monument shall conform to the lines of a rectangular survey or any one-half subdivisions of any smallest legal subdivision in one or more sections of such survey, notwithstanding that the area within such exterior boundaries may contain conflicting claims and other areas unavailable for location. The boundary description shall be set forth in the location notice of such mining claim and shall determine the position of the boundaries of the claim on the ground. Except where it is necessary to conform to the lines of the public survey, each claim shall be rectangular in shape and its length shall be no greater than four times its width. The boundary lines of each claim located on land without a found monument shall be placed in approximate north to south and east to west directions. Until the locator prepares, and files and records a field survey of his claim as required by paragraphs (c) (4) (i) and (ii) of this section, the boundary lines of a claim located on land without a found monument, as marked on the ground by the corner monuments of the claim, shall, in case of any conflict between the said boundaries marked on the ground and any descriptions of such mining claim, control for the purpose of determining the exterior boundaries of the claim. After a field

survey is so filed and recorded, it shall control for the purpose of determining said boundaries.

"(c) A mining claim location shall be made in the following manner:

"(1) Erect a conspicuous monument at each corner of each claim located on unsurveyed land or on surveyed land without a found monument, and at the northwest corner of each claim located on surveyed land with a found monument, such mining claim monument consisting of a mound of stones not less than two feet in height, or a secure upright post not less than three feet in height above the ground. Where it is impracticable to place a monument in its correct position, or where such monument would interfere with a public land survey monument, a witness monument shall be erected as close as practicable to the corner it witnesses. Each monument shall be marked with the position of that monument on the claim, the name of the claim, and, if it is a witness monument, it shall be marked with a reference to the corner monument it witnesses. A claim shall not be invalid because a monument has been posted on land not available for mineral location.

"(2) Post on the northwest corner monument of each claim, or on the witness monument for that corner, a location notice signed by or for the locator which shall contain the following information:

"(i) The name of the claim.

"(ii) The name and address of the locator.

"(iii) The date of location which shall be the date of posting the location notice.

"(iv) If the claim is located on unsurveyed lands, or on surveyed lands without a found monument, a description of the location of the northwest corner monument by such reference by course and distance to some natural object or permanent monument so that a reasonably knowledgeable person conversant with the prominent natural objects and permanent monuments in the vicinity can identify the claim, and a description of the boundary lines of the claim. Such description of the boundary lines shall include a statement of the length and the direction of each boundary line of the claim. Such description shall also contain the name of the county or recording district and the State in which the claim is located and the township, range, section, and legal subdivision where such information can be inferred from protracted surveys or from the proximity of surveyed lands.

"(v) If the claim is located on surveyed land with a found monument, a statement of the number of acres claimed by the locator, and a precise description of the boundary lines of the claim by reference to the township,

range, section and legal subdivision of the public survey, and the county or recording district and the State in which the claim is located.

"(3) A signed identical copy of the location notice posted on the claim shall be recorded in the county or recording district office in which the State law authorizes instruments relating to title to land to be recorded, and a signed identical copy shall be filed in the land office of the Bureau of Land Management having jurisdiction over the land on which the claim is located. Failure to record and file the notice within thirty days after posting shall cause the claim to be null and void and all rights thereunder shall be forfeited.

"(4) With respect to claims located on unsurveyed lands, or on surveyed lands without a found monument, within one hundred and eighty days after posting the location notice of mining claim:

"(i) If the mining claim has not previously been surveyed, a field survey shall be made of the mining claim. Said survey shall determine the courses and distances of the claim's exterior boundary lines, the number of acres claimed by the locator, and the course and distance from the northwest corner of the claim to a public land survey monument or to a United States mineral monument, if either is found within one mile from any

part of the claim, and if not, then to a natural object or permanent monument which would permit a reasonably knowledgeable person conversant with the prominent natural objects and permanent monuments in the vicinity to identify the claim.

"(ii) There shall be recorded in the county or recording district office in which the State law authorizes instruments relating to title to land to be recorded, and filed in the land office of the Bureau of Land Management having jurisdiction over the land on which the claim is located, a signed location certificate containing the information required by paragraphs (c) (2) (i), (ii), (iii), and (iv) of this section, and stating the number of acres claimed by the locator. There shall be drawn on said location certificate a map with a scale of not less than one inch equals one thousand feet showing the position, dimensions, and bearings of the claim as determined by the field survey.

Failure to record and file the location certificate within said one hundred and eighty days shall cause the claim to be null and void and all rights thereunder shall be forfeited.

"(5) Until the location notice for claims located on surveyed lands with a found monument or the location certificate for claims located on all other lands is recorded and filed, any claim located improperly in the manner of posting and

monumenting the claim on the ground shall be invalid with respect to any parts of the claim in conflict with claims properly located subsequently by any person without actual notice of the claim, and, notwithstanding the other provisions of this paragraph (5), such rights of said person may be asserted either before or after the location notice or location certificate has been recorded and filed as prescribed by this section. Except as provided by the preceding sentence, after said notice or said certificate has been recorded in the proper county or recording district office and filed in the proper land office of the Bureau of Land Management, the claim covered by said notice or certificate shall not be invalid for any defects in the manner of locating the claim by posting and monumenting on the ground.

"(6) For the purpose of satisfying any provision of this Act requiring the statement of the number of acres claimed by the locator within any mining claim, said locator or owner of the claim shall be entitled to rely upon the accuracy and completeness of any of the records and plats maintained by the Bureau of Land Management pursuant to title IV hereof, and no error or omission in such records shall affect the validity of any mining claims.

"(d) With respect to the United States and all other persons, the rights of locators of mining claims prescribed by

section 2 of this title shall be deemed to have been established when all of the acts prescribed by paragraphs (c) (1) and (2) of this section have been completed.

"AMENDMENTS

"SEC. 4. A location notice or certificate may be amended at any time to correct errors or omissions in the contents thereof by posting, recording, and filing an amended notice or certificate as required by the provisions of section 3 of this title. A mining claim may be amended at any time to correct errors or omissions in the manner of location of the claim and shall be amended when the area claimed or shape thereof is changed in making conveyances or relinquishments of part of the claim or in adding land to the claim. An amendment of a mining claim shall be made by erecting, if necessary, a new monument or monuments, making a new field survey, if necessary, where a field survey is required by law, and posting, recording, and filing an amended notice or certificate. Such amendments shall be effective when the amended notice or certificate is recorded and filed and all other acts required by section 3 have been performed, and shall be subject to valid existing rights. The amended notice or certificate shall be signed by or on behalf of the owners of the claim, shall contain all of the information required in the original location notice or certificate, and, in addition, shall contain the name and address of the pres-

ent owners, a statement of the date and place where the original notice or certificate was recorded by reference to the county office or recording district and book and page, the date and place where the original notice or certificate was filed in the Bureau of Land Management by reference to the location of the land office and serial file number or other reference used by the land office, and the purpose of the amendment.

"ANNUAL LABOR

"SEC. 5. (a) Except for any work year in which a claim is located after July 1 but prior to the end of such work year, no less than the following amounts shall be expended during each work year for each acre of land available for mineral location and contained within a mining claim which is held pursuant to the provisions of this Act for labor, materials, surveys, improvements, and activity of any kind which would tend to discover or tend to facilitate the development, mining, or processing of mineral deposits within the claim:

"(i) $5 per acre per work year during the first five work years for which annual labor is required;

"(ii) $10 per acre per work year during the second five work years for which annual labor is required;

"(iii) $15 per acre per work year during the third five work years for which annual labor is required;

"(iv) $20 per acre per work year thereafter.

Work may be performed by anyone having an interest in the claim and such work may be applied in satisfaction of all or part of such requirement, to the extent of the reasonable cost of having such work performed by others. Such expenditures and work are referred to as "annual labor". Annual labor may be performed on or for the benefit of any part of a mining claim or a contiguous group of mining claims by anyone having an interest therein and shall be deemed to be for the benefit of each such mining claim and all of the mining claims within the contiguous group: *Provided,* That all such claims are so located that the entire area of such contiguous group can be contained within the exterior limits of four square miles and such area larger than four square miles to the extent that any smallest legal subdivision of surveyed land within the contiguous group contains more than forty acres.

"(b) At his election, anyone having an interest in any mining claim or claims, in lieu of performing annual labor may pay into the Treasury of the United States an amount equal to all or any portion of such annual labor not actually performed (hereinafter referred to as 'payment in lieu of labor'), and such payment in lieu of labor shall satisfy the requirements of this section. Annual labor and payment in lieu of labor made after the effective date of this Act on or for a claim or a contiguous group of claims during any

one work year in excess of the amount of annual labor required for those claims during that year may be applied during subsequent work years to satisfy the annual labor for the same claims. All annual labor required by this Act made by or for the benefit of owners shall be applicable to the benefit of their successors in interest to satisfy all of such annual labor requirements.

"(c) The owner or holder of mining claims shall have the exclusive rights provided by this Act: (1) during the work year in which the claim is located; (2) during the work year following the work year in which a claim is located after July 1 but prior to the end of such work year; and (3) during the work year subsequent to each work year in which annual labor is performed or payment in lieu of labor is made in accordance with the provisions of this section.

"(d) Whenever annual labor is required for less than a full work year, the amount thereof shall be reduced proportionately. In the event annual labor is required for any part of a month, it shall be required for the full month.

"(e) Before the end of each work year, the owner of a mining claim shall file or cause to be filed in the Bureau of Land Management Office where the location notice of the mining claim was filed, an affidavit that annual labor has been performed or payment in lieu of labor made for that work year containing the following information:

"(i) the name and address of the claim owner,

"(ii) the name, the book, and page of recordation in the county or recording district, and the Bureau of Land Management serial file number of the location notice or certificate of the claim or claims to which the annual labor or payment in lieu of labor was applied,

"(iii) the monetary amount of the annual labor or payment in lieu of labor,

"(iv) the places where the annual labor was performed,

"(v) the dates during which such annual labor was performed and a statement that the same annual labor or payment in lieu of labor has not previously been applied toward the satisfaction of the requirements of this section,

"(vi) a description of the annual labor actually performed, and

"(vii) the name and address of the person or persons doing the annual labor.

Reproduced copies of receipts, canceled checks, or other supporting documents evidencing the performance of said annual labor or payment in lieu of labor shall be submitted with said affidavit or, within thirty days after the end of each work year, by supplemental affidavit containing the information required by item (iii) of this paragraph. Fail-

ure to file copies of such receipts, checks, or other supporting documents shall be prima facie evidence that the annual labor has not been performed and payment in lieu of labor has not been made. If both, the affidavit of annual labor and the reproduced copies of receipts, canceled checks, or other supporting documents evidencing the performance of said annual labor or payment in lieu of labor, are filed in the manner and within the times required by this paragraph (e), they shall constitute prima facie evidence that the annual labor was, in fact, performed or payment in lieu of labor was, in fact, made.

"(f) In the event the annual labor and payment in lieu of labor required by this section have been deferred or exempted for any reason authorized by this title, the claim owner shall file a notice thereof in lieu of such affidavit of annual labor or payment in lieu of labor. Said notice shall be filed in the same manner, place, and within the same time as required by paragraph (e) of this section for said affidavits, shall contain the same information required by subparagraphs (e) (i), (ii), (iii), and (iv), and shall state the cause for the deferment or exemption.

"(g) Any claim for which no such notice of deferment or exemption or affidavit of annual labor or payment in lieu of labor was filed before the end of any work year shall be void and all rights to it shall be forfeited upon the expiration

of said work year. Unless deferred or exempted for any reason authorized by this title, the failure in any work year to perform the annual labor or make the payment in lieu of labor required by this section, or the filing of a substantially insufficient affidavit or one containing a materially false statement, shall cause the mining claim and the holder's interest in it to be voidable by a proper proceeding brought within one hundred and eighty days after the end of such work year in accordance with rules which shall be established by the Secretary of the Interior, and diligently prosecuted against such holder by the United States or by a person asserting a present legal interest in the minerals in any land covered by such claim: *Provided, however,* That no claim for which an affidavit has been timely filed shall be voidable if the holder can prove the annual labor was performed or payment in lieu of labor was made as required by this section: *And provided further,* subsequent to said one hundred and eighty day period, no such mining claim for which an affidavit has been timely filed, shall be voidable for failure to comply with the provisions of this section. In the event a claim is declared void in any such proceeding, it shall be void as of the expiration of the work year for which annual labor was not performed or payments in lieu of labor were not made. During the course of any such proceedings and until the final appeal therefrom has been decided, the person

asserting such present legal interest shall not be required to perform the annual labor or make payment in lieu of labor required by this section with respect to the lands in dispute: *Provided, however,* That if such person prevails in the final appeal of such proceedings, he shall perform or pay during the work years subsequent to the work year in which the final appeal was decided, such annual labor or payment in lieu of labor which have accrued since his asserted interest was created, and his performance of such accrued annual labor and his payment in lieu of labor shall be made during each such subsequent year in addition to, and in an annual amount not less than, that which is otherwise required during such subsequent work years pursuant to this section. With respect to any lands in dispute to which the claim holder is determined by a final appeal of such proceedings not to have the right, any payment in lieu of labor made by such claim holder during said proceedings and appeals pursuant to this section attributable to such lands shall be repaid to him by the United States within sixty days after the decision of such appeal becomes final.

"(h) The owner of a mining claim may eliminate or convey lands from his claim, and, with respect to such lands, he shall be relieved of the requirement to expend the amounts prescribed by paragraph (a) of this section for the work year in which such lands were conveyed or eliminated

to the extent provided by paragraph (d) of this section, and for every year subsequent to any work year in which the locator eliminated or conveyed such lands from his claim. The owner of a mining claim may add lands to his claim and the work year and rate of expenditures for such added lands shall be the same as that prescribed by paragraph (a) of this section for the claim. For the work year in which such lands are added to a claim, the owner shall be required to perform the annual labor or make payment in lieu of labor on or for such added lands in the amount provided by paragraph (d) of this section. For the purpose of eliminating any lands from or adding lands to his claims, the owner shall file and record an amended location notice or an amended location certificate.

"(i) At the time an application for mineral patent is filed pursuant to section 9 of this title or at the time a plan of development is filed pursuant to section 7 of this title, and during the course of any proceedings thereon until the final appeal therefrom has been decided, the applicant shall not be required to perform annual labor or make payment in lieu of labor required by this section with respect to the lands covered by such application or plan. Withdrawal of an application for patent or final determination that the applicant is not entitled to a patent shall not invalidate any mining claim covered by the application if annual labor or payment

in lieu of labor is resumed not later than the next work year at the rate which would have been applicable if the annual labor requirement had not been suspended, and if not later than the end of such next work year additional annual labor is performed or payment is made in the amount accrued during the period for which no annual labor was performed and an affidavit is filed in accordance with the provision of section 5.

"DEFERMENT OR EXEMPTION OF ANNUAL LABOR

"SEC. 6. (a) The performance of annual labor and payment in lieu of labor required under the provisions of section 5 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims upon the submission by the owner of evidence that the title or right to such mining claim or group of claims is in litigation or that such mining claim or group of claims is surrounded by lands over which a right-of-way has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof. The period for which said deferment may be granted shall end when the conditions justifying the deferment have been removed. If such right-of-way, access, or use of the claim is withheld, denied, or caused to be denied

by an officer or agency of the United States or of any State or local government, all parties who would otherwise be required to perform annual labor or make payment in lieu of labor shall be exempted from such requirement for the period during which such right-of-way, access, or use is denied or withheld.

"(b) Except in the case of deferment because an officer or agency of the United States or of a State or local government has withheld, denied, or caused to be denied, a right-of-way, access, or use as aforesaid, all annual labor or payment in lieu of labor deferred as authorized by this section shall be performed or paid during the work years next subsequent to the work year in which the cause for deferment was removed, and such performance or payment shall be made during such subsequent years in addition to, and in an annual amount not less than, that which is otherwise required during such subsequent work years pursuant to section 5 of this title.

"QUALIFICATION FOR PATENT

"SEC. 7. (a) The owner of a mining claim under title III hereof shall be entitled to a patent therefor:

"(i) if it contains a valuable mineral deposit, in which event it shall be sufficient for a valuable mineral deposit to have been discovered at any single point on land held by the claim notwithstanding that such claim

may contain or be intersected by lands not held by the claim, or

"(ii) if the owner of the claim has filed a plan of development with the Secretary of the Interior, such plan has been approved by the Secretary, and equipment and facilities have been acquired and installed in substantial compliance with such plan of development or approved amendments thereof.

"(b) A valuable mineral deposit, as used in this section 7, is one which would justify a person of ordinary prudence in performing work or making expenditures on or for the benefit of the claim or claims containing such deposits with reasonable expectation of developing a profitable mining operation. A valuable mineral deposit shall exist in the mining claim, although the expectation of obtaining a profitable mining operation is based on mineral deposits only part of which are in the mining claim.

"(c) A plan of development may cover a mining claim or claims, and shall show:

"(i) the known and inferred boundaries of the mineral deposit, the quantities and grades of proven and probable mineral reserves contained therein, and the test results and data from which such information is derived,

"(ii) the planned location of excavations, tunnels,

surface facilities, and all other uses of the surface and subsurface of the mining claims,

"(iii) a description of the types and capacities of the equipment and facilities which the owner anticipates using to mine the mineral deposit,

"(iv) the contemplated time schedule of each phase of mine development, facility, and plant construction, and commencement of mineral production,

"(v) an estimate of the total investment to be made before mineral production is commenced,

"(vi) a designation, by survey or by legal subdivision description of the contiguous or noncontiguous tracts of land owned by the United State outide the exterior boundaries of the mining claim which the claim owner selects for purchase under section 1 or for exchange under section 2 of title V hereof, and a description of the planned uses which will be made of each such tract in connection with the development, mining, and processing operations for the mining claim, and

"(vii) the manner in which compliance with Federal, State, and local laws and regulations relating to the protection of the environment will be effectuated.

The plan or amended plan may be disapproved by the Secretary only if it does not constitute a method by which the mineral deposit can be extracted by an operator operat-

ing in good faith and in compliance with all applicable laws, or if the lands described in item (vi) are not reasonably necessary with respect to quantity or location for mining or processing operations or uses reasonably incident thereto. The plan or amended plan shall be deemed approved unless it is disapproved in writing by the Secretary within one hundred and eighty days after it is filed and such written disapproval sets forth in detail the reasons for disapproval. Applicant may submit an amended plan at any time and from time to time, whether or not the original plan or a prior amended plan has been approved by the Secretary, and each such plan shall be considered by the Secretary as an original plan, or, in the event the Secretary disapproves a plan or amended plan, applicant may appeal to the United States district court for the district in which any claim covered by the plan is situated for a review of the Secretary's action.

"The filing of a plan or amended plan of development shall have the effect of segregating the lands designated by the claim owner pursuant to item (vi) of this paragraph (c) from all other uses and appropriations inconsistent with the contemplated uses incident to mining or processing operations. Such segregation shall remain in effect for the periods during which the plan of development is being considered by the Secretary, during any appeal from the decision of the

Secretary, and during any time the claim owner is proceeding under an approved plan of development. At any time after the plan of development is approved by the Secretary the claim owner shall have the right to the exclusive use of such lands for purposes of carrying out the plan of development, and upon the acquisition and installation of the equipment and facilities pursuant to such plan the claim owner shall have the exclusive right to acquire such lands and shall acquire such lands by exchange pursuant to section 2 of title V hereof, or, at his election, by purchase at their appraised fair market value. At any time after the plan of development is approved by the Secretary, the claim owner may file an application for patent pursuant to section 9 of this title, and proceed in accordance with that section.

"(d) An application for patent may be based upon either a discovery of a valuable mineral deposit, or a plan of development, or both, and any application for patent may be withdrawn or amended at any time. The action of the Secretary in denying any application for patent may be appealed to the United States district court as herein provided. When an application for patent is withdrawn or a final determination is made that an applicant is not entitled to a patent, a new application may not be filed for any of the claims covered by such application until all suspended annual labor

requirements have been performed or payments in lieu of labor have been made as provided in section 6. The purchase price for lands covered by a mineral patent shall be at the rate of $50 per acre for the mineral deposits plus the appraised fair market value of the remaining interests in the land owned by the United States exclusive of and without regard to the mineral deposits.

"RIGHTS GRANTED BY MINERAL PATENT

"SEC. 8. A mineral patent shall grant to the patentee and his successors in interest the title to the mineral deposits which are within the boundaries of the mining claim extended downward vertically and the title to the remaining interests in the lands owned by the United States subject to reserved royalty in the United States provided in section 10 of this title.

"PROCEDURE TO OBTAIN PATENTS

"SEC. 9. (a) The owner of a mining claim located on unsurveyed lands, or a mining claim which contains lands unavailable for mineral location, or a mining claim the exterior boundaries of which do not conform to the lines of the public survey, or a mining claim located on surveyed lands without a found monument, may file in the proper land office an application, under oath, together with a survey plat of the claim or claims owned in common, made by or under the direction of the United States Chief Cadastral Engineer,

showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground and said monuments shall at all times after patent constitute the highest authority as to what land is patented. The owner of a mining claim located on surveyed lands, which does not contain lands unavailable for mineral location, and the exterior boundaries of which conform to the lines of any rectangular legal subdivisions of such survey or any one-half subdivisions of any smallest legal subdivision of such survey, may file in the proper land office, without a survey plat, an application, under oath, describing the boundaries of the claims according to the township, range, section, and legal subdivision, and said description shall at all times after patent constitute the highest authority as to what land is patented.

"(b) Previous to the filing of the application for a mineral patent, a copy of such survey plat, if required, together with a notice of such application for a mineral patent, shall be posted in a conspicuous place on the land embraced in such notice of application, and an affidavit of at least two persons that such notice has been duly posted, and a copy of the notice shall be filed in such land office, and the applicant shall thereupon be entitled to a patent to the mineral deposits and the remaining interests in the land owned by the United States in the manner following:

The Manager of the land office, upon the filing of such application, survey plat, notices, and affidavits, shall publish once per week for a period of eight successive weeks in a newspaper of general circulation to be by him designated as published nearest to such claim, a notice that such application has been made; and he shall also post such notice in his office for the same period. At the time of filing this application, or within sixty days thereafter, the applicant shall file with the Manager a certificate of the United States Chief Cadastral Engineer that the survey plat, if required, is correct, with such description by reference to natural objects or permanent monuments as shall identify the claim accurately, to be incorporated in the patent. At the expiration of the sixty days of publication the claim owner shall file an affidavit, showing that such plat, if required, and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the Manager of the proper land office at the expiration of the sixty days of publication, and if the applicant otherwise meets the requirements of this Act, he shall be entitled to a patent to the mining claim, upon the payment to the Treasury of the United States of the amounts prescribed by section 7(d) of this title; and thereafter no objection from third parties to the issuance of a patent shall be heard. The application for patent and the affidavits re-

quired to be made in this section by the claimant for such patent may be made by his authorized agent, where said agent is conversant with the facts sought to be established by said affidavits.

"(c) The United States Chief Cadastral Engineer may appoint in each land district as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of claims, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to employ any United States deputy surveyor to make the survey. To the end that the Director may be fully informed on the subject, each applicant shall file with the Manager a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid to the Manager of the land office, which statement shall be transmitted, with the other papers in the case, to the Director of the Bureau of Land Management.

"(d) Any applicant for a mineral patent may include in his application the lands segregated under section 7 (c) (vi) of this title to be acquired pursuant to title V hereof.

"ROYALTY

"SEC. 10. (a) There shall be paid to the United States with relation to minerals extracted from mining claims located pursuant to title III hereof, a royalty of 2 per centum

of the mine value of said minerals. Mine value of the minerals extracted shall be the proceeds from the sale of such minerals less: (i) all costs incurred, both direct and indirect, including depreciation and amortization, for processing, transportation, and selling of said minerals from the time to the point of delivery to the purchaser thereof; (ii) reasonable profit attributable to such processing, transportation, and selling; and (iii) all taxes (other than Federal income taxes) paid or accrued upon the production thereof. In the event that the owner demonstrates that the value of a product can be determined at a stage in the processing prior to the sale, the mine value shall be the value of the product at such stage, rather than the sale price of the product sold, less: (i) all costs incurred, both direct and indirect, including depreciation and amortization, for processing and transportation up to and including the stage at which such value is established; (ii) reasonable profit attributable to such processing and transportation; and (iii) all taxes (other than Federal income taxes) paid or accrued upon the production thereof. In no event shall the royalty payable hereunder for any calendar year exceed 5 per centum of the net mining income for such year allocable to the mineral for which said royalty is payable. Net mining income shall be the mine value of such mineral as determined hereunder less all costs incurred, both direct and indirect for mining the same.

"(b) Payment of royalty shall be made by the owner of the claim to the United States within ninety days following the end of the calendar quarter in which the mineral extracted is sold or in which the value thereof is otherwise established by the owner in accordance with this section. Excess royalty payments shall be refunded promptly.

"(c) In the event the owner of a mining claim subject to this section fails or refuses for a period greater than thirty days to pay the royalty required by this section, the Secretary of the Interior may enforce such payment by bringing an action in the United States district court for the district in which the owner resides or in which the mining claim is located. If the owner and the Secretary cannot agree as to the amount of the royalty, such amount shall be determined by an action brought in the United States district court for the district in which the owner resides or in which the mining claim is located, and the owner shall have the right to continue mineral production while such determination is being made. In an action brought pursuant to this section, upon a showing by the Secretary that it is necessary for the interests of the United States to be protected, the court may require the owner to post a bond or deposit securities or cash sufficient to secure the payment to the United States of the amount of accumulated royalties to which it may be found to be entitled.

"(d) Nothing in this section shall be construed to require that mineral production from any mining claim subject to this section be commenced or continued, and no right in any such mining claim shall be affected by the failure to commence or continue to produce minerals therefrom.

"(e) Royalties under this section shall be deductible as ordinary and necessary business expenses under the income tax laws of the United States when paid or accrued.

"(f) Each patent issued under title III hereof shall contain a reservation of the royalty provided for herein.

"ADVERSE CLAIMS

"SEC. 11. Where an adverse claim is filed during the aforesaid eight-week period of publication provided in section 9(b) of this title, it shall be upon oath of the person making the same, or his authorized agent or attorney in fact, and shall show the nature, boundaries, and extent of such adverse claim, and the proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine his asserted rights, and prosecute the same with reasonable

diligence to final judgment, and failure so to do shall be a waiver of his adverse claim. After such final judgment shall have been rendered, each party determined to have the right to the mining claim or any portion thereof, may, without giving further notice, proceed as otherwise required by section 9 of this title, and a patent shall issue thereon for the mining claims or such portion thereof to the parties as they shall appear, from the decision of the court, to be entitled. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent to any person whatever.

"APPLICABILITY OF ENVIRONMENTAL LAW; LIMITATION ON USE AND REVERTER

"SEC. 12. (a) Nothing in this Act shall be deemed to exempt the owner of a mining claim from applicable Federal, State, and local laws relating to the protection of the environment.

"(b) Any land acquired under this title or title V shall be used only for mining, mineral exploration, development, processing, or uses reasonably incident thereto. A patentee or his successor may not use the land or permit it to be used for any other purpose, except with the consent of the Secretary. If the land is used for any unauthorized use and such use is not discontinued within ninety days after the Secretary gives the patentee or his successor written notice to

discontinue such unauthorized use, title to the land shall revert to the United States. At any time the Secretary determines that continuance of the reverter serves no public purpose, he may release to the patentee or his successor the possibility of reverter to the land held by the United States without receipt of any consideration for such release. Each patent to land acquired under this title or title V shall state that it is subject to the provisions of this paragraph."

TITLE IV—BUREAU OF LAND MANAGEMENT RECORDS

DOCUMENTS FILED; RECORDS MAINTAINED

SECTION 1. (a) The Secretary of the Interior shall maintain in each local land office of the Bureau of Land Management, in addition to the public files and records maintained before the date of this Act, the public files and records required by this title for mining claim documents, as hereinafter defined, for mining claims on land within the respective jurisdictions of said offices, and shall perform the other duties in connection with such files and records required by this Act.

(b) "Mining claim documents" as used herein means: declarations of interest, location notices, location certificates, affidavits of, and notices of deferment or exemption from, annual labor and payment in lieu of labor filed pursuant to title II or title III of this Act, applications for mineral pat-

ents, mineral patents, and amendments to each of the aforesaid documents.

(c) The Secretary shall require each local land office as to lands within its jurisdiction to maintain the following records and files, to make the following entries therein and thereon, to keep all mining claim documents in appropriate permanent files, and to do such other things as are required by this title:

(1) Each declaration of interest filed pursuant to title II and each mining claim location notice filed pursuant to title III of this Act shall be assigned a serial number by the land office at the time of filing.

(2) A daily reception record shall be maintained upon which the local land office shall immediately upon the filing of a mining claim document enter the day, hour, and minute of filing, showing in such record the serial number of the location notice or declaration of interest affected, and noting on each such document the day, hour, and minute of filing, which shall be deemed to be the time of record.

(3) A serial register and a separate permanent file under the same serial number as the serial register shall be maintained for each such location notice filed under title III or declaration of interest filed under title II. The local land office shall, when a mining claim document is filed, immediately enter on the serial register the date of filing and a

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description of the document filed. Any such document so filed shall be immediately placed in the appropriate permanent file; if more than one such file is affected a duplicate of such instrument or appropriate written cross-reference by serial number shall be placed in each such file.

(4) Each local land office shall maintain a mining claim plat of all lands available for mineral location for each surveyed and unsurveyed township within its jurisdiction on which shall be shown the serial number of the location notice or declaration of interest filed for, and the boundaries of, each mining claim that is currently maintained.

(5) A new serial number may be assigned to a location notice, declaration of interest, or amendment thereof for all or any portion of a mining claim, in which event the local land office shall make a new serial register and separate permanent file for the new number and make appropriate entry on the serial register for the prior serial number showing the new number and shall also immediately enter the new number on the mining claim plat.

(d) The Secretary of the Interior shall have ninety days after the effective date of this Act to comply with the provisions of this section.

FILING FEES; RECORDS OPEN TO PUBLIC

SEC. 2. (a) The Secretary, after public notice in the Federal Register as to amounts and after a reasonable period

of time during which interested parties may submit recommendations, shall fix and establish reasonable fees to be charged by local land offices in connection with filing of mining claim documents and issuance of certified copies thereof.

(b) Each mining claim document which is filed with the local land office, and as to which the prescribed fee is tendered, shall be accepted for filing. The notations with respect thereto shall be made promptly as hereinabove provided.

(c) The records and files required by this section to be maintained or photographic or microphotographic copies thereof, shall be public records open to inspection during office hours in the respective local land offices. Upon request and upon payment of the prescribed fee, the local land office shall furnish, or permit to be made, an exact copy or reproduction accurately showing such document in all details, and the Secretary, or someone delegated by him, shall, upon request, certify or authenticate that any such copy is a true and correct copy of the original document.

(d) No local land office shall receive a mining claim document for filing or make any entry on the records with respect thereto, or furnish a certified or authenticated copy of any filed document or records pertaining thereto, unless the prescribed fee for such filing or certified copy, as the case may be, shall have first been tendered.

(e) Nothing herein shall be construed as requiring any

document respecting mining claims which was prepared prior to the effective date of this Act to be filed hereunder, nor shall any right be adversely affected for failure to file such prior document pursuant to this section.

TITLE V—ACQUISITION OF LANDS

Section 2337 of the Revised Statutes (30 U.S.C. 42) is repealed and the following sections are added:

"PURCHASE

"SECTION 1. The Secretary of the Interior is authorized to sell, upon the application of any person holding an interest in a mineral deposit whether acquired from the United States or otherwise, any other land owned by the United States, whether it be mineral or nonmineral in character, which the applicant demonstrates is reasonably necessary for any mining or processing operations with respect to such mineral deposit or uses reasonably incident thereto. The land shall be sold to such applicant at its appraised fair market value.

"EXCHANGE OF LANDS

"SEC. 2. (a) When the development of mineral resources will be promoted thereby, the Secretary of the Interior is authorized to accept on behalf of the United States, title to any interest in privately owned lands in exchange for conveyance of any interest in surveyed or unsurveyed public land or land previously acquired by the

United States in any State. In the event the lands or interests in lands involved in the exchange are not equal in value, a cash consideration to compensate for the unequal value based upon the appraised fair market value of the land may be paid or received by the United States, as the case may be. For the purpose of effecting exchanges, the identification and area of unsurveyed lands may be determined by protraction or otherwise. The character of the lands to be exchanged may be either mineral or nonmineral.

"(b) Before any such exchange under this section shall be effected, notice of the contemplated exchange, describing the lands and the interests in the lands involved, shall be published by the Secretary of the Interior once each week for four successive weeks in a newspaper of general circulation in each county in which the lands to be accepted by the United States are situated, and in the same manner in some like newspaper published in each county in which the lands to be conveyed by the United States in such exchange are situated. Lands conveyed to the United States under this section shall, upon acceptance of title, become public lands available for mineral location and mineral leasing. No fee shall be charged for any exchange of land made under this section except the cost of publishing the notice of a proposed exchange as herein provided.

"SEC. 3. Any land acquired under this title shall be subject to all of the provisions of section 12 of title III of this Act."

TITLE VI

RESERVED MINERALS

SECTION 1. That section 2 of the Act of June 17, 1949 (30 U.S.C. 54) is amended to read as follows:

"§ 54. Liability for damages by mineral activities on lands patented with minerals reserved to the United States

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who hereafter prospects for, develops, mines, or removes any minerals from any land included in a patent from which such minerals were reserved to the United States, shall be liable for any damages to the surface resources and tangible improvements thereon of any nature and purpose, caused by such prospecting for, development, mining, or removal of minerals. Nothing in this section shall be considered or construed to impair any vested right in existence on the date of this Act."

COMMON VARIETIES

SEC. 2. That section 3 of the Act of July 23, 1955 (30 U.S.C. 611) is hereby amended to read as follows:

"§ 611. Common varieties of sand, stone, gravel, pumice, pumicite, or cinders and petrified wood

"(a) No deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located for such common varieties under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. 'Common varieties' as used in sections 601, 603, and 611–615 of this title, include deposits of such materials which are primarily valuable as construction materials but do not include so-called block pumice which occurs in nature in pieces having one dimension of two inches or more and deposits of such materials which are commercially valuable for use in manufacturing, industrial, or processing operations, such as, but not limited to, gypsum, silica, sand, limestone suitable in the production of cement and metallurgical or chemical-grade limestone. 'Petrified wood' as used in sections 601, 603, and 611–615 of this title means agatized, opalized, petrified, or silicified wood, or any material formed by the replacement of wood by silica or other matter."

SURFACE MANAGEMENT

SEC. 3. That sections 5 and 6 of the Act of July 23, 1955 (30 U.S.C. 613, 614) shall be repealed five years after the effective date of this Act, and section 4 of said Act (30 U.S.C. 612) is hereby amended to read as follows:

"§ 612. Surface management

"(a) As used in this section, the term 'mining claim subject to this section' shall mean all mining claims prior to issuance of patent located after July 23, 1955. Any mining claim subject to this section shall not be used for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

"(b) RESERVATIONS IN THE UNITED STATES TO USE OF THE SURFACE AND SURFACE RESOURCES.—Rights under any mining claim subject to this section shall be subject to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United

States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further,* That nothing in sections 601, 603, and 611–615 of this title shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any mining claim subject to this section.

"(c) SEVERANCE OR REMOVAL OF TIMBER.—Except to the extent required to provide clearance for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or to the extent authorized by the United States, no claimant of any mining claim subject to this section shall, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under subsection (b) of this section."

MINING ON POWER SITE WITHDRAWALS

SEC. 4. That section 4 of the Act of August 11, 1955 (30 U.S.C. 623) is repealed and subsection (b) of section 2 of said Act (30 U.S.C. 621(b)) is amended to read as follows:

"(b) The locator of a mining claim under this chapter,

however, shall conduct no mining operations for a period of sixty days after the filing of a location notice pursuant to section 3 of title III of the Mineral Development Act of 1971. If the Secretary of the Interior, within said sixty-day period, notifies the locator by registered mail or certified mail of the Secretary's intention to hold a public hearing to determine whether mining operations would substantially interfere with power development or power site uses of the land included within the mining claim, mining operations on that claim shall be further suspended until the Secretary has held the hearing and has issued an appropriate order. The order issued by the Secretary of the Interior shall provide for one of the following: (1) a complete prohibition of mining; (2) a permission to engage in mining upon the condition that the locator shall, following mining operations, reclaim the surface of the claim; or (3) a general permission to engage in mining. No order by the Secretary with respect to such operations shall be valid unless a certified copy is filed in the same State or county office in which the locator's location notice has been filed in compliance with the United States mining laws.

"The Secretary shall establish reasonable rules and regulations concerning bonds and deposits with respect to the reclamation of mined lands. Moneys received from any bond or deposit shall be used for the reclamation of the surface of

the claim involved, and any money received in excess of the amount needed for the reclamation of the surface of that claim shall be refunded.

"Nothing in this section shall affect the requirements of the Act of August 11, 1955 (30 U.S.C. 621–625) applying to mining claims located before the effective date of the Mineral Development Act of 1971."

TITLE VII—ADMINISTRATION

The provisions of this Act shall be administered in conformity with the Administrative Procedure Act.

Senator BIBLE. The provisions of these measures have been partially based on some of the general recommendations of the Public Land Law Review Commission which issued its final report in June of 1970.

Now, I have a rather full statement here made by Chairman Jackson. Without objection, I will ask that that be incorporated in full in the record at this point.

STATEMENT OF HON. HENRY M. JACKSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON, AND CHAIRMAN OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Senator JACKSON. This is an open public hearing before the full Committee on Interior and Insular Affairs to consider S. 921, S. 2401, S. 2450, and S. 2542, bills to revise the public land laws. The provisions in these measures have been partially based on some of the general recommendations of the Public Land Law Review Commission which issued its final report in June of 1970.

For years, the Congress has legislated extensively concerning specifically designated categories of public lands such as national forests, parks, recreation, and wilderness areas, while scant attention has been paid to the so-called public domain lands administered by the Bureau of Land Management. Title I of my bill, S. 921, relates to these lands, and it is to this bill that my remarks are primarily directed.

The public domain lands comprise one-third of the Nation's land area. They are endowed with a variety of natural habitats, outstanding scenery, valuable mineral deposits, and extensive timber and grazing reserves. Yet the laws which govern their use are archaic and no longer meet the need for protecting environmental quality.

We now understand that decisions which involve our natural resources cannot be made without regard for the complex interrelationships and multiple use concepts which shape our environment.

Authority over the public domain lands dates back 159 years to the establishment of the General Land Office in 1812. In 1934 the Taylor Grazing Act of 1934 established the Grazing Service. In 1946 the General Land Office was combined with the Grazing Service to form the Bureau of Land Management in the Department of the Interior.

In 1964, Congress passed the Classification and Multiple Use Act, a temporary authority providing the BLM with criterion to undertake a systematic classification of lands for retention or disposal. Under this act, 150 of the 451 million acres of land under the authority of the BLM were classified. This program included ample opportunity for public participation in the decisionmaking process.

The classification authority of the BLM has now expired and the administration of the public domain lands has reverted to a hodgepodge of management practices under existing statutes.

Title I of S. 921 and S. 2401, submitted by the Secretary of the Interior, are designed to place the public domain lands under sound management practices and each establishes the maintenance of environment quality as a basic criterion for the administration of these lands. The primary emphasis in each of these measures is the assurance that public domain lands will be managed on the concept of mul-

tiple use and sustained yield of the wide variety of valuable natural resources which they contain. Each measure provides for public participation in the administrative process.

One aspect of public lands administration which has met with increasing criticism is the present system of exploration and development of the Federal mineral values on our public lands. Under the mining law of 1872 location activities can be conducted without the knowledge of public officials who have authority over the land. No environmental safeguards are required. As a result, access roads are constructed and heavy machinery is moved into an area often without regard for the delicate ecology of the natural areas. And, to compound the devastation, no restoration or reclamation efforts are required once the mining activities are complete.

It is evident that the mineral exploration and development system must be revised if we are to achieve a balance between a growing demand for mineral resources and the equally important goal of protecting the dwindling public land resources of the American people.

I believe that a mineral leasing system is the most practical method of achieving the proper balance. We must assure access to the lands that are available under existing law for mining, but we must provide for the protection of the land and its other values at the same time.

As originally introduced title II of S. 921 affected all federally owned minerals by repealing the 1872 Mining Act and other laws relating to the disposition of Federal minerals, including the Mineral Leasing Act of 1920.

The primary objective that my colleagues and I were seeking was to modernize the laws relating to the management of the public lands and minerals estate which belong to all the people. The main target was to place on a leasable basis the so-called hardrock minerals now subject to location and patent under the antiquated mining law of 1872. Leasing has been the method of disposing of oil and gas values since 1920.

I now feel, however, that there is a better way to achieve the goals we are seeking than to place all minerals under a single leasing act as the original title II of S. 921 would do.

On September 9, I introduced an amendment to title II of S. 921. Since we are primarily concerned with the mining law of 1872, my amendment is limited to the minerals subject to the act. The Minerals Leasing Act has been operating reasonably well for 50 years, and the Secretary of the Interior has authority and discretion to provide environmental safeguards pursuant to that law. He has virtually none under the mining law. The environmental provisions of S. 921 are left intact and this authority should give the Secretary the management tools he needs to protect the land resources and at the same time insure that the needed minerals on our public lands are developed.

The amendment will assure that the individual or small mining concern continues to have a fair opportunity for access and to participate in mineral activity on the public lands.

The proposal calls for a prospecting permit to be issued to a qualified applicant who, if he makes a valid discovery, will be entitled to a preferential lease for the area where the deposit is located. This will protect the small companies and allow them to continue much

as they are today, but the land managers will have an opportunity to exercise greater control over the activities on the land.

The States will benefit by receiving 37½ percent of all revenues received under the new leasing system where they previously received none.

It is time the Government acted to bring modern methods to bear in administering this great public resource. I invite and welcome your contribution to developing sound and productive management practices to administer this Nation's public domain lands.

STATEMENT OF HON. GORDON ALLOTT, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator ALLOTT. Mr. Chairman, as you know, I am a cosponsor of S. 2450, as well as S. 2542, a bill introduced by Senator Bible last week. We are also considering your bill S. 921, and the administration's bill S. 2401.

All of these bills deal with public land laws, and two of them deal specifically with the mining laws.

In 1964, when Congress enacted Public Law 88—606, Congress recognized that "* * * the public land laws of the United States developed over a long period of years through a series of acts of Congress which are not fully coordinated with each other * * *" Public Law 88–606 established a Public Land Law Review Commission for the purpose of conducting a comprehensive review of the public land laws and the rules and regulations promulgated thereunder. Six members of the committee served on that Commission which submitted its final report on June 23, 1970. Millions of dollars and thousands of man-hours went into that comprehensive review of the public land laws, and while we may not agree with all of the specific recommendations of the Commission's report, the existence of the Commission and the results of its work underscore the fact that our public land laws have developed in a piecemeal fashion and their application is sometimes contradictory to congressionally enacted national policy.

In order to avoid the mistakes of the past, it seems incumbent upon the Congress to view each new legislative proposal within the public lands area with an eye toward its compatibility with established national policy. Unfortunately, in some areas the national policy is blurred or antiquated, while in other areas no policy exists.

The logical starting place is to establish the broad national policy, and then later to adopt the substantive provisions which would implement that policy. Such policy must be a correlated policy, that is, it must be correlated with other established policies which may not necessarily relate directly to the public lands. An example of this would be the National Environmental Policy Act.

On the other hand, in recent years, the Congress has adopted specific policies which apply directly to the public lands. It would seem safe to assume that those of recent vintage are still an appropriate expression of the will of Congress and of the Nation. Consequently, the broad new policies dealing with the public lands should be correlated with these existing policies of recent expression. Examples of such policies of recent expression are the Wilderness Act, the Wild and Scenic Rivers Act, and the National Mining and Minerals Policy Act.

A third category of policies which should be correlated with the broad public lands policy is in the area of policies about to be established by congressional act. The correlation of this area is substantially more tenuous since it requires a good deal of crystal ball gazing and some sort of assurance that the policy being formulated will in fact be adopted. This committee is presently in the process of conducting a study which will lead to recommendations for a national energy policy, which, in turn, may or may not be adopted as a national policy. Despite the number of unknowns involved with respect to a national energy policy, it would seem unwise for the Congress to adopt a broad national policy relative to public lands which would foreclose some of the significant options which the committee may wish to consider in connection with its energy study. Correlation in this area would therefore mean maintaining our options. In such circumstances, maintaining our options is best achieved through the disruption of our existing practices to the smallest extent possible.

In this regard, Mr. Chairman, S. 2450 establishes a broad general policy relating to the public lands of the United States. In addition, it provides for greater participation of the public in the establishment and administration of individual policies. It recognizes the need for regional land use coordination and provides for planning of the public land use. It is intended to be a cornerstone or a point of departure. Through the administrative procedure established in the bill, and with greater public participation, it is intended that a truly correlated public land policy and program of implementation can evolve. Its statement of policy is simple and direct, and, I believe, in complete accord with the basic tenets of this Nation's constitutional form of government.

Section 3 is brief but I believe worthy of repeating here for the record:

> The Congress affirms its policy that the public lands of the United States shall be (1) retained and managed, or (2) disposed of, all in a manner to provide the maximum benefits for the general public.

This policy is, I believe, well correlated with the basic policy pronouncement of the preamble to our Constitution. It is my hope that as we proceed with the consideration of public land law legislative proposals that we are ever mindful of the requirement to correlate all such policies.

Senator BIBLE. For myself, I would like to introduce the statement that I made at the time of the introduction of S. 2542 and it is taken from the Congressional Record of September 17, last Friday, and please have printed in the record at this point a detailed section by section analysis of S. 2542 as it is contained in the Congressional Record of September 17, 1971, starting at page 14,464 and running to page 14,475. Without objection, that will be made a part of the record at this point. It is simply a section-by-section analysis of S. 2542.

(The analysis referred to follows:)

ANALYSIS OF S. 2542 BY SENATOR BIBLE

[From the Congressional Record, Sept. 17, 1971]

By Mr. BIBLE (for himself, Mr. ALLOTT, and Mr. MOSS):

S. 2542. A bill to establish a system for the development of mineral resources on public lands of the United States. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself, Senator ALLOTT, and Senator Moss, I introduce for appropriate reference a bill to establish a system for the development of mineral resources on public lands of the United States.

In its report entitled "One-Third of the Nation's Land," the Public Land Law Review Commission found that the public interest requires that exploration, development, and production of minerals on public land be encouraged—not merely permitted—by maintaining a continuing invitation to the private sector to explore for and develop minerals on the public lands. The proposed bill incorporates many of the recommendations contained in the report of the Public Land Law Review Commission.

I ask unanimous consent that the provisions of the bill and a section-by-section analysis of the Mineral Development Act of 1971 be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2542

A bill to establish a system for the development of mineral resources on public lands of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That: This Act may be cited as the "Mineral Development Act of 1971."

PURPOSE

SEC. 2. The purpose of this Act is to assist in carrying out the policy of the United States as expressed in the Mining and Minerals Policy Act of 1970 (Public Law 91–631) by establishing a system to provide for and encourage the development of certain mineral resources of the public lands of the United States.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term

(a) "Lands available for mineral location," shall mean surveyed and unsurveyed public lands in the states of Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, including lands in said states in which minerals have been reserved to the United States and lands the title to which was heretofore or is hereafter obtained by the United States pursuant to:

(1) Act of March 20, 1922 (16 U.S.C. § 485).

(2) Act of June 28, 1934, § 8 (43 U.S.C. § 315g),

and said term shall also mean those certain lands in Oklahoma ceded to the United States which were declared open to location by the Act of March 2, 1895 (ch. 188, 28 Stat. 876, 899) or by the Act of June 6, 1900 (ch. 813, 31 Stat. 672, 680). "Lands available for mineral location": (i) shall include areas of said lands which have been designated for special uses to the same extent and under the same conditions which have heretofore been prescribed by Congress with respect to the availability of such areas for entry under the Mining Law of 1872:, (ii) shall not include areas of said lands during any time they are included within an authorized classification or withdrawal prohibiting mineral location, or during any time such areas are (a) included in a mining claim perfected with a discovery of a valuable mineral deposit made prior to the effective date of this act for which a declaration of interest under title II could be filed or the declaration of interest has been filed and the claim is being maintained under title II, (b) included in a mining claim not perfected with a discovery of a valuable mineral deposit for which a declaration of interest has been filed under title II and is being maintained under said title II, (c) during a period of one year after the effective date of this Act, included in a mining claim not perfected with a discovery of a valuable mineral deposit for which a declaration of interest is filed at any time within said one year period or if the ground covered by such mining claim is located by the owner with a title III claim at any time within said one year period, (d) included in a valid mill site for which a declaration of interest has or could be filed, or (e) included in a mining claim located and maintained under title III hereof: Provided, however, that so long as a mining claim located prior to the effective date of this Act is maintained under title II hereof, the owner of said claim shall be entitled to locate a mining claim pursuant to title III covering the same lands, and if such mining claim could be maintained under title

II hereof, the owner of such claim be entitled to locate a mining claim pursuant to title III covering the same lands without filing a declaration of interest.

(b) "Mineral deposits covered by this Act," shall mean deposits of all minerals except:

(1) Coal, oil and gas, oil shale, native asphalt, solid and semisolid bitumen, bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried);

(2) Chlorides, sulphates, carbonates, borates, silicates, and nitrates of potassium and sodium;

(3) Phosphates, and associated and related minerals in phosphate deposits;

(4) Sulphur in the States of Louisiana and New Mexico;

(5) Geothermal steam and associated geothermal resources as those terms are defined in the Geothermal Steam Act of 1970, 84 Stat. 1566; and

(6) Those deemed not to be a valuable mineral deposit by the provisions of section 3 of title VI of this Act.

(c) "Smallest legal subdivision" shall mean any tract of land surveyed by the United States consisting of a regular quarter of a quarter section containing forty acres, or an irregular quarter of a quarter section platted as a lot containing more or less than forty acres.

(d) "Work year" shall mean the period of one year commencing at 12 o'clock meridian on the first day of September.

(e) "Remaining interests in land owned by the United States" shall mean all interests in such land including those substances deemed not to be a valuable mineral deposit by the provisions of section 2 of title VI of this Act but not including the Leasing Act minerals defined in 30 U.S.C. section 530 which would be reserved to the United States from mineral patents pursuant to 30 U.S.C. section 524.

(f) "Surveyed lands" shall mean lands which have been surveyed by the United States. "Unsurveyed lands" shall mean lands which have not been surveyed by the United States.

(g) "Lands with a found monument" shall mean surveyed or unsurveyed lands on which a United States survey monument or mineral monument is found by a locator of a mining claim within a distance of one mile from any part of such mining claim. "Lands without a found monument" shall mean said lands on which no such monument is found by a locator of a mining claim within said distance.

(h) "Field survey" shall mean a survey at least as accurate as a transit or plane table survey by a person competent to survey mining claims.

(i) "Citizens of the United States" shall mean all persons born or naturalized in the United States, corporations organized under the laws of the United States or any State or territory thereof, and associations of such persons and corporations.

TITLE II—EXISTING MINING CLAIMS AND MILL SITES

RECORDATION

SEC. 1. (a) Notwithstanding any other provisions of law, any unpatented mining claim or mill site located prior to the effective date of this Act, or any unpatented mining claim based on a tunnel site pursuant to 30 U.S.C., section 27, which may be located after the effective date of this Act in accordance with federal and state mining laws in effect prior thereto, shall be null and void unless in application for patents or a declaration of interest required by this section has been filed with the Secretary of the Interior on or before the later of (i) three (3) years after the effective date of this Act, or (ii) three (3) months after conclusion of proceedings on appeal from any action of the Secretary of the Interior under this section. A declaration of interest may be filed for a mining claim whether or not there has been a discovery of a valuable mineral deposit on the claim or whether or not it has been maintained as a mining claim: *Provided, however*, That the area covered by a mining claim located prior to the effective date of this Act is subject to location by any person after the effective date of this Act and such area shall be treated as part of said claim located pursuant to title III unless the prior claim could be maintained under this title II and a discovery of a valuable mineral deposit had been made on such prior claim before the effective date of this Act or unless and until, at any time within one year after the effective date of this Act, a declaration of interest is filed for such prior claim as provided by this section or the ground covered by such claim is located by the owner with a title III claim. A declaration of interest may be filed for a mill site whether or not it

is then used or occupied for mining or milling purposes: *Provided, however,* that the area covered by a mill site located prior to the effective date of this Act is subject to location by any person after the effective date of this Act with a mining claim located pursuant to title III unless the mill site is then valid.

A declaration of interest may be filed for one or more mining claims or mill sites by any person claiming an interest therein and will be for the benefit of all persons having an interest therein whether or not they, or their interests, are known to the person filing the declaration.

(b) The declaration of interest shall contain the following:

(i) Name, current mailing address and interest of the person filing the declaration in the mining claims and mill sites included in the declaration.

(ii) Name, current mailing address and any asserted interest in the mining claims and mill sites of others known to the person filing the declaration.

(iii) Names of the mining claims and mill sites for which the declaration is filed and book and page of the local record of the location notices or certificates and any amendments thereto.

(iv) The number of acres claimed within and contained by the mining claims and mill sites.

Except in the case of placer mining claims that conform to the legal subdivisions of surveyed public lands, the declaration shall be accompanied by a map with a scale of not less than one inch equals one thousand feet, prepared from a field survey and shall show the following:

(i) The name and address of the person preparing the map.

(ii) The legal subdivisions of the land upon which the mining claims and mill sites are located, if such land be surveyed.

(iii) The positions and dimensions with courses and distances of the mining claims and mill sites' exterior boundary lines and course and distance from one corner of each claim and mill site to a public land survey corner or to a United States mineral monument, provided, if neither can be found within one mile from the claim or mill site, then to such a natural object or permanent monument by which such claim or mill site can be identified by a reasonably knowledgeable person conversant with such natural objects and permanent monuments in the vicinity. If the description of the lands given in the declaration is not sufficient for the Secretary of the Interior to ascertain, with reasonable accuracy, the location of the mining claims and mill sites included in the declaration on maps of lands maintained in the local land office of the Bureau of Land Management having jurisdiction of the land, the Secretary of the Interior may require that the declaration be supplemented by such further description, map, plat, or survey as may be necessary to ascertain the location of the land with reasonable accuracy.

(c) Mining claims and mill sites subject to the provisions of this title II may be amended for the reasons and in the manner heretofore provided by the laws of the State where the land is situated: *Provided, however,* that no such amendment will be effective after a declaration of interest has been filed as provided in this section until an amended declaration of interest has been filed with the Secretary of the Interior. The provisions in paragraph (b) of this section applicable to a declaration of interest and supplemental data shall be applicable to an amended declaration of interest.

(d) If the United States demonstrates a specific present need for a limited area of land, it may, in a contest proceeding, declare null and void any mining claim or mill site in such area for which a declaration of interest is or could be filed as provided by this title II if at the time the contest complaint is filed the mining claim is not perfected with a discovery of a valuable mineral deposit or if the mill site is not then valid. The filing of a declaration of interest or performance of other acts called for by this section will not render valid any mining claim or mill site which is invalid on the effective date of this Act or which becomes invalid thereafter: *Provided,* mining claims for which declarations of interest are filed in accordance with the provisions of this title II which lack discovery of a valuable mineral deposit may be perfected by discovery of such a deposit at any time within five years after the effective date of this Act, and mill sites on nonmineral land for which declarations of interest are filed in accordance with the provisions of this title II may be perfected by use and occupancy for mining or milling purposes at any time within five years after the effective date of this Act. Except in the case of placer mining claims that conform to the legal subdivisions of surveyed public lands, if the boundaries of a mining claim, as marked on the ground, are inconsistent with those given in the survey filed with the declaration of interest, the boundaries as shown on such survey will control. The boundaries of placer mining claims that conform to the legal subdi-

visions of surveyed public lands will be determined by the United States survey.

(e) Mining claims located prior to the effective date of this Act shall, after September 1 following the effective date of this Act, be subject to the work and expenditure requirements provided in section 5 of title III except that, until a declaration of interest is filed, the affidavits of annual labor required by section 5 shall be recorded in the county or district recording office where location notices or certificates are recorded under the provisions of the law of the state in which the claim is located. A mining claim for which a declaration of interest is filed as provided in this title II is maintained under said title until (i) there is an abandonment, (ii) there is a failure to comply with the provisions of section 5 of title III or (iii) the claim becomes void under section 2(a) of this title. Reasonable expenditure incurred in surveying and in the preparation of maps or plats or similar identification data in compliance with the requirements of paragraph (b) of this section may be applied toward the yearly work and expenditures required by section 5 of title III.

PATENTING OR TERMINATION OF VALIDITY OF MINING CLAIMS AND MILL SITES

SEC. 2. (a) Any unpatented mining claim or mill site for which a declaration of interest has been or may be filed as provided by section 1 of this title shall be null and void five years after the effective date of this Act unless on said date, an application for patent of the mining claim or mill site is pending. Such mining claims and mill sites for which patent applications are pending after the effective date of this Act shall become null and void one hundred eighty (180) days after said patent application is cancelled or disapproved and the final appeal therefrom has been decided adversely to the applicant. Within said one hundred eighty days period, the owner of such mining claim shall have the exclusive right to locate a mining claim pursuant to title III hereof covering lands for which said mining claim patent application was cancelled or disapproved.

(b) If the owner of a mining claim located prior to the effective date of this Act can prove that, at the date of the application for mineral patent, the mining claim contains a valuable mineral deposit and he is in other respects entitled to a mineral patent under the laws in effect immediately prior to the effective date of this Act, he will be entitled to a mineral patent in accordance with those laws upon following the procedure to obtain patent and paying to the United States the purchase provided by those laws.

(c) If the owner of a mill site can prove that, at the date of the application for a mill site patent, he is entitled to a mill site patent under the laws in effect immediately prior to the effective date of this Act, he will be entitled to a mill site patent upon following the procedure to obtain patent and paying the purchase price provided by those laws.

TITLE III. PROVISIONS FOR NEW CLAIMS

Sections 2319, 2320, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2332, 2333, 2334, 2335, 2336, 2338, 2343, 2344, 2345, 2347, 2348, 2349, 2350, 2351 and 2352 of the Revised Statutes (30 U.S.C. secs. 22, 23, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 46, 47, 48, 71, 72, 73, 74, 75, and 76) ; Chapter 140 of the Act of March 3, 1881 (30 U.S.C. sec. 32) ; section 1 of the Act of April 26, 1882 (30 U.S.C. sec. 31) ; section 1 of the Act of May 5, 1876 (30 U.S.C. sec. 49) ; section 1 of the Act of August 4, 1892 (30 U.S.C. sec. 161) ; sections 15, 16 and 26 of the Act of June 6, 1900 (30 U.S.C. secs. 49a, 49c and 49d) ; Chapter 186 of the Act of January 31, 1901 (30 U.S.C. sec. 162) ; sections 1 and 2 of the Act of March 2, 1907 (30 U.S.C. secs. 49e and 49f) ; Chapter 37 of the Act of April 23, 1912 (30 U.S.C. sec. 77) ; sections 2 and 3 of the Act of May 4, 1934 (30 U.S.C. 49b) ; sections 1, 2, 3, and 4 of the Act of June 21, 1949 (30 U.S.C. secs. 28b, 28c, 28d, and 28e) ; and sections 1 and 2 of the Act of September 2, 1958 (30 U.S.C. secs. 28–1 and 28–2) are repealed. By this Act, Congress hereby declares its intent to preempt the laws and regulations of the States and mining districts respecting the location and maintenance of mining claims. The following new sections are added :

MINERALS AND LANDS AVAILABLE FOR MINERAL LOCATION

SECTION 1. Subject to reserved royalty in the United States provided in section 10 of this title, all mineral deposits covered by this Act in lands available for mineral location shall be open for exploration, development, mining, production and disposition and patent, and said lands shall be open to ingress, egress, occupation, and use for mineral purposes, and to patent by citizens of the United

States and those who have declared their intention to become such: *Provided, however*, that any land covered by a mining claim located under this title shall not thereafter be located under this title or held by any person who at any time had located or held an interest in such claim, for a period of two years after the date of expiration of rights of such person to such land covered by such mining claim located under this title, unless such person or his predecessor or successor in interest performs annual labor or makes payments in lieu of labor on or for any such lands in the amounts authorized and required by section 5 of this title. For the purpose of this section 1, an affidavit showing such labor or payments shall be filed in the manner provided by paragraph (c) of section 5 of this title prior to reacquiring any interest in the land. The annual labor or payments in lieu of labor under the provisions of section 5 for a mining claim containing a reacquired interest in land as herein provided shall be in an amount for each work year as it would have been had the reacquired interest in land in such claim been continuously held in the former mining claim. To the extent that any portion of a mining claim purports to cover land not available for mineral location, it shall be void as to said portion: *Provided, however*, that nothing contained herein shall be construed to limit the rights of the holder of a mining claim in that portion of land covered by such claim which is available for mineral location under the provisions of this Act.

RIGHTS IN MINING CLAIMS, USE AND SURFACE PROTECTION

SEC. 2. (a) The locators and their successors of all mining locations made after the effective date of this Act shall, subject to section 6 of the Act of August 13, 1954 (30 U.S.C. Sec. 526) and section 4 of the Act of July 23, 1955 (30 U.S.C. Sec. 612), have the exclusive right of possession and use of all the surface included within the boundary lines of their locations necessary for exploration, development, mining, and processing operations and uses reasonably incident thereto, and the exclusive right to explore for, develop, mine, produce and dispose of, and patent all mineral deposits covered by this Act within the vertical plans extended downward along the boundaries of said mining claims. Said exclusive rights of locators of mining claims to the surface and mineral deposits shall be freely alienable and as subject to all encumbrances and transactions as are the rights in other property.

(b) The exercise of said exclusive rights shall be conditioned upon maintaining in effect a good and sufficient bond or understaking to secure payment of damages to the surface resources and tangible improvements of the United States or, if the land had been patented with a reservation of minerals to the United States, to secure the payment of such damages to the surface resources and tangible improvements of the owner of the land, as may be agreed upon between the owner of the mining claim and the United States or the surface owner or, if agreement cannot be reached, as determined and fixed in an action brought in a court of competent jurisdiction: *Provided, however*, That in the event said bond or undertaking should cease to remain in effect or become insufficient or defective, the exercise of said exclusive rights shall not be affected until the owner of such claim receives written notice thereof from the Secretary of the Interior and is given not less than sixty days from such receipt to correct any defect or obtain a new bond or undertaking. Such bond or undertaking shall be in the form and in accordance with rules and regulations prescribed by the Secretary and in a reasonable amount determined by an authorized officer of the local land office of the Bureau of Land Management having jurisdiction of the land, and during the term of any bond its amount may be increased or decreased by the said designated officer, but in no event shall the amount of the bond be greater than the fair market value of the surface resources and tangible improvements. The bond and any increases in the amount thereof shall be subject to appeal to the secretary or such officer as he may designate and the decision of the Secretary or such officer shall be appealable to the courts: *Provided, however*, that during any such appeals, the owner of the mining claim shall have the right either to continue all activities upon the mining claim authorized by this Act by posting a bond in the amount or in an increased amount prescribed by an authorized officer, or said owner shall be entitled to suspend on his mining claim all activities for which the bond is required and, in case of such suspension, the annual labor or payment in lieu of labor required under section 5 of this title shall be deferred for each work year during which there is pending any appeal as to any mining claim or group of claims subject to said bond. Such deferred annual labor or payment in lieu of labor

shall be performed or paid at the rate provided for in section 6(b) of this title. The owner of the mining claim shall have the right to post a bond in the amount determined by any final appeal. The requirement for bond may be waived by the department head of the Federal agency having jurisdiction over the surface or by the surface owner by filing a waiver with the local land office of the Bureau of Land Management, and the bond for lands owned by the United States shall be waived whenever the owner of mining claims demonstrates that the nature and conduct of his contemplated operations would not under normal circumstances cover significant or lasting damage to the surface resources or improvements. A bond furnished and maintained pursuant to the requirements of any statute, rule or regulation other than this section shall be sufficient if it complies with the requirements of this section.

LOCATING MINING CLAIMS

SEC. 3. (a) Except as otherwise provided in this section, the area contained within the exterior boundaries of a mining claim may be equal to, but shall not exceed eighty acres except that, where the boundary lines of a claim coincide with a tract of land consisting of not more than two contiguous smallest legal subdivisions in one or more sections of surveyed land, which contains more than eighty acres but not more than one hundred (100) acres, such claim may contain the number of acres contained in such tract. A mining claim shall not be located, or created by conveyance of part of another claim, so that it would contain less than twenty acres of land available for mineral location, unless such land is surrounded by lands shown on the Bureau of Land Management records as not available for mineral location: *Provided, however*, that during each full work year any land contiguous to such claim is available for location as shown on the Bureau of Land Management records, the owner of such claim shall expend, to comply with section 5 of the title, whichever is the lesser, the amount required for a mining claim of twenty acres of land available for mineral location or the amount required if the available land had been included in the mining claim.

(b) Where a mining claim is located on land with a found monument, the description of the position of the mining claim shall be tied by a field survey to any such monument. In all other cases, such description shall be tied by a field survey to some other natural object or permanent monument by which such claim can be identified by a reasonably knowledgeable person conversant with such natural objects and permanent monuments in the vicinity. The exterior boundaries of each mining claim located on surveyed lands with a found monument shall conform to the lines of a rectangular survey or any one-half subdivisions of any smallest legal subdivision in one or more sections of such survey, notwithstanding that the area within such exterior boundaries may contain conflicting claims and other areas unavailable for location. The boundary description shall be set forth in the location notice of such mining claim and shall determine the position of the boundaries of the claim on the ground. Except where it is neccessary to conform to the lines of the public survey, each claim shall be rectangular in shape and its length shall be no greater than four times its width. The boundary lines of each claim located on land without a found monument shall be placed in approximate north to south and east to west directions. Until the locator prepares, and files and records a field survey of his claim as required by paragraphs (c)(4)(i) and (ii) of this section, the boundary lines of a claim located on land without a found monument, as marked on the ground by the corner monuments of the claim, shall, in case of any conflict between the said boundaries marked on the ground and any descriptions of such mining claim, control for the purpose of determining the exterior boundaries of the claim. After a field survey is so filed and recorded, it shall control for the purpose of determining said boundaries.

(c) A mining claim location shall be made in the following manner:

(1) Erect a conspicuous monument at each corner of each claim located on unsurveyed land or on surveyed land without a found monument, and at the northwest corner of each claim located on surveyed land with a found monument, such mining claim monument consisting of a mound of stones not less than two feet in height, or a secure upright post not less than three feet in height above the ground. Where it is impracticable to place a monument in its correct position, or where such monument would interfere with a public land survey monument, a witness monument shall be erected as close as practicable to the corner it witnesses. Each monument shall be marked with the position of

that monument on the claim, the name of the claim, and, if it is a witness monument, it shall be marked with a reference to the corner monument it witnesses. A claim shall not be invalid because a monument has been posted on land not available for mineral location.

(2) Post on the northwest corner monument of each claim, or on the witness monument for that corner, a location notice signed by or for the locator which shall contain the following information:

(i) The name of the claim.

(ii) The name and address of the locator.

(iii) The date of location which shall be the date of posting the location notice.

(iv) If the claim is located on unsurveyed lands, or on surveyed lands without a found monument, a description of the location of the northwest corner monument by such reference by course and distance to some natural object or permanent monument so that a reasonably knowledgeable person conversant with the prominent natural objects and permanent monuments in the vicinity can identify the claim, and a description of the boundary lines of the claim. Such description of the boundary lines shall include a statement of the length and the direction of each boundary line of the claim. Such description shall also contain the name of the county or recording district and the State in which the claim is located and the township, range, section, and legal subdivision where such information can be inferred from protracted surveys or from the proximity of surveyed lands.

(v) If the claim is located on surveyed land with a found monument, a statement of the number of acres claimed by the locator, and a precise description of the boundary lines of the claim by reference to the township, range, section and legal subdivision of the public survey, and the county or recording district and the state in which the claim is located.

(3) A signed identical copy of the location notice posted on the claim shall be recorded in the county or recording district office in which the state law authorizes instruments relating to title to land to be recorded, and a signed identical copy shall be filed in the land office of the Bureau of Land Management having jurisdiction over the land on which the claim is located. Failure to record and file the notice within thirty days after posting shall cause the claim to be null and void and all rights thereunder shall be forfeited.

(4) With respect to claims located on unsurveyed lands, or on surveyed lands without a found monument, within one hundred eighty days after posting the location notice of mining claim:

(i) If the mining claim has not previously been surveyed, a field survey shall be made of the mining claim. Said survey shall determine the courses and distances of the claim's exterior boundary lines, the number of acres claimed by the locator, and the course and distance from the northwest corner of the claim to a public land survey monument or to a United States mineral monument, if either is found within one mile from any part of the claim, and if not, then to a natural object or permanent monument which would permit a reasonably knowledgeable person conversant with the prominent natural objects and permanent monuments in the vicinity to identify the claim.

(ii) There shall be recorded in the county or recording district office in which the state law authorizes instruments relating to title to land to be recorded, and filed in the land office of the Bureau of Land Management having jurisdiction over the land on which the claim is located, a signed location certificate containing the information required by paragraphs (c)(2)(i), (iii) and (iv) of this section, and stating the number of acres claimed by the locator. There shall be drawn on said location certificate a map with a scale of not less than one inch equals one thousand feet showing the position, dimensions and bearings of the claim as determined by the field survey.

Failure to record and file the location certificate within said one hundred eighty days shall cause the claim to be null and void and all rights thereunder shall be forfeited.

(5) Until the location notice for claims located on surveyed lands with a found monument or the location certificate for claims located on all other lands is recorded and filed, any claim located improperly in the manner of posting and monumenting the claim on the ground shall be invalid with respect to any parts of the claim in conflict with claims properly located subsequently by any person without actual notice of the claim, and, notwithstanding the other provisions of this paragraph (5), such rights of said person may be asserted either before or after the location notice or location certificate has been recorded and filed as

prescribed by this section. Except as provided by the preceding sentence, after said notice or said certificate has been recorded in the proper county or recording district office and filed in the proper land office of the Bureau of Land Management, the claim covered by said notice or certificate shall not be invalid for any defects in the manner of locating the claim by posting and monumenting on the ground.

(6) For the purpose of satisfying any provision of this Act requiring the statement of the number of acres claimed by the locator within any mining claim, said locator or owner of the claim shall be entitled to rely upon the accuracy and completeness of any of the records and plats maintained by the Bureau of Land Management pursuant to title IV hereof, and no error or omission in such records shall affect the validity of any mining claim.

(d) With respect to the United States and all other persons, the rights of locators of mining claims prescribed by section 2 of this title shall be deemed to have been established when all of the acts prescribed by paragraphs (c) (1) and (2) of this section have been completed.

AMENDMENTS

SEC. 4. A location notice or certificate may be amended at any time to correct errors or omissions in the contents thereof by posting, recording and filing an amended notice or certificate as required by the provisions of section 3 of this title. A mining claim may be amended at any time to correct errors or omissions in the manner of location of the claim and shall be amended when the area claimed or shape thereof is changed in making conveyances or relinquishments of part of the claim or in adding land to the claim. An amendment of a mining claim shall be made by erecting, if necessary, a new monument or monuments, making a new field survey, if necessary, where a field survey is required by law, and posting, recording and filing an amended notice or certificate. Such amendments shall be effective when the amended notice or certificate is recorded and filed and all other acts required by section 3 have been performed, and shall be subject to valid existing rights. The amended notice or certificate shall be signed by or on behalf of the owners of the claim, shall contain all of the information required in the original notice or certificate, and, in addition, shall contain the name and address of the present owners, a statement of the date and place where the original notice or certificate was recorded by reference to the county office or recording district and book and page, the date and place where the original notice of certificate was filed in the Bureau of Land Management by reference to the location of the land office and serial file number or other reference used by the land office, and the purpose of the amendment.

ANNUAL LABOR

SEC. 5. (a) Except for any work year in which a claim is located after July 1 but prior to the end of such work year, no less than the following amounts shall be expended during each work year for each acre of land available for mineral location and contained within a mining claim which is held pursuant to the provisions of this Act for labor, materials, surveys, improvements and activity of any kind which would tend to discover or tend to facilitate the development, mining or processing of mineral deposits within the claim :

(i) Five Dollars per acre per work year during the first five work years for which annual labor is required ;

(ii) Ten Dollars per acre per work year during the second five work years for which annual labor is required ;

(iii) Fifteen Dollars per acre per work year during the third five work years for which annual labor is required ;

(iv) Twenty Dollars per acre per work year thereafter.

Work may be performed by anyone having an interest in the claim and such work may be applied in satisfaction of all or part of such requirement, to the extent of the reasonable cost of having such work performed by others. Such expenditures and work are referred to as "annual labor". Annual labor may be performed on or for the benefit of any part of a mining claim or a contiguous group of mining claims by anyone having an interest therein and shall be deemed to be for the benefit of each such mining claim and all of the mining claims within the contiguous group, provided that all such claims are so located that the entire area of such contiguous group can be contained within the exterior limits of four square miles and such area larger than four square miles to the extent that any smallest

legal subdivision of surveyed land within the contiguous group contains more than forty acres.

(b) At his election, anyone having an interest in any mining claim or claims, in lieu of performing annual labor may pay into the Treasury of the United States an amount equal to all or any portion of such annual labor not actually performed, hereinafter referred to as "payment in lieu of labor," and such payment in lieu of labor shall satisfy the requirements of this section. Annual labor and payment in lieu of labor made after the effective date of this Act on or for a claim or a contiguous group of claims during any one work year in excess of the amount of annual labor required for those claims during that year may be applied during subsequent work years to satisfy the annual labor for the same claims. All annual labor required by this Act made by or for the benefit of owners shall be applicable to the benefit of their successors in interest to satisfy all of such annual labor requirements.

(c) The owner or holder of mining claims shall have the exclusive rights provided by this Act: (1) during the work year in which the claim is located; (2) during the work year following the work year in which a claim is located after July 1 but prior to the end of such work year; and (3) during the work year subsequent to each work year in which annual labor is performed or payment in lieu of labor is made in accordance with the provisions of this section.

(d) Whenever annual labor is required for less than a full work year, the amount thereof shall be reduced proportionately. In the event annual labor is required for any part of a month. It shall be required for the full month.

(e) Before the end of each work year, the owner of a mining claim shall file or cause to be filed in the Bureau of Land Management Office where the location notice of the mining claim was filed, an affidavit that annual labor has been performed or payment in lieu of labor made for that work year containing the following information:

(i) The name and address of the claim owner.

(ii) The name, the book and page of recordation in the county or recording district, and the Bureau of Land Management serial file number of the location notice or certificate of the claim or claims to which the annual labor or payment in lieu of labor was applied.

(iii) The monetary amount of the annual labor or payment in lieu of labor.

(iv) The places where the annual labor was performed.

(v) The dates during which such annual labor was performed and a statement that the same annual labor or payment in lieu of labor has not previously been applied toward the satisfaction of the requirements of this section.

(vi) A description of the annual labor actually performed, and

(vii) The name and address of the person or persons doing the annual labor.

Reproduced copies of receipts, canceled checks, or other supporting documents evidencing the performance of said annual labor or payment in lieu of labor shall be submitted with said affidavit or, within thirty days after the end of each work year, by supplemental affidavit containing the information required by item (iii) of this paragraph. Failure to file copies of such receipts, checks, or other supporting documents shall be prima facie evidence that the annual labor has not been performed and payment in lieu of labor has not been made. If both, the affidavit of annual labor and the reproduced copies of receipts, canceled checks, or other supporting documents evidencing the performance of said annual labor or payment in lieu of labor, are filed in the manner and within the times required by this paragraph (e), they shall constitute prima facie evidence that the annual labor was, in fact, performed or payment in lieu of labor was, in fact, made.

(f) In the event the annual labor and payment in lieu of labor required by this section have been deferred or exempted for any reason authorized by this title, the claim owner shall file a notice thereof in lieu of such affidavit of annual labor or payment in lieu of labor. Said notice shall be filed in the same manner, place, and within the same time as required by paragraph (e) of this section for said affidavits, shall contain the same information required by subparagraph (e)(i), (ii), (iii), and (iv), and shall state the cause for the deferment or exemption.

(g) Any claim for which no such notice of deferment or exemption or affidavit of annual labor or payment in lieu of labor was filed before the end of any work year shall be void and all rights to it shall be forfeited upon the expiration of said work year. Unless deferred or exempted for any reason authorized by this title, the failure in any work year to perform the annual labor or make

the payment in lieu of labor required by this section, or the filing of a substantially insufficient affidavit or one containing a materially false statement, shall cause the mining claim and the holder's interest in it to be voidable by a proper proceeding brought within one hundred eighty days after the end of such work year in accordance with rules which shall be established by the Secretary of the Interior, and diligently prosecuted against such holder by the United States or by a person asserting a present legal interest in the minerals in any land covered by such claim: *Provided, however*, That no claim for which an affidavit has been timely filed shall be voidable if the holder can prove the annual labor was performed or payment in lieu of labor was made as required by this section: *And provided further*, subsequent to said one hundred eighty day period, no such mining claim for which an affidavit has been timely filed, shall be voidable for failure to comply with the provisions of this section. In the event a claim is declared void in any such proceeding, it shall be void as of the expiration of the work year for which annual labor was not performed or payments in lieu of labor were not made. During the course of any such proceedings and until the final appeal therefrom has been decided, the person asserting such present legal interest shall not be required to perform the annual labor or make payment in lieu of labor required by this section with respect to the lands in dispute: *Provided however*, That if such person prevails in the final appeal of such proceedings, he shall perform or pay during the work years subsequent to the work year in which the final appeal was decided, such annual labor or payment in lieu of labor which have accrued since his asserted interest was created, and his performance of such accrued annual labor and his payment in lieu of labor shall be made during each such subsequent year in addition to, and in an annual amount not less than, that which is otherwise reqired during such subsequent work years pursant to this section. With respect to any lands in dispute to which the claim holder is determined by a final appeal of such proceedings not to have the right, any payment in lieu of labor made by such claim holder during said proceedings and appeals pursuant to this section attributable to such lands shall be repaid to him by the United States within sixty days after he decision of such appeal becomes final.

(h) The owner of a mining claim may eliminate or convey lands from his claim, and, with respect to such lands, he shall be relieved of the requirement to expend the amounts prescribed by paragraph (a) of this section for the work year in which such lands were conveyed or eliminated to the extent provided by paragraph (d) of this section, and for every year subsequent to any work year in which the locator eliminated or conveyed such lands from his claim. The owner of a mining claim may add lands to his claim and the work year and rate of expenditures for such added lands shall be the same as that prescribed by paragraph (a) of this section for the claim. For the work year in which such lands are added to a claim, the owner shall be required to perform the annual labor or make payment in lieu of labor on or for such added lands in the amount provided by paragraph (d) of this section. For the purpose of eliminating any lands from or adding lands to his claims, the owner shall file and record an amended location notice or an amended location certificate.

(i) At the time an application for mineral patent is filed pursuant to section 9 of this title or at the time a plan of development is filed pursuant to section 7 of this title, and during the course of any proceedings thereon until the final appeal therefrom has been decided, the applicant shall not be required to perform annual labor or make payment in lieu of labor required by this section with respect to the lands covered by such application or plan. Withdrawal of an application for patent or final determination that the applicant is not entitled to a patent shall not invalidate any mining claim covered by the application if annual labor or payment in lieu of labor is resumed not later than the next work year at the rate which would have been applicable if the annual labor requirement had not been suspended, and if not later than the end of such next work year additional annual labor is performed or payment is made in the amount accrued during the period for which no annual labor was performed and an affidavit is filed in accordance with the provision of section 5.

DEFERMENT OR EXEMPTION OF ANNUAL LABOR

SEC. 6. (a) The performance of annual labor and payment in lieu of labor required under the provisions of section 5 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims upon the submission by the owner of evidence that the title

or right to such mining claim or group of claims is in litigation or that such mining claim or group of claims is surrounded by lands over which a right-of-way has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof. The period for which said deferment may be granted shall end when the conditions justifying the deferment have been removed. If such right-of-way, access or use of the claim is withheld, denied or caused to be denied or caused to be denied by an officer or agency of the United States or of any state or local government, all parties who would otherwise be required to perform annual labor or make payment in lieu of labor shall be exempted from such requirement for the period during which such right-of-way, access or use is denied or withheld.

(b) Except in the case of deferment because an officer or agency of the United States or of a state or local government has withheld, denied or caused to be denied, a right-of-way, access, or use as aforesaid, all annual labor or payment in lieu of labor deferred as authorized by this section shall be performed or paid during the work years next subsequent to the work year in which the cause for deferment was removed, and such performance or payment shall be made during such subsequent years in addition to, and in an annual amount not less than, that which is otherwise required during such subsequent work years pursuant to section 5 of this title.

QUALIFICATION FOR PATENT

SEC. 7. (a) The owner of a mining claim under the title III hereof shall be entitled to a patent therefor:

(i) If it contains a valuable mineral deposit, in which event it shall be sufficient for a valuable mineral deposit to have been discovered at any single point on land held by the claim nothwithstanding that such claim may contain or be intersected by lands not held by the claim; or

(ii) If the owner of the claim has filed a plan of development with the Secretary of the Interior, such plan has been approved by the Secretary, and equipment and facilities have been acquired and installed in substantial compliance with such plan of development or approved amendments thereof.

(b) A valuable mineral deposit, as used in this section 7, is one which would justify a person of ordinary prudence in performing work or making expenditures on or for the benefit of the claim or claims containing such deposits with reasonable expectation of developing a profitable mining operation. A valuable mineral deposit shall exist in the mining claim, although the expectation of obtaining a profitable mining operation is based on mineral deposits only part of which are in the mining claim.

(c) A plan of development may cover a mining claim or claims, and shall show:

(i) The known and inferred boundaries of the mineral deposit, the quantities and grades of providen and probable mineral reserves contained therein, and the test results and data from which such information is derived,

(ii) The planned location of excavations, tunnels, surface facilities, and all other uses of the surface and subsurface of the mining claims,

(iii) A description of the types and capacities of the equipment and facilities which the owner anticipates using to mine the mineral deposit,

(iv) The contemplated time schedule of each phase of mine development, facility and plant construction, and commencement of mineral production,

(v) An estimate of the total investment to be made before mineral production is commenced,

(vi) A designation, by survey or by legal subdivision description of the contiguous or noncontiguous tracts of land owned by the United States outside the exterior boundaries of the mining claim which the claim owner selected for purchase under section 1 or for exchange under section 2 of title V hereof, and a description of the planned uses which will be made of each such tract in connection with the development, mining and processing operations for the mining claim, and

(vii) The manner in which compliance with Federal, State, and local laws and regulations relating to the protection of the environment will be effectuated.

The plan or amended plan may be disapproved by the Secretary only if it does not constitute a method by which the mineral deposit can be extracted by an operator operating in good faith and in compliance with all applicable laws, or if the lands described in item (vi) are not reasonably necessary with respect to

quantity or location for mining or processing operations or uses reasonably incident thereto. The plan or amended plan shall be deemed approved in writing by the Secretary within 180 days after it is filed and such written disapproval sets forth in detail the reasons for disapproval. Applicant may submit an amended plan at any time and from time to time, whether or not the original plan or a prior amended plan has been approved by the Secretary, and each such plan shall be considered by the Secretary as an original plan, or in the event the Secretary disapproves a plan or amended plan, applicant may appeal to the United States District Court for the district in which any claim covered by the plan is suitated for a review of the Secretary's action.

The filing of a plan or amended plan of development shall have the effect of segregating the lands designated by the claim owner pursuant to item (vi) of this paragraph (c) from all other uses and appropriations inconsistent with the contemplated uses incident to mining or processing operations. Such segregation shall remain in effect for the periods during which the plan of development is being considered by the Secretary, during any appeal from the decision of the Secretary, and during any time the claim owner is proceeding under an approved plan of development. At any time after the plan of development is approved by the Secretary the claim owner shall have the right to the exclusive use of such lands for purposes of carrying out the plan of development, and upon the acquisition and installation of the equipment and facilities pursuant to such plan the claim owner shall have the exclusive right to acquire such lands and shall acquire such lands by exchange pursuant to section 2 of title V hereof, or, at his election, by purchase at their appraised fair market value. At any time after the plan of development is approved by the Secretary, the claim owner may file an application for patent pursuant to section 9 of this title, and proceed in accordance with that section.

(d) An application for patent may be based upon either a discovery of a valuable mineral deposit, or a plan of development, or both, and any application for patent may be withdrawn or amended at any time. The action of the Secretary in denying any application for patent may be appealed to the United States district court as herein provided. When an application for patent is withdrawn or a final determination is made that an applicant is not entitled to a patent, a new application may not be filed for any of the claims covered by such application until all suspended annual labor requirements have been performed or payments in lieu of labor have been made as provided in section 6. The purchase price for lands covered by a mineral patent shall be at the rate of 50 per acre for the mineral deposits plus the appraised fair market value of the remaining interests in the land owned by the United States exclusive of and without regard to the mineral deposits.

RIGHTS GRANTED BY MINERAL PATENT

SEC. 8. A mineral patent shall grant to the patentee and his successors in interest the title to the mineral deposits which are within the boundaries of the mining claim extended downward vertically and the title to the remaining interests in the lands owned by the United States subject to reserved royalty in the United States provided in section 10 of this title.

PROCEDURE TO OBTAIN PATENTS

SEC. 9. (a) The owner of a mining claim located on unsurveyed lands, or a mining claim which contains lands unavailable for mineral location or a mining claim the exterior boundaries of which do not conform to the lines of the public survey, or a mining claim located on surveyed lands without a found monument, may file in the proper land office an application, under oath, together with a survey plat of the claim or claims owned in common, made by or under the direction of the United States Chief Cadastral Engineer, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground and said monuments shall at all times after patent constitute the highest authority as to what land is patented. The owner of a mining claim located on surveyed lands, which does not contain lands unavailable for mineral location, and the exterior boundaries of which conform to the lines of any rectangular legal subdivisions of such survey or any one-half subdivisions of any smallest legal subdivision of such survey, may file in the proper land office, without a survey plat, an application, under oath, describing the boundaries of the claims according to the township, range, section, and legal

subdivision, and said description shall at all times after patent constitute the highest authority as to what land is patented.

(b) Previous to the filing of the application for a mineral patent, a copy of such survey plat, if required, together with a notice of such application for a mineral patent, shall be posted in a conspicuous place on the land embraced in such notice of application, and an affidavit of at least two persons that such notice has been duly posted, and a copy of the notice shall be filed in such land office, and the applicant shall thereupon be entitled to a patent to the mineral deposits and the remaining interests in the land owned by the United States in the manner following: The manager of the land office, upon the filing of such application, survey plat, notices, and affidavits, shall publish once per week for a period of eight successive weeks in a newspaper of general circulation to be by him designated as published nearest to such claim, a notice that such application has been made; and he shall also post such notice in his office for the same period. At the time of filing this application, or within sixty days thereafter, the applicant shall file with the manager a certificate of the United States Chief Cadastral Engineer that the survey plat, if required, is correct, with such description by reference to natural objects or permanent monuments as shall identify the claim accurately, to be incorporated in the patent. At the expiration of the sixty days of publication the claim owner shall file an affidavit, showing that such plat, if required, and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the manager of the proper land office at the expiration of the sixty days of publication, and if the applicant otherwise meets the requirements of this Act, he shall be entitled to a patent to the mining claim, upon the payment of the Treasury of the United States of the amounts prescribed by Section 7(d) of this title; and thereafter no objection from third parties to the issuance of a patent shall be heard. The application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his authorized agent, where said agents is conversant with the facts sought to be established by said affidavits.

(c) The United States Chief Cadastral Engineer many appoint in each land district as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of claims, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to employ any United States deputy surveyor to make the survey. To the end that the Director may be fully informed on the subject, each applicant shall file with the manager a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid to the manager of the land office which statement shall be transmitted, with the other papers in the case, to the Director of the Bureau of Land Management.

(d) Any applicant for a mineral patent may include in his application the lands segregated under section 7(c) (vi) of this title to be acquired pursuant to title V hereof.

ROYALTY

SEC. 10. (a) There shall be paid to the United States with relation to minerals extracted from mining claims located pursuant to title III hereof, a royalty of 2 per centum of the mine value of said minerals. Mine value of the minerals extracted shall be the proceeds from the sale of such minerals less: (i) all costs incurred, both direct and indirect, including depreciation and amortization, for processing, transportation, and selling, of said minerals from the mine to the point of delivery to the purchaser thereof; (ii) reasonable profit attributable to such processing, transportation, and selling; and (iii) all taxes (other than Federal income taxes) paid or accrued upon the production thereof. In the event that the owner demonstrates that the value of a product can be determined at a stage in the processing prior to the sale, the mine value shall be the value of the product at such stage, rather than the sale price of the product sold, less: (i) all costs incurred, both direct and indirect, including depreciation and amortization, for processing and transportation up to and including the stage at which such value is established; (ii) reasonable profit attributable to such processing and transportation; and (iii) all taxes (other than Federal income taxes) paid or accrued upon the production thereof. In

no event shall the royalty payable hereunder for any calendar year exceed 5 percent of the net mining income for such year allocable to the mineral for which said royalty is payable. Net mining income shall be the mine value of such mineral as determined hereunder less all costs incurred, both direct and indirect for mining the same.

(b) Payment of royalty shall be made by the owner of the claim to the United States within 90 days following the end of the calendar quarter in which the mineral extracted is sold or in which the value thereof is otherwise established by the owner in accordance with this section. Excess royalty payments shall be refunded promptly.

(c) In the event the owner of a mining claim subject to this section fails or refuses for a period greater than 30 days to pay the royalty required by this section, the Secretary of the Interior may enforce such payment by bringing an action in the United States District Court for the district in which the owner resides or in which the mining claim is located. If the owner and the Secretary cannot agree as to the amount of the royalty, such amount shall be determined by an action brought in the United States District Court for the district in which the owner resides or in which the mining claim is located, and the owner shall have the right to continue mineral production while such determination is being made. In an action brought pursuant to this section, upon a showing by the Secretary that it is necessary for the interests of the United States to be protected, the court may require the owner to post a bond or deposit securities or cash sufficient to secure the payment to the United States of the amount of accumulated royalties to which it may be found to be entitled.

(d) Nothing in this section shall be construed to require that mineral production from any mining claim subject to this section be commenced or continued, and no right in any such mining claim shall be affected by the failure to commence or continue to produce minerals therefrom.

(e) Royalties under this section shall be deductible as ordinary and necessary business expenses under the income tax laws of the United States when paid or accrued.

(f) Each patent issued under title III hereof shall contain a reservation of the royalty provided for herein.

ADVERSE CLAIMS

SEC. 11. Where an adverse claim is filed during the aforesaid eight week period of publication provided in section 9(b) of this title, it shall be upon oath of the person making the same, or his authorized agent or attorney in fact, and shall show the nature, boundaries and extent of such adverse claim, and the proceeding, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim is waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine his asserted rights, and prosecute the same with reasonable diligence to final judgment, and failure to do so shall be a waiver of his adverse claim. After such final judgment shall have been rendered, each party determined to have the right to the mining claim or any portion thereof, may, without giving further notice, proceed as otherwise required by section 9 of this title, and a patent shall issue thereon for the mining claims or such portion thereof to the parties as they shall appear, from the decision of the court, to be entitled. Nothing herein contained shall be construed to prevent the alienation of the title by a patient to any person whatever.

APPLICABILITY OF ENVIRONMENTAL LAWS; LIMITATION ON USE AND REVERTER

SEC. 12. (a) Nothing in this Act shall be deemed to exempt the owner of a mining claim from applicable Federal, State and local laws relating to the protection of the environment.

(b) Any land acquired under this title or title V shall be used only for mining, mineral exploration, development, processing, or uses reasonably incident thereto. A patentee or his successor may not use the land or permit it to be used for any other purpose, except with the consent of the Secretary. If the land is used for any unauthorized use and such use is not discontinued within ninety days after the Secretary gives the patentee or his successor written notice to discontinue such unauthorized use, title to the land shall revert to the United

States. At any time the Secretary determines that continuance of the reverter serves no public purpose, he may release to the patentee or his successor the possibility of reverter to the land held by the United States without receipt of any consideration for such release. Each patent to land acquired under this title or title V shall state that it is subject to the provisions of this paragraph.

TITLE IV. BUREAU OF LAND MANAGEMENT RECORDS

DOCUMENTS FILED; RECORDS MAINTAINED

SECTION 1. (a) The Secretary of the Interior shall maintain in each local land office of the Bureau of Land Management, in addition to the public files and records maintained before the date of this Act, the public files and records required by this title for mining claim documents, as hereinafter defined, for mining claims on lands within the respective jurisdictions of said offices, and shall perform the other duties in connection with such files and records required by this Act.

(b) "Mining claim documents" as used herein means: declarations of interest, location notices, location certificates, affidavits of, and notices of deferment or exemption from, annual labor and payment in lieu of labor filed pursuant to title II or title III of this Act, applications for mineral patents, mineral patents, and amendments to each of the aforesaid documents.

(c) The Secretary shall require each local land office as to lands within its jurisdiction to maintain the following records and files, to make the following entries therein and thereon, to keep all mining claim documents in appropriate permanent files, and to do such other things as are required by this title:

(1) Each declaration of interest filed pursuant to title II and each mining claim location notice filed pursuant to title III of this Act shall be assigned a serial number by the land office at the time of filing.

(2) A daily reception record shall be maintained upon which the local land office shall immediately upon the filing of a mining claim document enter the day, hour, and minute of filing, showing in such record the serial number of the location notice or declaration of interest affected, and noting on each such document the day, hour, and minute of filing, which shall be deemed to be the time of record.

(3) A serial register and a separate permanent file under the same serial number as the serial register shall be maintained for each such location notice filed under title III or declaration of interest filed under title II. The local land office shall, when a mining claim document is filed, immediately enter on the serial register the date of filing and a description of the document filed. Any such document so filed shall be immediately placed in the appropriate permanent file; if more than one such file is affected a duplicate of such instrument or appropriate written cross reference by serial number shall be placed in each such file.

(4) Each local land office shall maintain a mining claim plat of all lands available for mineral location for each surveyed and unsurveyed township within its jurisdiction on which shall be shown the serial number of the location notice or declaration of interest filed for, and the boundaries of, each mining claim that is currently maintained.

(5) A new serial number may be assigned to a location notice, declaration of interest, or amendment thereof for all or any portion of a mining claim, in which event the local land office shall make a new serial register and separate permanent file for the new number and make appropriate entry on the serial register for the prior serial number showing the new number and shall also immediately enter the new number on the mining claim plat.

(d) The Secretary of the Interior shall have ninety days after the effective date of this Act to comply with the provisions of this section.

FILING FEES: RECORDS OPEN TO PUBLIC

SEC. 2. (a) The Secretary, after public notice in the Federal Register as to amounts and after a reasonable period of time during which interested parties may submit recommendations, shall fix and establish reasonable fees to be charged by local land offices in connection with filing of mining claim documents and issuance of certified copies thereof.

(b) Each mining claim document which is filed with the local land office, and as to which the prescribed fee is tendered, shall be accepted for filing. The notations with respect thereto shall be made promptly as hereinabove provided.

(c) The records and files required by this section to be maintained, or photographic or microphotographic copies thereof, shall be public records open to inspection during office hours in the respective local land offices. Upon request and upon payment of the prescribed fee, the local land office shall furnish, or permit to be made, an exact copy or reproduction accurately showing such document in all details, and the Secretary, or someone delegated by him, shall, upon request, certify or authenticate that any such copy is a true and correct copy of the original document.

(d) No local land office shall receive a mining claim document for filing or make any entry on the records with respect thereto, or furnish a certified or authenticated copy of any filed document or records pertaining thereto, unless the prescribed fee for such filing or certified copy, as the case may be, shall have first been tendered.

(e) Nothing herein shall be construed as requiring any document respecting mining claims which was prepared prior to the effective date of this Act to be filed hereunder, nor shall any right be adversely affected for failure to file such prior document pursuant to this section.

Title V. Acquisition of Lands

Section 2337 of the Revised Statutes (30 U.S.C. sec. 42) is repealed and the following sections are added:

PURCHASE

Section 1. The Secretary of the Interior is authorized to sell, upon the application of any person holding an interest in a mineral deposit whether acquired from the United States or otherwise, any other land owned by the United States, whether it be mineral or nonmineral in character, which the applicant demonstrates is reasonably necessary for any mining or processing operations with respect to such mineral deposit or uses reasonably incident thereto. The land shall be sold to such applicant at its appraised fair market value.

EXCHANGE OF LANDS

Sec. 2. (a) When the development of mineral resources will be promoted thereby, the Secretary of the Interior is authorized to accept on behalf of the United States, title to any interest in privately owned lands in exchange for conveyance of any interest in surveyed or unsurveyed public land or land previously acquired by the United States in any state. In the event the lands or interests in lands involved in the exchange are not equal in value, a cash consideration to compensate for the unequal value based upon the appraised fair market value of the land may be paid or received by the United States, as the case may be. For the purpose of effecting exchanges, the identification and area of unsurveyed lands may be determined by protraction or otherwise. The character of the lands to be exchanged may be either mineral or nonmineral.

(b) Before any such exchange under this section shall be effected, notice of the contemplated exchange, describing the lands and the interests in the lands involved, shall be published by the Secretary of the Interior once each week for four successive weeks in a newspaper of general circulation in each county in which the lands to be accepted by the United States are situated, and in the same manner in some like newspaper published in each county in which the lands to be conveyed by the United States in such exchange are situated. Lands conveyed to the United States under this section shall, upon acceptance of title, become public lands available for mineral location and mineral leasing. No fee shall be charged for any exchange of land made under this section except the cost of publishing the notice of a proposed exchange as herein provided.

Sec. 3. Any land acquired under this title shall be subject to all of the provisions of Section 11 of title III of this Act.

Title VI. Reserved Minerals

Section. 1. That section 2 of the Act of June 17, 1949 (30 U.S.C. sec. 54) is amended to read as follows:

Sec. 54. Liability for damages by mineral activities on lands patented with minerals reserved to the United States.

Notwithstanding the provisions of any Act of Congress to the contrary, any person who hereafter prospects for, develops, mines, or removes any minerals

from any land included in a patent from which such minerals were reserved to the United States, shall be liable for any damages to the surface resources and tangible improvements thereon of any nature and purpose, caused by such prospecting for, development, mining, or removal of minerals. Nothing in this section shall be considered or construed to impair any vested right in existence on the date of this Act.

COMMON VARIETIES

SEC. 2. That section 3 of the Act of July 23, 1955 (30 U.S.C. sec. 611) is hereby amended to read as follows:

Sec. 611. Common Varieties of Sand, Stone, Gravel, Pumice, Pumicite or Cinders and Petrified Wood.

(a) No deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located for such common varieties under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in sections 601, 603, and 611–615 of this title, include deposits of such materials which are primarily valuable as construction materials but do not include so-called "block pumice" which occurs in nature in pieces having one dimension of 2 inches or more and deposits of such materials which are commercially valuable for use in manufacturing, industrial, or processing operations, such as, but not limited to, gypsum, silica sand, limestone suitable in the production of cement, and metallurgical or chemical-grade limestone. "Petrified wood" as used in Sections 601, 603, and 611– 615 of this title means agatized, opalized, petrified, or silicified wood, or any material formed by the replacement of wood by silica or other matter.

SURFACE MANAGEMENT

SEC. 3. That sections 5 and 6 of the Act of July 23, 1955 (30 U.S.C. secs. 613, 614) shall be repealed five years after the effective date of this Act, and section 4 of said Act (30 U.S.C. sec. 612) is hereby amended to read as follows:

§ 612. Surface Management

(a) As used in this section, the term "mining claim subject to this section" shall mean all mining claims prior to issuance of patent located after July 23, 1955. Any mining claim subject to this section shall not be used for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

RESERVATIONS IN THE UNITED STATES TO USE OF THE SURFACE AND SURFACE RESOURCES

(b) Rights under any mining claim subject to this section shall be subject to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject to the right of the United States, its permittees, and licensees, to use so much of the surface hereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* that any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further,* That nothing in sections 601, 603, and 611–615 of this title shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation use and distribution of ground or surface waters within any mining claim subject to this section.

SEVERANCE OR REMOVAL OF TIMBER

(c) Except to the extent required to provide clearance for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or to the extent authorized by the United States, no claimant of any

mining claim subject to this section shall sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under subsection (b) of this section.

MINING ON POWER SITE WITHDRAWALS

SEC. 4. That section 4 of the Act of August 11, 1955 (30 U.S.C. sec. 623) is repealed and subsection (b) of Section 2 of said Act (30 U.S.C. sec. 621(b)) is amended to read as follows:

(b) The locator of a mining claim under this chapter, however, shall conduct no mining operations for a period of sixty days after the filing of a location notice pursuant to section 3 of title III of the Mineral Development Act of 1971. If the Secretary of the Interior, within said sixty day period, notifies the locator by registered mail or certified mail of the Secretary's intention to hold a public hearing to determine whether mining operations would substantially interfere with power development or power site uses of the land included within the mining claim, mining operations on that claim shall be further suspended until the Secretary has held the hearing and has issued an appropriate order. The order issued by the Secretary of the Interior shall provide for one of the following: (1) a complete prohibition of mining: (2) a permission to engage in mining upon the condition that the locator shall, following mining operations, reclaim the surface of the claim; or (3) a general permission to engage in mining. No order by the Secretary with respect to such operations shall be valid unless a certified copy is filed in the same State or county office in which the locator's location notice has been filed in compliance with the United States mining laws.

The Secretary shall establish reasonable rules and regulations concerning bonds and deposits with respect to the reclamation of mined lands. Moneys received from any bond or deposit shall be used for the reclamation of the surface of the claim involved, and any money received in excess of the amount needed for the reclamation of the surface of that claim shall be refunded.

Nothing in this section shall affect the requirements of the Act of August 11, 1955 (30 U.S.C. secs. 621—625) applying to mining claims located before the effective date of the Mineral Development Act of 1971.

TITLE VII. ADMINISTRATION

The provisions of this Act shall be administered in conformity with the Administrative Procedure Act.

SECTION-BY-SECTION ANALYSIS, MINERAL DEVELOPMENT ACT OF 1971

This is a bill to establish a system for the development of mineral resources on public lands of the United States.

TITLE I

SECTION 1 recites the short title.

SEC. 2 recites the purpose of the bill to be to develop certain mineral resources of the public lands of the United States consistent with Congressional policy as expressed in the Mining and Minerals Policy Act of 1970.

SEC. 3 contains definitions of nine terms used in the bill: (1) "Lands available for mineral location" are the public lands, including lands containing reserved minerals, to which the 1872 mining law now applies, but not including areas presently covered by mining claims, perfected by a mineral discovery or other claims for which a declaration of interest has been filed so long as the claims are maintained in accordance with Title II of this bill, except such areas are subject to location of a mining claim pursuant to Title III by the owner of mining claims covering such areas which are or could be maintained under Title II: (2) "Mineral Deposits covered by this Act" are the mineral deposits to which the 1872 mining law now applies: (3) "Smallest legal subdivision" is a 40-acre surveyed tract consisting of a quarter-quarter section; (4) "Work year" is the one-year period commencing at noon on September 1; (5) "Remaining interests in land owned by the United States" are all interests in such land including those substances deemed not to be a valuable mineral deposit by the Multiple Surface Use Act of 1955 but not including certain Leasing Act minerals; (6) "Surveyed lands" are lands surveyed by the United States, and "unsurveyed lands" are those which have not been so surveyed; (7) "Lands with a found monument" are surveyed or unsurveyed lands on which a locator finds a U.S. survey monu-

ment or mineral monument within one mile from any part of the claim, and "Lands without a found monument" are lands on which no such monument is found; (8) "Field survey" is a survey at least as accurate as a transit or plane table survey; (9) "Citizens of the United States" are native-born or naturalized citizens, corporations organized under the laws of the United States or any state or territory, and associations of such persons and corporations.

TITLE II

This Title relates to mining claims and millsites located under the 1872 act, prior to the effective date of this bill.

SEC. 1 provides that such mining claims and millsites are null and void unless an application for patent or a declaration of interest is filed within three years. A declaration of interest may be filed for a mining claim whether or not there has been a discovery of a valuable mineral deposit. The land covered by a claim will be subject to location by a new claim under this bill unless a declaration is filed within one year or there has been a discovery, or in the case of a millsite, unless the millsite is on nonmineral land and is then being used for a millsite purpose. Any person having an interest in a claim may file the declaration of interest. The declaration of interest must show the names and addresses of the owners, and a description of the claims, including acreage. Except for placer claims already located to conform to the public survey, the declaration must be accompanied by a map prepared from a field survey showing the position of the claims. If the description is insufficient, the Secretary of Interior may require additional information. Such claims may be perfected by a discovery at any time within five years, but if the United States has specific need for any limited area of land, claims on that land may be contested and declared null and void if not then perfected by a discovery or, in the case of millsites, if the millsite is not then valid. Claims for which a declaration of interest is filed are subject to the annual labor requirements of this bill, and will be void if such requirements are not met.

SEC. 2 provides that claims for which a declaration of interest has been or may be filed will be void five years after the effective date of this bill unless an application for patent is then pending. If the application is denied, the owner will have the exclusive right for 180 days thereafter to locate a mining claim pursuant to Title III for the lands covered by the application which was denied. Owners of such claims are entitled to a patent under the 1872 law if they meet the requirements of that law.

TITLE III

This Title relates to location of new claims after the effective date of the bill. It repeals applicable provisions of the general mining law of 1872 and certain acts amendatory or supplemental thereto, and enacts a new mining law.

SEC. 1 provides that, subject to the reserved royalty in the United States provided in Section 10 of Title II, all mineral deposits covered by this Act in lands available for mineral location (as those terms are defined in Title I) shall be open for exploration, development, mining, production and disposition, and patent, and said lands shall be open to ingress, egress, occupation, and use for mineral purposes, and to patent by citizens of the United States (as that term is defined in Title I) and those who have declared their intention to become such. No person who holds an interest in a claim can relocate the same land for two years unless annual labor has been performed on the land for the period, and an affidavit is filed prior to relocating the land, and in that event, the amount of annual labor as to the relocated portion shall be the same as if it were covered by the original claim. To the extent that a mining claim purports to cover land not available for mineral location, it is void as to said portion.

A location is made by erecting a monument at each corner of a claim on unsurveyed land or on surveyed land without a found monument, and at the northwest corner of each claim located on surveyed land with a found monument. Each monument must be marked with its position, the name of the claim, and if a witness monument it must refer to the corner monument it witnesses. The locator must post on the northwest corner monument a location notice stating the name of the claim, the name and address of the locator, the date of the location, and a description of the claim including, in the case of surveyed lands with a found monument, the number of acres. An identical signed copy of the notice must be recorded in the county or recording district office in which the state law authorizes instruments relating to title to land to be recorded,

and an identical signed copy must be filed in the Bureau of Land Management. If both are not done within thirty days the claim is void.

If the claim is on unsurveyed land or on surveyed land without a found monument, the locator must also survey the land within 180 days after posting and then record in the county or recording district office and file in the Bureau of Land Management a signed location certificate containing a map and description of the land according to the survey. If a claim is improperly located, it will be subject to subsequent location by another person who has no actual notice of the claim at any time before the location notice is recorded and filed (if no location certificate is required) or at any time before the location certificate is recorded and filed (if a location certificate is required).

SEC. 4 provides that a location notice or certificate may be amended to correct errors or omissions therein and a claim may be amended to correct errors or omissions in the manner of location or to change the size or shape of a claim. The amendment is made by erecting a new monument or monuments, making a new field survey if necessary and posting, recording, and filing an amended notice or certificate. The amendment is effective when the notice or certificate is recorded and filed and all other acts required by Section 3 have been performed, and is subject to valid existing rights. The notice or certificate must be signed by or on behalf of the owners, must contain all of the information required in the original location notice or certificate and in addition the name and address of the present owners, references to the filing and recording of the original notice or certificate, and the purpose of the amendment.

SEC. 5 provides that annual labor must be performed on or for the benefit of the claims, consisting of labor, materials, surveys, improvements, and activity of any kind which would tend to discover or tend to facilitate the development, mining, or processing of mineral deposits within the claim. The work may be performed by the owner of the claim and such work will be applied to the extent of the reasonable cost of having it performed by others. The work may be performed anywhere on a group of contiguous claims not greater in area than four square miles in which event the labor will be deemed to be for the benefit of each of the claims in the group. The amount of the annual labor is $5 per acre per year for each acre of land available for mineral location within the claim during the first 5 years, $10 per acre per year during the second 5 years, $15 per acre per year during the third 5 years, and $20 per acre per year thereafter.

SEC. 2 provides that locators of mining claims shall have the exclusive right of possession and use of all the surface of the claims for exploration, development, mining, and processing operations and uses reasonably incident thereto, and the exclusive right to explore for, develop, mine, produce and dispose of, and patent the mineral deposits within the vertical planes of the claim boundaries. The rights to the use of the surface are subject to the provisions of the Multiple Surface Use Act of 1955 and the Multiple Mineral Development Act of 1954. All rights of locators are freely alienable and subject to the encumbrances and transactions as are the rights in other property. The locator or holder of the claim is required to maintain in effect a bond to secure a payment of damages to the surface and tangible improvements, in an amount determined by the Bureau of Land Management, but in no event greater than the fair market value of the surface resources and tangible improvements. The bond and the amount of the bond are subject to appeal to the Secretary and the Courts, but during the appeal the owner of the mining claim has the right to continue all activities upon the claim by posting a bond in the amount specified or he may suspend all activities on the claim and his annual labor requirement will be deferred during the period of the appeal. The federal agency having jurisdiction may waive the requirement of the bond if the owner of the claim demonstrates that there will not be significant or lasting damage to the surface resources or improvements. A bond furnished under any other statute or regulation will be sufficient if it meets the requirements of this bill.

SEC. 2 provides that a mining claim shall contain not less than 20 acres nor more than 80 acres, except where necessary to conform to the lines of a public survey, and the minimum size is subject to the exception that isolated tracts of land available for mineral location may contain less than 20 acres.

If there is a found monument, the description of the claim shall be tied by a field survey to the monument. Otherwise, the description must be tied by a field survey to some other natural object or permanent monument by which

the claim can be identified by a reasonably knowledgeable person conversant with such natural objects and permanent monuments in the vicinity. On surveyed land with a found monument the boundaries must conform to lines of a rectangular survey, even though the area within such boundaries may contain conflicting claims and other areas unavailable for location. The claim must be rectangular in shape and its length no greater than four times its width. If there is no found monument the boundary lines must run generally east and west and north and south. When there is no survey of the claim, the monuments on the ground control the positions of the boundaries, but after a survey is made, if one is required, the survey controls over the monuments.

At his election, the owner of a claim may discharge the annual labor requirement by making payment of all or part thereof to the Treasury of the United States. Amounts of annual labor performed or payments in lieu of labor paid in excess of the annual requirement carry over into the subsequent years.

If a claim is located after July 1 and prior to September 1 of any year, annual labor does not have to be performed for that work year. Otherwise, annual labor must be performed in the required amounts in order to hold the claim in a subsequent year. Thus, the holder of a mining claim has the exclusive rights therein during the work year in which the claim is located, and where the claim is located after July 1, also in the subsequent work year, and in addition in every work year subsequent to each work year in which annual labor is performed or payments in lieu of labor are made.

If annual labor is required for less than a full work year, the amount is reduced proportionately, but no reduction is made for any part less than one full month.

Before the end of each work year the owner of the claim must file in the Bureau of Land Management an affidavit showing the name and address of the claim owner, an identification of the claims by reference to location notices or declarations of interest, the amount of the annual labor, or payment in lieu of labor, the place where the work was performed and the dates thereof, a description of the annual labor actually performed, and the name and address of the person doing the work. If the annual labor has been deferred, the claim owner reproduced copies or receipts, cancelled checks or other supporting documents must file a notice thereof. The affidavit of annual labor must be supported by or, at the option of the person filing the affidavit, this may be done by a supplemental affidavit which must be filed within 30 days. If supporting documents are filed, the affidavit of annual labor is prima facie evidence of its contents; failure to file supporting documents is prima facie evidence that annual labor was not performed. If annual labor is deferred or exempted for any reason authorized by this bill, a notice thereof must be recorded and filed. If the affidavit of annual labor or payment in lieu of labor or notice of deferment or exemption is not filed on time, the claims become void. Unless deferred or exempted for a reason authorized by the bill, failure to perform the work or make payments, or the filing of a substantially insufficient affidavit or one containing a materially false statement, shall cause the claim to be voidable if a proceeding is brought within 180 days after the end of the work year, but no claim is voidable if the holder of the claim can prove that annual labor was actually performed or payment in lieu of labor was made. After 180 days, no action may be brought to void the claim. If an action is brought to void the claim, the annual labor requirement is suspended, and if the holder of the claim prevails, the accrued annual labor or payment in lieu of labor must be performed or made during each subsequent work year in addition to, and in an annual amount not less than that which would otherwise be required during the subsequent work year. If the holder of the claim elects to make payments in lieu of performing annual labor during the contest period, and he does not prevail, he is entitled to be reimbursed for the amount paid to the United States for such period.

The owner of a mining claim by amendment may eliminate or convey lands from his claim or add such lands. With respect to any lands which are eliminated he is relieved of the annual labor requirement, and with respect to lands added, he must perform the annual labor or make payment in lieu of labor for the work year in which the land is added and for every year thereafter, and the rate shall be the same as that for the claim or claims to which the land is added.

At any time that an application for mineral patent is filed, and during the course of any proceedings thereon, the applicant need not perform annual labor or make payments in lieu of labor, but if the application is withdrawn or a final determination is made that the applicant is not entitled to a patent, the owner or holder of the claim may continue to hold the claim by resuming annual labor or payments in lieu of labor not later than the next work year at the rate which would have been applicable if the annual labor requirement had not been suspended, if not later than the end of such next work year additional annual labor is performed or payment is made in the amount accrued during the period for which no annual labor was performed, and an affidavit is filed to cover such annual labor or payments.

SEC. 6 provides that the Secretary of Interior may defer the annual labor obligation upon a showing that the title or right to a mining claim or claims is in litigation or that access has been denied or is in litigation. At the end of the period of deferment, the annual labor must be resumed and performed for the period for which it was suspended in addition to, and in an annual amount not less than that which is otherwise required during the subsequent work years, unless access was denied by any government or government agency, in which event annual labor need not be performed for the period during which it was suspended.

SEC. 7 provides that the owner of a mining claim located under Title III will be entitled to a patent if the claim or claims contain a valuable mineral deposit; or if the applicant files with the Secretary of Interior a plan of development for a claim or claims, that plan is approved by the Secretay, and equipment and facilities have been acquired and installed in accordance with the plan. A valuable mineral deposit is defined as one which would justify a person of ordinary prudence in performing work or making expenditures on or for the benefit of the claim or claims containing such deposits with a reasonable expectation of developing a profitable mining operation. A plan of development must show the boundaries of the mineral deposits, the quantities and grades of proven and probable mineral reserves, test results and data, planned location of excavations, tunnels, surface facilities, and all other uses of the surface and sub-surface, a description of the equipment and facilities which will be used, a contemplated time schedule for mine development and construction of plant, estimate of the total investment, a designation of land other than that covered by the mining claims which will be needed in connection with the development of the property, and a statement of the manner in which compliance with all applicable laws and regulations relating to the protection of the environment will be effectuated. A plan may be disapproved by the Secretary only if it does not constitute a method by which the mineral deposit can be extracted by an operator operating in good faith and in compliance with applicable laws or if the lands outside the claims are not reasonably necessary to the development of the mining claims. A plan shall be deemed approved unless it is disapproved in writing by the Secretary within 180 days. An applicant who files a plan of development can file his application for patent at any time after the plan is approved but his patent may not be issued until acquisition and installation of equipment and facilities in compliance with the plan. The filing of the plan of development will segregate the lands outside the claim which are designated in the plan of development from all other uses and appropriations, and such segregation shall remain in effect until patent is issued or the application for the patent is finally disallowed. The applicant will have the right to use such land during the period of installation and upon completion of acquisition and installation, shall have the exclusive right to acquire the land by purchase or exchange and must so acquire the land.

An application for patent may be based upon either a discovery of a valuable mineral deposit a plan of development or both, and an application for patent may be withdrawn or amended at any time. If the Secretary denies an application, the matter may be appealed to the United States District Court. If an application is withdrawn or a final determination is made that an applicant is not entitled to a patent, a new application may be made if the applicant performs all suspended annual labor requirements or makes payments in lieu of labor as provided in Section 6. The purchase price is $50 per acre for the mineral deposits plus the appraised fair market value of the remaining interests in the land owned by the United States exclusive of and without regard to the mineral deposits.

SEC. 8 provides that, subject to the reserved royalty in the United States provided in Section 10 of Title III, a mineral patent grants the title to the mineral deposits within the boundaries of the mining claim extended downward vertically and the title to the remaining interest in the lands owned by the United States.

SEC. 9 relates to the procedure for obtaining patents. If a claim is located on unsurveyed land, or if it contains lands unavailable for mineral location, or if the exterior boundaries do not conform to the lines of a public survey, or if it is located on surveyed lands without a found monument, it must first be surveyed under the direction of the United States Chief Cadastral Engineer and an application for patent covering such claims may be filed, under oath, but must be accompanied by a survey plat showing the boundaries of the claims which shall be distinctly marked by monuments on the ground and those monuments will control. With respect to other mining claims, the applicant may file an application under oath, without a survey plat, and the application shall describe the lands according to the Township, Range, Section and legal subdivision.

Previous to the filing of an application, a copy of the survey plat, if required, and a notice of application must be posed on the land covered by the application and a copy of the notice, with an affidavit of at least two persons that the notice has been posted, must be filed in the Bureau of Land Management. The manager of the land office must publish once each week for a period of eight successive weeks in a newspaper of general circulation published nearest the claim, a notice of application and the notice must be posted in his office. The applicant must file with the manager a certificate of the United States Chief Cadastral Engineer that the survey plat is correct and the description shall be incorporated in the patent. At the expiration of 60 days of publication the claim owner must file an affidavit showing that the notice and plat, if one is required, have been posted during the period of publication. If no adverse claim has been filed and if the applicant otherwise meets the requirements of this Act, the applicant shall then be entitled to a patent upon payment of the purchase price prescribed by the Act.

The United States Chief Cadastral Engineer may appoint as many competent surveyors as shall apply for appointment. Expenses of survey must be paid by the applicant, and each applicant must file a sworn statement of all charges and fees paid for publications and surveys, and all other fees that might be paid to the manager of the land office.

An applicant for a mineral patent may include in his application lands outside the claim designated in the plan of development which he is entitled to acquire under Section 7.

SEC. 10 provides that there shall be paid to the United States with relation to minerals extracted from mining claims located pursuant to Title III a royalty of 2% of the mine value of the minerals except this royalty during any calendar year shall not exceed 5% of the net mining income for such year allocable to the mineral for which said royalty is payable. Both "mine value" and "net mining income" are defined. Mine value of the minerals extracted shall be the proceeds from the sale of minerals less all costs and a reasonable profit for processing, transportation from the mine to the point of delivery to purchaser and for selling and all taxes (other than Federal income taxes) paid or accrued upon the production thereof. If the owner demonstrates that the value of a product can be determined at a stage in the processing prior to the sale, the mine value will then be the value of the product at such stage less the above mentioned deduction for processing, transportation and taxes. "Net mining income" is defined as the mine value of such mineral less all costs incurred, both direct and indirect for mining the same.

Royalty will be payable to the United States within 90 days following the end of the calendar quarter in which the mineral extracted is sold or in which the value is established by the owner in accordance with Section 10. If an owner fails or refuses to pay royalty due for a period greater than 30 days, the Secretary of the Interior may enforce such payment by bringing an action in the United States District Court for the district in which the owner resides or in which the mining claim is located. The owner may continue production but the court may require the owner to post a bond or deposit securities or cash sufficient to secure the payment to the United States of the amount of accumulated royalties to which it may be found to be entitled.

Nothing in Section 10 shall be construed to require that mineral production from any mining claim subject to its provisions be commenced or continued, and no right in any such mining claim shall be affected by the failure to commence or continue to produce minerals therefrom.

Royalties under Section 10 shall be deductible as ordinary and necessary business expenses under the Federal income tax laws when paid or accrued.

Each patent issued under Title III shall contain a reservation of royalty in the United States provided for in Section 10.

SEC. 11 provides that an adverse claim under oath may be filed during the eight week period of publication of the notice of application for patent, and in the event of the filing of an adverse claim all patent procedings shall be stayed until the claim is decided by a court of competent jurisdiction, or the adverse claim is waived. Court proceedings must be commenced within thirty days after filing of the claim, and prosecuted to final judgment with reasonable diligence. After final judgment, each party determined to have a right to the mining claim or any portion thereof may proceed to patent.

SEC. 12 provides that nothing in the bill shall be deemed to exempt the owner of a mining claim from applicable Federal, State and local laws relating to the protection of the environment. It states that any land acquired under Title III or Title V shall be used only for mining, mineral exploration, development, processing or uses reasonably incident thereto, and if the land is used for any unauthorized use and such use is not discontinued within 90 days after notice from the Secretary, title to the land shall revert to the United States. If the Secretary determines that continuance of the reverter serves no public purpose, he may release the possibility of reverter to the patentee or his successor without any consideration. Patents to land acquired under Title III or Title V shall state that the land is subject to the provisions of Section 12(b).

TITLE IV

This Title relates to certain records which must be maintained by the Bureau of Land Management.

SEC. 1 provides that there shall be maintained in each local land office of the Bureau of Land Management, in addition to files and records presently maintained, files and records for mining claim documents for mining claims within the respective jurisdictions of said offices. Mining claim documents are defined as declarations of interest, location notices and certificates, affidavits of and notices of deferment or exemption from annual labor and payments in lieu of labor, application for mineral patents, mineral patents, and amendments to each of said documents.

Each local land office is required to assign a serial number of each declaration of interest and each mining claim location notice filed with the land office; to maintain a daily reception record showing the day, hour and minute of filing, with the serial number, and noting the time of filing on each such document, which becomes the time of record; to maintain a serial register and a separate permanent file under the same serial number for each location notice or declaration of interest, noting in such serial register the date of filing and a description of the document filed; to maintain a mining claim plat of all lands available for mineral location on which shall be shown the serial number of the location or declaration of interest filed for, and the boundaries of each mining claim that is currently maintained. A new serial number may be assigned to location notice, declaration of interest, or amendment thereof for all or any portion of a mining claim, in which event a new serial register and permanent file shall be made.

The Secretary has 90 days after the effective date of the bill to comply with the provisions of this Section.

SEC. 2. Provides that the Secretary is authorized to exchange lands, upon and issuance of certified copies. Mining claim documents for which a fee is paid must be accepted for filing. Such records and files are public files, open to inspection during office hours, and upon request and payment of the prescribed fee the local land office must furnish copies, certified or authenticated if requested.

This section provides that no document respecting mining claims which was prepared prior to the effective date of the act need be filed, and that no right is adversely affected for failure to file such prior document.

TITLE V

This title provides for the acquisition of land additional to that contained in mining claims which is necessary for any mining or processing operation.

SEC. 1. Provides that the Secretary of the Interior is authorized to sell, upon application of any person holding an interest in a mineral deposit, any other land owned by the United States which the applicant demonstrates is reasonably necessary for any mining or processing operations with respect to such mineral deposit or uses reasonably incident thereto. The land is to be sold at its appraised fair market value.

SEC. 2. Provides that the Secretary is authorized to exchange lands, upon the basis of appraised fair market value, with a cash consideration to compensate for unequal value if that is necessary. In the case of an exchange, published notice is required, once each week for four successive weeks in a newspaper of general circulation in each county in which the lands to be accepted by the United States are situated and also in each county in which lands to be conveyed by the United States are situated. Lands conveyed to the United States shall be public lands available for mineral location and mineral leasing. There shall be no fee except the cost of publishing notices.

SEC. 3. Specifically provides that any land acquired under this Title shall be subject to all of the provisions of section 12 of title III.

TITLE VI

This title amends certain existing statutes.

SEC. 1. Amends section 2 of the Act of June 17, 1949, to provide that any person who prospects for, develops, mines or removes any minerals from any land included in a patent from which such minerals were reserved to the United States shall be liable for any damage to the surface resources and tangible improvements. This section will extend this liability for damages to any lands from which minerals have been reserved to the United States, and it will make the mineral operator liable for damages to any surface resources and tangible improvements.

SEC. 2. Amends section 3 of the Multiple Surface Use Act of 1955 by providing a new definition for common varieties of sand, stone, gravel, pumice, pumicite and cinders. The provision presently in Section 3 has been omitted which provides that common varieties of these materials shall not be any of such materials "which are valuable because the deposit has some property giving it distinct and special value." Instead the definition states those mineral materials which are primarily valuable as construction materials are common varieties. The definition continues to exclude from common varieties so-called "block pumice" which occurs in nature in pieces having one dimension of 2 inches or more and expressly excludes from common varieties those deposits of sand, stone, gravel, pumice, pumicite and cinders which are commercially valuable for use in manufacturing industrial or processing operations, such as but not limited to, gypsum, silica sand, limestone suitable in the production of cement and metallurgical or chemical-grade limestone. The application of the common varieties definition to petrified wood is unchanged.

SEC. 3 provides that Sections 5 and 6 of the Multiple Surface Use Act of 1955 will be repealed five years after the effective date of this bill, because any existing claims not patented within five years would be void and Sections 5 and 6 would then be unnecessary. Sections 5 and 6 provide the procedure for determining rights to the surface of unpatented mining claims. Section 3 also amends Section 4 of the Multiple Surface Use Act to provide that it shall be applicable to claims located under this bill, and to limit removal or use of timber to that necessary to clear the claim for uses permitted by the bill. The right to free timber from other public lands would be eliminated.

SEC. 4 repeals Section 4 of the Mining Claims Rights Restoration Act which requires the recording and reporting of unpatented mining claims located on power site withdrawals. This section will no longer be necessary because the Act will require that all claims be recorded and reported. Section 4 also amends Section 2 of the Mining Claims Rights Restoration Act to apply it to all mining claims, since under this bill there will be no distinction between lode and placer claims. The right of the Secretary to restrict or prohibit mining would be limited

to operations which interfere with power development or power site uses, and the right to operate could be conditioned upon an obligation to reclaim (rather than restore) the surface.

TITLE VII

This Title provides that the provisions of this Act shall be administered in conformity with the Administrative Procedure Act.

Senator BIBLE. Now, Senator Hansen, did you have any observations to make at this time?

Senator HANSEN. No; I do not. I am delighted that there are representatives here today adequately prepared to discuss their private interests and others who will certainly be discussing all facets of the public interest. I think we have some great hearings schedule. I am going to be very interested in listening to what those of you present at these hearings have to say. Thank you.

Senator BIBLE. Thank you. If there are other committee members that want to make statements, they can do so as they arrive.

I understand a number of them will want to make statements. Maybe they will furnish them for the record. After all, we want to hear the witnesses to the fullest extent possible. We have a very distinguished coalition panel here. Longtime friends of mine. Are you appearing in mass? Are you appearing as a complete panel? All right.

We have a lot of chairs up here. I want to introduce for the record Thomas L. Kimball, executive director of the National Wildlife Federation; J. Michael McCloskey, conservation director of the Sierra Club; Stewart Brandborg, executive director of the Wilderness Society; Daniel A. Poole, president of the Wildlife Management Institute; Charlie Callison, executive vice president of the National Audubon Society; Spencer Smith, Jr., secretary of the Citizens Committee on Natural Resources; and William E. Towell, executive vice president of the American Forestry Association. I do not see Dr. Smith. Six out of seven. Is Dr. Smith here? Are you making individual statements or are you making this collectively, Dan? Are you the spokesman for the group?

Mr. POOLE. I believe it will be individually.

Mr. KIMBALL. Individually and answer questions as a panel.

Senator BIBLE. All right. You men have been before committees over practically a career, the same as I have and it is sometimes difficult to get full attendance. I hope they will come in mass and ask questions in mass. You are well prepared. You have studied this. This is your life's work. We are delighted to have you here. I guess, Tom, do we lead off with you? Is the list to follow the order I read?

Mr. KIMBALL. That is fine.

Senator BIBLE. Our first witness is Tom Kimball.

STATEMENT OF THOMAS L. KIMBALL, EXECUTIVE DIRECTOR, NATIONAL WILDLIFE FEDERATION

Mr. KIMBALL. In order to save the committee's time, might I ask that my statement be submitted as if read, and I will try to capsule part of it.

Senator BIBLE. Yes. First let's see if Senator Hansen and I have your statement before us. Sometimes it is easier to follow the written statements. Yours is the one entitled "Louis Clapper?"

Mr. KIMBALL. That is right. I did not intend to be here this morning.

Senator BIBLE. All right. I knew you were not Louis Clapper, but I have the statement. You may proceed.

Mr. KIMBALL. If we can have it inserted——

Senator BIBLE. Without objection that will be the order.

(Mr. Clapper's statement is in the appendix.)

Mr. KIMBALL. In connection with the specific comments about Senate bill 921, Public Domain Lands Organic Act of 1971, as we read it, S. 921 sets out two significant and praiseworthy goals: The establishment of an organic act for the Bureau of Land Management of the U.S. Department of the Interior, and replacement of the Mining Act of 1872 with a mineral leasing system. We also feel that congressional approval of some provisions of S. 921 will resolve many questions raised by recommendations of the Public Land Law Review Commission.

Specifically, we believe the policy set forth in section 101, title I—"Public Land Administration," lays a firm groundwork for efficient administration of the Bureau of Land Management for all purposes without undue emphasis being directed to any. I might point out that a similar bill in the House, H.R. 9911, covers much the same ground but in slightly differing language, and we suggest that the committee use its good judgment in selecting the best final wordage.

We are in agreement with the definitions set out in section 102. However, we think it might be well to bring the definitions of multiple use and sustained yield into line with the existing classification and multiple use acts.

Section 103 delineates policies and practices applicable to the nonmineral public lands. We particularly recommend approval of these principles:

> Application of the multiple use and sustained yield doctrine;
>
> Development of national, State, and local land use plans;
>
> Opportunity of the public to participate fully in the conduct of public business;
>
> Payment of full fair market value for public resources and services; and
>
> Adequate opportunity for resource users to plan and develop use and operations and to secure a fair return for their risk and investment, but without recognition of any vested rights.

Again, we suggest that the committee consider and compare the language in section 103(9) with the somewhat differing language in H.R. 9911, believeing it may be an improvement.

Section 104 provides for the development and promulgation of regulations containing criteria for the classification of public lands, a procedure with which we are in accord because it provides for equitable consideration of all beneficial uses without undue emphasis being placed on any.

Section 105 provides for review of classifications and section 106 offers a mechanism for adding units of public lands of the National Wilderness Preservation System, a procedure with which we express

approval. I might add that we note that H.R. 9911 contains an added provision to maintain the wilderness character of all areas reviewed until the Congress has acted.

Senator BIBLE. Is 9911 the counterpart of 921?

Mr. KIMBALL. Yes.

Senator BIBLE. I see. All right. With the exceptions that you are noting now.

Mr. KIMBALL. That is right.

We like the proposal to establish boundaries for national resource lands with marking for them (section 107); the provision for sales of lands classified for disposal (section 108); subject to local plans (section 109); the reservation of mineral title to the United States for lands subject to disposal (section 110); and the acquisition of lands though exchange or purchase (section 111).

As indicated earlier in this statement, we think it is essential that the Bureau of Land Management be authorized to make arrests for violations of public land regulations.

We particularly recommend the repeal, in total or in part, of obsolete and archaic land disposal statutes, including the Taylor Grazing Act, Desert Land Act, Homestead, Small Tract Act, as well as the O. & C. Act.

Senator BIBLE. Is the Taylor Grazing Act repealed in 921?

Mr. KIMBALL. I think only parts of it.

Senator BIBLE. Only parts of it are repealed. You are recommending the repeal of the entire act. Is that the position you are stating now?

Mr. KIMBALL. That is right.

Senator BIBLE. All right. I just want to be clear.

Mr. KIMBALL. Title II of S. 921 relates to mining and we noted, with particular interest, the introduction on September 9 of an amendment by Chairman Jackson. This would alter the original title II to establish the "Federal Hardrock Mineral Leasing Act of 1971," reducing scope of the statute to hardrock minerals rather than all federally owned minerals, including oil and gas. We are in agreement with the approach, believing that oil and gas resources already are covered adequately by statutes (Mineral Leasing Act) which are working reasonably well, with the Secretary of the Interior having authority and discretion to provide environmental safeguards.

I might add here, Mr. Chairman, that if the Secretary does not provide adequate safeguards, then at some time in the future, the committee may wish to consider a review of the Oil Mineral Leasing Act.

Senator BIBLE. This goes right to the heart of the bill to advise that I introduced, 2542, and obviously you have not had the opportunity, I assume, to make an analysis of that—maybe you have——

Mr. KIMBALL. No; we have not.

Senator BIBLE. I would like to have your specific comments on it as you read it. It is an attempt by the mining industry to meet the mandates of the Public Land Law Review Commission and to square with as many of the suggestions that they make. I would like to have the benefit of your views. It might be just what you are saying here but, nevertheless, I wish you would take a look at it. Obviously these hearings will be going on for some time. I would like to have your comment specifically to 2542. That would apply to all of the men

at the table as to your comment. That may be unchanged, but I just want to have you specifically study, analyze, and comment on 2542.

Mr. KIMBALL. We will be happy to do that.

In general, the amendment appears to assure that an individual or a small mining concern will continue to have a fair opportunity for access to, and development of, minerals on Federal property. However, the most important feature is to eliminate indiscriminate disposal of land through the patenting procedure.

Speaking in specifics, we are in agreement with section 201, citing the act, and the definitions set out in section 202.

Section 203 authorizes the Secretary of the Interior to issue prospecting permits and exploration, development, and production leases. This section meets our prime concerns: That mining of hardrock minerals be permitted to continue in order to meet the Nation's needs but under terms and conditions which will permit the protection of other values, generally as set out in this section. We particularly think it is important that Federal oil shale deposits not be leased until techniques are developed to prevent damage to watersheds and the environment.

We are in agreement with the principles set out in section 204, relating to concurrence of other agencies when their properties are involved in the disposal of Federal hardrock minerals, although the committee should clarify the reference to compensation for private improvements on the land in subsection (b). We also agree with section 205, calling for consultations on decisions relating to the disposal of hardrock minerals; and with section 206, providing for publications of proposed mineral dispositions.

Sections 207 and 208 protects prospectors through exclusive permits and leases, with other leases on a competitive bidding basis, and we fell these are fair and reasonable provisions. Section 209 sets out terms and conditions which, we believe, protects both those who would mine Federal minerals and the natural resources themselves. Section 210 authorizes regulations.

Section 211 repeals the Mining Act of 1872, action conservationists long have sought, but continuing claims which are recorded within 1 year.

Section 212 provides for the distribution of revenues, allowing the States 37.5 percent, whereas they receive nothing under the 1872 Mining Act.

To conclude our comments on S. 921, Mr. Chairman, I should also like to point out that we are attaching a list of 26 major points upon which a number of conservation organizations agreed and presented to the Public Land Law Review Commission.

Senator BIBLE. Is that attached to your statement?

Mr. KIMBALL. Yes.

Senator BIBLE. Very well.

Mr. KIMBALL. I think this pretty well concludes what I have to offer, Mr. Chairman. If it meets with the approval of the committee——

Senator BIBLE. Do you want to make comments on 2401 and 2450, both of which are before us.

Mr. KIMBALL. Yes; I could do that. We also read and studied, with great interest, 2401, the "National Resource Land Management Act of

1971." This was introduced, we understand, at the recommendation of the administration. Frankly, Mr. Chairman, we are disappointed that the administration witnesses apparently are not planning to appear today on grounds that they are not prepared to comment upon the mineral features in S. 921. We should think that a position would have been resolved since February 23, when S. 921 was introduced.

As we read it, Mr. Chairman, S. 2401, also establishes an organic act for the Bureau of Land Management. While the bills do not follow the same order and composition, there appear to be no major or irreconcilable differences between S. 2401 and title I of S. 921. Each has different emphases. Overall, S. 921 seems more orderly and more readily understood and, with minor reservation, probably can accommodate all of the main objectives of S. 2401. With this thought in mind, we are not commenting on S. 2401 on a section-by-section basis.

S. 2450, the proposed "Public Land Policy Act of 1971," is a slightly modified version of H.R. 7211, a bill with the same title, introduced by the chairman of the House Committee on Interior and Insular Affairs and others. The conservation movement generally and the administration in particular recommended against enactment of H.R. 7211 in hearings held earlier this year by the House committee. We prepared a section-by-section analysis, with comments, of H.R. 7211 and presented it to the House Interior Committee. We do not wish to take the committee's time to repeat those remarks but they can be made available, in their entirety, for the record if the chairman so requests.

Senator BIBLE. I think it would be well to at least make them a part of the record. As far as I am personally concerned, I have no desire to have you develop your testimony on 7211 insofar as it relates to 2450, which is the bill introduced by Senator Allott and Senator Jordan and the House bill is an identical bill?

Mr. KIMBALL. It is pretty close to it.

Senator BIBLE. Very close to being an identical bill.

Mr. KIMBALL. Yes.

Senator BIBLE. Your comments then, as you say, on 7211, the House bill, will apply equally to 2450.

Mr. KIMBALL. We would be happy to present that information for the record.

Senator BIBLE. I think it should be supplied for the record so that we have a complete analysis on your part of all of the bills we have before us.

Mr. KIMBALL. Fine.

Senator BIBLE. Without objection, that will be the order. If you will simply submit that to the staff, they in turn will see it is made part of the record.

(The material referred to follows:)

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., September 30, 1971.

Hon. ALAN BIBLE,
U.S. Senate, Old Senate Office Buliding,
Washington, D.C.

DEAR SENATOR BIBLE: In the hearings held recently on proposals relating to public lands, you indicated a desire to have a copy for the record of my state-

ment on H.R. 7211 before the House Committee on Interior and Insular Affairs. Attached is a copy of the statement as it was presented and we hope this analysis will prove of interest and value to your Committee.

You also asked that all members of the conservation panel comment upon your newly introduced bill, S. 2452, "The Mineral Development Act of 1971." We now have had an opportunity to analyze this bill and believe it would be a constructive improvement upon the obsolete and antiquated Mining Act of 1872. However, we must express our opposition to S. 2452 because it conflicts directly with the amended version of S. 921 which we supported in our original testimony.

Our primary opposition to S. 2542 centers upon provisions which continue the philosophy that in parts of 20 States public lands would be available for mineral location which could be taken to patent. This concept is set out in Title II of Section 3 and follows on through other titles of S. 2542. It is our firm belief that there is no more merit in granting title to lands for mining than there is for harvesting of timber, or for forage, or for oil and gas, or for recreation. As a consequence, we cannot agree with Section 3(a), "Lands Available for Mineral Location," on the grounds that we do not think any should be made available.

This position must not be construed as opposition to mining. We recognize the values of a healthy and robust mining industry. However, we are convinced that this can be achieved through a better and more equitable leasing system.

We appreciate that the mining industry is interested in replacing the Mining Law of 1872 and for the intent to correct many inequities and abuses which have been permitted under it. We appreciate the time and effort which has gone into developing S. 2542 and we agree that it does, indeed, implement many of the recommendations of the Public Land Law Review Commission. However, we are not in agreement with many of those recommendations and cannot agree to the basic premise in S. 2542, believing that the benefits for the public resulting from mining on public lands can be achieved best through a mineral leasing system. As a consequence, because of this basic difference, we are not commenting in detail about each of the provisions in this proposal.

Sincerely,

THOMAS L. KIMBALL,
Executive Director.

Enclosure.

STATEMENT OF THOMAS L. KIMBALL, ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I am Thomas L. Kimball, Executive Director of the National Wildlife Federation which has national headquarters at 1412 Sixteenth Street, N.W., here in Washington, D.C.

Ours is a private organization which seeks to attain conservation goals through educational means. The Federation has independent affiliates in all 50 States and the Virgin Islands. These affiliates, in turn, are composed of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation, number an estimated three million persons.

We appreciate the invitation and opportunity to make these observations.

Mr. Chairman, the National Wildlife Federation considers H.R. 7211 and others which relate to the scope of efforts of the Public Land Law Review Commission as among the most significant bills to be considered by the 92nd Congress and we hope and trust that this Subcommittee will give sincere and honest attention to the many implications which these proposals can have upon the lives of all Americans. The scope of influence of these proposals hardly can be overemphasized and we commend the Committee for devoting this time and effort to them. We also are pleased that the Committee has indicated its intent, subsequently, to consider proposals relating to a national land use policy and proposals for implementing policies which may be determined through H.R. 7211.

Our organization long has been concerned about the proper use and management of public lands, including virtually all of those in Federal ownership and not just those in the Western U.S. Throughout the years, our organization has stood for applications of the multiple-use policy and a balanced program for all Federal lands in recognition that these properties can and should be used for the production of timber, minerals, livestock forage, and other commercial pursuits as well as for the production of water, protection of watersheds, outdoor recrea-

tion, management of fish and wildlife, and preservation of wildernesses. We think all of these uses have proper places in the overall management of Federal lands, if handled properly, and many, but not all, are compatible and can be accomplished at the same time.

I will make no attempt to list all of the resolutions and positions which our organization has taken over the years with respect to administration of Federal lands other than to say that, earlier in 1971, we listed seven issues which we considered to be among the most critical of the year and two dealt with public lands. In these, we expressed these positions on broad principles:

"*Public Lands:* In accordance with its long-standing policy, the National Wildlife Federation reiterates support for the multiple use policy of land management and expresses opposition to the theory of dominant use recommended by the Public Land Law Review Commission. Laws which allow Federal lands to be taken to patent are not the answer. A better solution would be a mineral leasing system which will permit the proper protection of surface areas. Except for tracts needed for residential expansion or industrial purposes, the bulk of public domain lands should be retained in Federal ownership and managed under multiple use principles which allow a balanced program for the maximum public benefits. Further, the Federal Government should receive full market value for all of its natural resources products, including forage."

"*National Land Use Policy:* This organization is convinced that the time has come when the Nation must develop a coordinated and comprehensive plan for the best use of all of its land resources, private and public. Such a plan, if coordinated between Federal, State, and local governmental entities, must result in the determination of priorities of land use best suited for the overall public good."

I might also point out that other resolutions adopted this year dealt with other types of interests including those such as management of predators, oil pollution in Alaska, National Land Use Policy, and the California Desert. Copies of the 1971 resolutions relating to national land use policy and the California Desert are attached for the information of the Committee.

We also went on record as expressing the belief and conviction that more efficient government can be achieved if there is a reorganization to bring together into a Department of Natural Resources several Federal activities and functions of agencies responsible for the management of lands and their uses, including the production of timber, forage, minerals, wildlife, and recreation. Also attached, Mr. Chairman, is a list of legislative proposals developed by the Western States Committee on the Public Land Law Review Commission Report, "One-Third of the Nation's Land." These 21 points have been adopted by many of the independent State Affiliates of the National Wildlife Federation and the recommendations generally reflect positions adopted by our organization throughout the years.

And now, Mr. Chairman, I should like to comment specifically about H.R. 7211, the "Public Land Policy Act of 1971."

First, the authors of H.R. 7211 have done a good job on implementing recommendations of the Public Land Law Review Commission, or laying the foundation for implementing them, in this bill. We are not in accord with many recommendations of the PLLRC, of course, but H.R. 7211 is fairly and accurately drawn to serve that purpose.

Second, the overall thrust of H.R. 7211 is to give the Congress a greater hand in the administration of Federal lands. The line of demarcation between powers and responsibilities of the Legislative and Executive Branches of our Government is a fine one. Certainly, the Congress has a constitutional authority over the retention, management, and disposition of public lands. However, whether or not Congress has failed to exercise this authority and whether or not the delegations of authority to the Executive Branch have been too broad, as charged in H.R. 7211 (Sec. 2(a)(6)), is a matter of debate. Carried to an extreme, of course, Committees of the Congress such as this could become deeply involved in day-to-day administrative decisions and, personally, I doubt that this is what our founding fathers had in mind when they established our three-branch system of government.

Third, H.R. 7211 sets up a complex system of advisory boards and committees for administrators of Federal departments and independent agencies. This system would advise administrators at national, regional, state, and local levels. Now, while the public most certainly have access to administrators for the purpose of making their views known, this system appears unnecessarily complicated and cumbersome. And, from my own personal experience as a current

member of the President's Air Pollution Control Advisory Board and from previous service on committees to advise the Secretaries of Agriculture and the Interior, I have come to the conclusion that the value of such groups is limited. At best, their advice is of a type which an administrator can obtain by public hearings or in consultations with those interested; at the worst, the advisory bodies constitute pressure groups which impede effective administration. And, all too often, these "advisory" groups are dominated by the very special interests which the agencies concerned are supposed to regulate. When this occurs, ineffective and inefficient government results and the public interest is not served.

Notwithstanding the foregoing impressions, H.R. 7211 has good points and features with which we are in agreement.

Now, I should like to comment about specific provisions in H.R. 7211.

SECTION 2. FINDINGS AND PURPOSE

We agree that federal lands are assets of inestimable value and that continuing growth requires extraordinary care and use. We concur in the statement that current public land policies and laws are "inadequate" and "inconsistent", at least in some respects, and to this we would recommend the addition of "obsolete" as well, particularly with respect to some statutes such as the Mining Act of 1872.

Frankly, we are not clear what is anticipated in Sec. 2(a)(5) with respect to examining and reexamining uses of all public lands set aside for a specific use by actions other than by legislation. How often are these reexaminations to be conducted? And by whom? If this section would justify a reexamination of the BLM lands classified under the Classification and Multiple Use Act, we believe it would be a costly and unnecessary practice, at least at this time. However, we can understand how such a reexamination of public domain lands, as differentiated from units of the National Park, National Forest, and Wildlife Refuge Systems, well might be desirable in future years.

Certain other of the "Findings and Purposes" are negative in nature. Public land management agencies may have been guilty, in some instances, of promulgating rules and regulations without proper consultation and participation by the public but this is not a general condition applicable throughout. However, if such actions become too flagrant, they probably would be controlled better through complaints to the administrators, who usually are responsive to public feelings, than by a complicated system of advisory groups. Statutory guidelines, established to enunciate policy, are necessary and desirable but there is the ever-present danger that they, too, can become too cumbersome and burdensome for effective and efficient government.

Section 2(a)(9) would appear to be answered by the National Environmental Policy Act, or at least that environmental values are to be considered in federal programs.

We do not agree with Section 2(a)(10) in the conclusion that statutory guidelines should be established to assure equitable fees and charges for goods and services to ensure equitable treatment for users or the general public. When goods or services can be made available without harm or damage to the basic resources, primary consideration must be given to the public interest—not necessarily to the users. Consequently, fees and charges are best determined in the marketplace—by open competitive bids, and not by fees established by Congress. The administering agencies must have some flexibility.

Section 2(a)(11) speaks about the desirability of providing guidelines upon which individuals, firms, and communities dependent upon public land resources can plan. In our opinion, this need can be met by the early development of a national land use policy and plan and we are confident that the Committee soon will give consideration to proposals in this area. How much security should the Federal Government assure? Even seeking election to the Congress has certain risks and uncertainties.

We heartily concur with the provision in Section 2(a)(12), reversing the statutory policy of large-scale disposal of public lands, and stating that public lands should remain in Federal ownership unless it is conclusively determined that disposal of particular lands or areas would achieve maximum benefit for the general public. However, we wonder if this declaration does not more properly belong in Section 3 in the Declaration of Policy? In our opinion, this is one of the most significant recommendations in the bill.

Section 2(a)(13) relates to compensation for State and local governments in lieu of taxes. Most certainly, the Federal ownership of large tracts of lands and

other properties creates problems, as it does here in the District of Columbia. However, we wonder if this Federal ownership always is such a "burden" as many local officials would infer. The National Park designation appear attractive, from the tourist point-of-view, to many communities which seek it. Also, recognition should be given to the fact that many areas, particularly wildernesses, cost the local jurisdictions little or nothing in the way of upkeep—there are no schools to provide for, no roads to build or maintain, or no people in need of social services.

We believe there is merit in Sections 2(a)(14) and (16), calling for the need to replace public domain and exchange disposition/laws with a more effective procedure. And, we can see the desirability of providing for new cities in public land areas, as well as for the rehabilitation of existing communities, as indicated in Section 2(a)(15).

Proposed Section 2(a)(17) requires clarification. If the intent here is to turn many programs over to the States and local governments, we are opposed to such dispositions. In our opinion, programs of national scope should be managed by the Federal Government. In most cases, agencies of the Federal Government are better equipped than the States to manage resources under the principles of multiple use.

Proposed Section 2(a)(18) says distinction between public domain and acquired lands is artificial and should be eliminated. Such a statement is too general and needs qualification. For one thing, unless the archaic Mining Law of 1872 is repealed, such a policy could open acquired eastern national forest lands to mining. For another, some Federal properties such as many units of the National Wildlife Refuge system, have been acquired with special funds such as Duck Stamp receipts and this distinction must be recognized.

We agree with the statements of need for coordination and planning, as outlined in Sections 2(a)(19), (20), and (21), but would hope that they would be included in the development of legislation for a national land use policy.

We generally are in accord with the stated purposes of the Act, as outlined in Section 2(b), but feel that the word "significant" merits clarification.

SECTION 3. DECLARATION OF POLICY

This "Declaration of Policy" apparently is built upon the "Findings and Purposes" in Section 2. However, it generally reflects Congressional policy enunciated earlier that public lands shall be retained and managed or disposed of for the maximum benefit for the general public. We are in accord with these principles but believe the Committee should consider whether or not the disposal feature could weaken existing statutory guidelines or organic acts which guide Federal agencies, such as those establishing the National Park System and the National Forest System. This is true particularly in light of the broad definition of "public lands" in Section 4. Perhaps qualifying language can be developed to handle this problem. Also, we would recommend that the policy contain a reference in Section 3(a) to the concept that public lands must be retained and managed on the basis of scientific and ecologically-sound principles, recognizing the primary need to protect and/or wisely use the basic resources.

SECTION 4. DEFINITIONS

Some of the "Definitions" set out in this section require additional clarification or modification.

As indicated earlier, we foresee difficulties in a policy which would possibly permit the disposition of some properties under this broad definition of "*public land*". Would this apply to Indian lands and territories? Cemeteries? Defense installations? And, when the Bureau of Sport Fisheries and Wildlife secures leases or easements "in perpetuity" should this be considered as an acquisition or ownership under the definition of public lands?

We are not in disagreement with the concepts in the definitions of "*classification*", "*withdrawal*", "*agency*", and "*person and party*", but wonder if the Committee wishes to describe "*rule*" and "*rulemaking*" so broadly as to apply to "all aspects" of the use, future use, or disposition of land owned by the United States. Would "all aspects" apply to migratory bird hunting regulations covered by international treaty? Or the taking of marine mammals? Should "*order*" include every license or permit, including those for the taking of migratory waterfowl?

The definition of "multiple use" is not the same as that set out in the widely-accepted and applied Multiple Use Act of 1960 and we see no overriding reason to substitute new language.

In our opinion, the proposed definition of "*sustained yield*" is too inclusive. Our concept of sustained yield applies only to renewable resources, such as timber, forage, and wildlife, and these do produce a flow of values. We recommend that a differentiation be made between sustained yield of renewable resources and "continued productivity" of nonrenewable resources, such as minerals.

We do not quarrel with the definition of "*dominant use*" as outlined in H.R. 7211, although we do not understand why the parentheses on lines 9 and 10 of page 12 are necessary or desirable. Of course, as indicated earlier we are not in agreement with the application of the dominant use theory as recommended by the PLLRC.

We regard the "*maximum benefit for the general public*" and the "*net public benefit*" as being the major reasons why most of these lands should remain in Federal ownership and under Federal management. Of course, the key to the situation rests with who considers "all effects and impacts" and evaluates them to determine the benefits.

SECTION 5. GOALS AND OBJECTIVES

This section possibly should be consolidated with, or directly follow, Section 2 which relates to "Findings and Purposes" because of the interrelationship of many features.

In section 5(b), we recommend that the phrase "for at least the foreseeable future" be eliminated with respect to the policy of retaining the bulk of public lands in Federal ownership. This objective then would be consistent with Section 2(a)(12) and Section 3(a).

Again, transfers of Federal properties to non-Federal ownership relate directly to a national land use policy and plan. We feel that State and local governments should have approved zoning plans before they are made the recipients of grants of Federal lands.

We agree, as in Section 5(d), that public lands should be administered for multiple use and sustained yield management unless set aside for some specific use or uses. We also assume that such a declaration supplements, but does not supplant, the Multiple Use and Sustained Yield Act of 1960.

We agree with the concept that Federal public lands are to be managed to prevent damage to the quality of the environment and to enhance it when possible (Section 5(e)), and we hope that coordination in planning can be achieved by Federal, State, and local land management agencies (Section 5(f)). We also see no problems with Section 5(g), outlining the wide variety of purposes for which public lands may be used.

Section 5(h) would have Congress find that incentives should be furnished for the discovery and development of additional domestic sources of minerals. In our opinion, this provision needs clarification, particularly with respect to the recognition of other values which may be affected by such incentives. We would recommend that this provision be deferred until the Committee goes into the entire minerals situation, as would be covered by other bills relating to public lands, including those which would repeal the Mining Act of 1872.

We would suggest that Section 5(i) be made to read: "Unless there is *an* overriding national need to the contrary, to maintain community stability by continuing to make available the use of public lands and their resources to persons and communities that are or have been dependent thereon *if such a program is in accord with the principles of sound resources management.*" Our additions are underlined. There is no question that some public lands, for example, have been badly overgrazed and we see no reason to continue such a practice even if the economic welfare of a community may suffer. Such a practice would place the personal welfare of a few above the general benefit of the public.

Section 5(j) touches on a problem which could be solved, at least partially, by a basic organic act for the Bureau of Land Management, one similar in principle to those for the National Park Service or the U.S. Forest Service, etc. At the present time, BLM people have no law enforcement authority and must appeal to local police officials who sometimes have little or no inclination to enforce laws or regulations on some public lands. We particularly hope and trust that recognition will be given to the primacy of the States to promulgate and enforce laws and regulations relating to the protection and use of wildlife resources. Some application to this also may be implied in Section 5(k).

Proposed Section 5(1) relates to two volatile controversies: the possible expansion of a grazing "privilege" into a vested "right" and compensation for improvements, including summer homes and vacation cabins on Federal lands. The National Wildlife Federation is adamantly opposed to the recognition of any principle which gives private parties any vested rights in public properties and we suggest that this Section 5(1) be deleted and considered along with other bills before the Committee with respect to grazing fees.

While we are in accord with public participation in the rulemaking and classification processes, fair and equitable treatment, and the right of expeditious judicial review, as would be provided in Section 5(m), we see no need to single out "users" and "potential users" as categories receiving those assurances. This would imply a special consideration above and beyond that of the public, of which they are only a part.

SECTION 6. ADMINISTRATIVE PROCEDURES

This section makes provisions which, in our opinion, far exceed those which are needed to give ample protection to the public in participating in rulemaking and classifications. As indicated earlier, we stand solidly for public participation in decisions of this type, and for full revelation of the bases for decisions, but the complicated process described in this section is far too cumbersome. This is particularly true when the definition of "rule" (and rulemaking) is so broad as to include all aspects of the use, future use, or disposition of land owned by the U.S. If this section is included in a final bill, we recommend that the executive branch agencies concerned be given authority to develop administrative procedures along lines of broad guidelines set out by the Congress. The proposed procedures would result in needless delay and expense in the administration of public lands.

SECTION 7. ADVISORY BOARDS

I already have expressed our viewpoint on this complicated system of advisory boards and committees. We believe the system is complex, confusing, and costly and, as such, unnecessary.

SECTION 8. REGIONAL COORDINATION

The same comments directed toward Section 7 are applicable to this section.

SECTION 9. INTERSTATE LAND USE COORDINATING COMMISSION

The same comments directed toward Section 7 are applicable to this section.

SECTION 10. APPROPRIATIONS

The authorizations contained in this section are more than appropriations for many substantive operating projects!

Section 10(c) would make grants to the States for planning. We generally are in agreement with this principle but would recommend that this provision be withheld until the Committee has had an opportunity to consider the national land use policy proposals currently before the Congress.

SECTION 11. COORDINATION IN ALASKA

Because of the vastness of the State and the unusually large Federal interest in its natural resources, we think well of a joint Federal-State effort at planning. In fact, we believe there is merit to considering the development of such a master plan in connection with the Alaska native claims legislation also currently before the Committee. The Joint Federal-State Natural Resources and Regional Planning Commission contemplated by H.R. 7211 could be funded at the rate of $750,000 per year through 1984. If the Committee approves of this provision, we hope and trust that provision will be made to have all interests—including recreation and fish and wildlife—given equitable representation.

SECTION 12. DONATIONS AND GRANTS

No comments.

SECTION 13. REPORTS

Because of the urgency in settling claims and conflicts, we also would recommend that such a Commission be given a time schedule for the accomplishment of at least a basic master plan.

SECTION 14. PLANNING PUBLIC LAND USE

We support the basic concept of public land use planning and the proposed requirement that land managing agencies set out procedures for this purpose. We also would agree that comments from the public should be invited through publications, public hearings, or consultations, as the need indicates, but see no purpose for also going through the advisory groups which would be created by this Act. We believe that lands designated by statute, such as parks, wildernesses, recreation areas, wildlife refuges, etc., should continue to be managed in accordance with those statutes, with the balance being managed in accordance with the principles of multiple use.

We disagree with Section 14(d)(4) which would provide for the zoning of an area or subarea for a particular use under the "dominant use" theory. With these particular uses given priority, they well might become "exclusive" uses. As indicated earlier, we prefer the approach of multiple use and sustained yield. While this also recognizes that priorities of uses need to be established, including time sequences of different uses, it does not select areas as being "chiefly valuable" for some particular purpose. We fear that, despite the parenthetical disclaimer, the determinations of "chiefly valuable" uses in the definition of dominant use mostly will be economic ones which by definition will then not give proper attention to other non-economic values which frequently are of the greatest interest and value to a majority of the public. We also fear that areas zoned for particular purposes under a dominant use concept will tend to be managed to the exclusion of others. For example, comparatively minor modifications of timber cutting methods can result in greatly heightened improvements in wildlife habitat. We also fear that, once an area was zoned for a dominant use, it would be "locked in" for perpetuity and land should be managed on a more flexible basis. In general, combination of uses will provide total public benefits greater than a single use.

In our opinion, Federal land management plans should be coordinated to the greatest extent possible with those of State and local governments, and vice versa, as would be provided in Section 14(g). Such a plan would identify lands which would be better managed in non-Federal ownership. However, these should concern only small tracts which are difficult to manage or possess uniquely valuable assets. In other words, we would not expect Section 14(e)(2) to be used to transfer mineral deposits to mining companies.

As a matter-of-fact, Mr. Chairman, we fear that Section 14(e)(2) might be construed to authorize the wholesale transfer and disposal of lands into non-Federal ownership if land management plans determine that the production of resources would serve a maximum benefit for the general public. We well can see that lands suited for the production of resources such as grazing forage, timber, or minerals might fit such a criteria and be subject to transfer out of non-Federal ownership. We believe that transfers from Federal ownership should be made only for expansion of communities for industrial purposes, or to States and local governments for public recreation purposes.

We feel that Federal land management plans should be as consistent as possible with State and local government programs, as indicated in 14(g), but not to the extent of giving those jurisdictions a "veto" over national programs.

SECTION 15. WITHDRAWALS AND RESERVATIONS

As a matter of principle, we believe the Congress must approve of any major or permanent land withdrawals. Further, we agree that administrators of the agencies concerned should be authorized to make withdrawals of areas under 5,000 acres in size (we wonder if the reference in Section 15 only to the Secretary of the Interior was made in the expectation that the Forest Service might be combined with the Bureau of Land Management?). We also would hope that suitable areas of public domain lands can be incorporated into the National Wilderness Preservation System. And, H.R. 7211 is strangely silent on the subject of revising the current mining laws and this, in our opinion, must be an integral part of any withdrawal procedure just as it is in a classification procedure.

Section 15(a),(b), and (c) also set out a complex and complicated procedure for withdrawals which, in many instances would be more time-consuming and costly than is warranted, particularly with respect to consultations with advisory groups and representatives of the States concerned.

Further, with respect to Section 15(d), we believe that withdrawals should be reviewed by the Secretary involved every ten years rather than every five years.

SECTION 16. JUDICIAL REVIEW

In the interest of equity and fair play, we stand in support of the principle of judicial review. However, this Section would appear to open Federal agencies to unwarranted litigation from anyone who may be dissatisfied with any order or ruling. Should a hunter dissatisfied with waterfowl regulations promulgated by the Department of the Interior be encouraged to go to court and seek a judicial review? This section, in our opinion, should be scrapped, or modified to permit access to the courts only after all administrative remedies have been exhausted. Suitable administrative appeals could be developed if they do not currently exist.

SECTION 17. AGENCY ENFORCEMENT

This provision is not clear but we think it would be difficult for any agency to comply with all procedures proposed in the bill within one year. In our opinion, existing rules, regulations and procedures currently effective should remain in effect until replaced by procedures ultimately enacted into law. Great public confusion could result.

SECTION 18. REPEALED ACTS

To this list, we would recommend that the Committee add the Mining Act of 1872 in its entirety, plus a number of others, including the Taylor Grazing Act.

Now, Mr. Chairman, Congressman John P. Saylor (Pa.), of this Committee, has asked that we be prepared to comment on his bill, H.R. 9911.

Since this bill was not included in the original announcement of these hearings, we shall summarize our views.

In general, we think H.R. 9911 meets requirements of the Nation for revised public land laws, recognizing it, too, can be refined and modified. In many respects, this bill parallels S. 921, also titled the "Public Domain Lands Organic Act of 1971", which is scheduled to be the subject of hearings within the Senate Committee on Interior and Insular Affairs.

H.R. 9911 gives a different focus to the public lands situation. Rather than being a piece of foundation legislation applicable to all Federal lands, as in H.R. 7211, this (H.R. 9911) has a more specific application: to the establishment of an organic act for the Bureau of Land Management and to the replacement of the Mining Act of 1872 with a mineral leasing system.

We believe the policy set forth in Section 101, "Public Land Administration," lays a firm groundwork for efficient administration of the Bureau of Land Management for all purposes without undue emphasis being directed to any.

We have no quarrel with the definitions set out in Section 102.

Section 103 delineates policies and practices applicable to the nonmineral public lands. We particularly recommend approval of these principles:

Application of the multiple use and sustained yield doctrine;

Development of National, State, and local land use plans;

Opportunity of the public to participate fully in the conduct of public business;

Payment of full fair market value for public resources and services; and

Adequate opportunity for resource users to plan and develop use and operations and to secure a fair return for their risk and investment, but without recognition of any vested rights.

Section 104 provides for the development and promulgation of regulations containing criteria for the classification of public lands, a procedure with which we are in accord because it provides for equitable consideration of all beneficial uses without undue emphasis being placed on any.

Section 105 provides for review of classifications and Section 106 offers a mechanism for adding units of public lands to the National Wilderness Preservation System, a procedure with which we already have expressed approval.

We like the proposal to establish boundaries for National Resource Lands with marking for them (Section 107); the provision for sales of lands classified for disposal (section 108), subject to local plans (section 109); the reservation of mineral title to the U.S. for lands subject to disposal; and the acquisition of lands through exchange or purchase.

As indicated earlier in this statement, we think it is essential that the Bureau of Land Management be authorized to make arrests for violations of public land regulations (sections 112 and 113).

We particularly recommend the repeal, in total or in part, of obsolete and archaic land disposal statutes, including the Taylor Grazing Act, Desert Land Act, Homestead, Small Tract Act, and the O & C Act.

We also recommend repeal of the Mining Act of 1872, as would be provided in Title II of the bill, and replacing it with the "Federal Land Mineral Leasing Act of 1971." We are convinced that a mineral leasing system will allow greater protection of public lands than the present system, wherein lands can be taken to patent. We particularly think it is important that Federal oil shale deposits not be leased until techniques are developed to prevent damage to watersheds and the environment.

In conclusion, Mr. Chairman, we offer our thanks for the opportunity of making these remarks.

I also am attaching a list of 26 major points upon which a number of conservation organizations agreed and presented to the Public Land Law Review Commission.

NATIONAL WILDLIFE FEDERATION 35TH ANNUAL MEETING, PORTLAND, OREG., MARCH 4–7, 1971

RESOLUTION NO. 7—NATIONAL LAND USE POLICY

Whereas the United States is blessed with vast and fertile land resources which have enabled Americans, with their energy and technological knowledge, to become the most productive of all Nations; and

Whereas the pressures generated by an expanding human population are creating land use demands and conflicts in all parts of the country in manners formerly experienced only in urban areas; and

Whereas present methods, procedures, and institutions for land use decision-making are inadequate to meet the Nation's present-day needs and too often fail to take into account the non-economic factors and long-range environmental effects; and

Whereas present practices have resulted in uncoordinated, haphazard land use patterns which permit unnecessary waste and abuse of natural resources; now, therefore, be it

Resolved, That the National Wildlife Federation, in annual convention assembled Mar. 4, 1971, in Portland, Oreg., hereby expresses the conviction that the Federal Government should offer every possible incentive and assistance to the States and their political subdivisions in developing a coordinated and unified approach to land use planning, one designed to identify categories and set out priorities for land use; and be it further

Resolved, That this organization is firm in its belief that the Federal Government should establish general criteria which State planning agencies must meet in order to qualify for continued Federal funding.

RESOLUTION NO. 19—CALIFORNIA DESERT RESOLUTION

Whereas the California Desert contains a variety of national assets such as archeological treasures, clear air, and matchless scenery, uniquely located next to a significant population; and

Whereas the California Desert is now threatened by air pollution, solid waste disposal, scars on the land surface through uncontrolled recreational and commercial use, accidental destruction, wanton vandalism and other threats to the environment; and

Whereas these desert resources are in urgent need of immediate action for protection, management and orderly development, together with the development of a long-range plan and program providing for wise use of these resources; and

Whereas the U.S. Bureau of Land Management has prepared a thorough report urging certain immediate critical management measures, a complete inventory and study of the California desert and its resources, and a comprehensive plan and program for the development, use and protection of the California Desert; and

Whereas that need is also recognized by the United States Forest Service, the National Park Service, the State of California Resources Agency, the Southern California Association of Governments, and numerous conservation organizations, and these agencies and organizations have pledged to work together to help save the California Desert: now, therefore, be it

Resolved, That the National Wildlife Federation, in annual convention assembled March 4, 1971, at Portland, Oregon, respectfully urges the President of the United States to seek legislation embodying the recommendations of the Bureau of Land Management for the protection of the California Desert, and appropriate the funds necessary to complete the California Desert Study and related management program to protect these resources; and be it further

Resolved, That the Federation transmit copies of this resolution to the President of the United States and the Secretary of the Interior.

WESTERN STATES COMMITTEE LEGISLATIVE PROPOSALS ON THE PUBLIC LAND LAW REVIEW COMMISSION'S REPORT: "ONE THIRD OF THE NATION'S LAND"

We believe that the federal public lands of the United States belong to all the people and must be managed and used in the best long-term interest of the people.

The Public Land Law Review Commission Report has pointed out clearly that the multitude of archaic land laws governing the management and use of public lands must be updated. With this, we agree.

We strongly urge immediate national legislative action to fully protect the public interest in the public lands. This must insure the long-term utilization of natural resources including the soil, water, air, vegetation, wildlife, recreation and esthetic values.

Legislation should be initiated to accomplish the following objectives:

1. The amount of land in Federal ownership should not be diminished. Further acquisitions should be encouraged whenever and wherever they are in the public interest.

2. Public lands be managed, first and foremost, in a manner that will protect the environment from adverse effects and not endanger its quality. Not only is this a responsibility of the Federal Government; it is its duty to develop the pre-emptive means by which this can be achieved.

3. Inventory of all public lands, based on uniform nationwide criteria, should be undertaken. Such an inventory would form the basis for use, preservation, controlled consumption and restoration.

4. Public lands be managed and made available for a wide variety of uses to meet the diverse needs of the people. These uses must be determined on the basis of sound public land use planning. Planning for the management and use of the public lands should not be subject to the domination of dollar-oriented values; rather, it must be based primarily on the integrity of natural resource values and the broad spectrum of social values.

5. Economic efficiency should be a secondary consideration for public land management. The conservation of resources value and the establishment of a quality environment for the use and enjoyment of the nation's people, both now and in the future, should be the primary consideration.

6. We are vigorously opposed to a "dominant" use concept oriented to commodity production as recommended in the Public Land Law Review Commission Report. Public lands contain many values, all of which cannot or should not be expressed in economic terms. We believe the land should be managed for "multiple" use and that the combination of uses shall produce the broadest possible benefit to society on a long-term, sustained yield basis, not necessarily economic.

7. Lands should be acquired in public ownership and control along shorelines, reservoirs, river frontages, canals and water developments to provide land and water based public recreation, preserve wildlife habitat, and maintain natural values. The practice of buying flowage easements rather than purchasing land outright in water developments does not accomplish this objective.

8. Decision making authority for public land and resource management should reside in experienced professions, such as those in the Bureau of Land Management or Park Service, rather than be subject to political control through Congress.

9. Public agencies should be directed to consult public opinion on matters involving public lands. Managing agencies should have authority to establish advisory councils whenever they can make a contribution. Advisory councils should be free of congressional control and direction. They should be composed of knowledgeable representatives from all involved grass roots groups, balanced as to economic and non-economic concepts.

10. Creation of a new federal mineral leasing law for all commercially mined minerals on the public land to supplant the archaic mining law of 1872. It should provide:

(*a*) For the recordation and clearance of existing mining claims.

(*b*) For the encouragement of an opportunity for responsible mineral exploration under a fair permit system with regulations which keep environmental degradation at a minimum.

(*c*) Protection of investment and security of tenure during development.

(*d*) For the retention of surface rights in public ownership. Firms or individuals should never get title to federal lands for mining purposes.

(*e*) That the surface must be restored, on a pre-planned basis, to an acceptable condition when mining ceases.

(*f*) That alternate methods must be considered in lieu of strip mining for certain mineral extraction, especially in areas of primary concern like the oil shale lands of the West.

(*g*) The federal government with authority to acquire outstanding claims or interests in public land oil shales under a system which will prevent future speculation and overlapping of claims.

(*h*) That equitable royalties should be paid to the United States on all resources extracted, mined or produced.

(*i*) That Department of Interior shall administer mineral claims on all public lands.

11. Public land forage policies must consider wildlife, including non-protected wildlife, as an equal in the competition for grazing. Fees should represent fair market values for all grazing land. There should be a financial responsibility for persons abusing or overgrazing public lands.

12. Timber should be harvested in a manner that ensures a continuing and renewable forest to meet the nation's future needs projected indefinitely beyond the year 2000. (This is the maximum projffection of the Public Land Law Review Commission.) Timber management of the resource must give careful consideration to sustained yield, watershed protection, soil erosion, wildlife, outdoor recreation, surface restoration and esthetic values.

13. Clearly stated environmental constraints, controls and responsibilities must be placed upon the commercial exploitation and development of natural resources. When a commercial promotion *is thought* to cause irrevocable damage to the environment, a moratorium on it should be declared until the consequences can be determined. The proposed exploitation should be given careful consideration by the management authority before it is commenced. Management authority should consult with knowledgeable people and concerned citizens and groups, representing but not limited to conservation and recreation groups.

14. Administration of federal lands for their various uses is the responsibility of federal government. Federal governmental agencies should communicate and cooperate with state and local units, but should not be required to be subject to or in conformity with state and local planning, zoning and regulations.

15. The management of wildlife is a unique situation which should be under state authority and control since states have developed responsible wildlife management programs. State wildlife managers should work in close coordination with federal wildlife authorities; however, state regulations should have priority. There should not be a federal land use fee for hunting and fishing on public lands.

16. Bureau of Land Management should have authority to enforce rules and regulations similar to that granted to the Forest Service. Funds to implement such authority should be derived from the general tax revenues of the U.S. Treasury since land administered by the Bureau of Land Management is used by many groups and individuals for both commercial and non-commercial purposes.

17. Management philosophy of public lands should provide fulfillment of the basic essentials of society on a multiple use basis wherever applicable. Such management should provide for diverse needs of the public.

A program for acquiring and developing reasonable entry across private lands to provide access for outdoor recreation and other uses of the public lands should be initiated, utilizing methods such as purchase, exchange and easement. Where there is a demand, structured campsites should be installed, but they should be near highways or main roads. In no case should such facilities be installed in remote areas. The primitive charm and natural values of the public lands should not be spoiled with overdevelopment of paved roads and highways or structured recreation facilities or by commercialism.

(*a*) The non-competitive aspects of this type of operation do not lead into exploitation of a captive public.

(*b*) The profit motivation of a commercialized operation does not have a debilitating effect upon good conservation practices.

18. We strongly object to a general recreation land use fee. There should be no fee for the non-commercial use of undeveloped public land. Public lands are for the use of all of the public. Where demand justifies substantial services, these services should be provided for a minimal fee. No citizen should be precluded from use of the land by the charging of fees.

19. Federal acquisitions of land by purchase or exchange should be encouraged, where public benefit will result, to block up regions where public land ownership is in a checker-board pattern or private in-holding exist.

20. The local and national public must be made aware of all policy and proposals dealing with public land-management, use and disposal. The public must be given the opportunity to make comments and recommendations on such proposals for the consideration and guidance of government at its various levels when action is being considered.

21. National, long-range, land use planning should be established to achieve the objectives recommended above. Funds for long-range planning should be allocated on a program basis, rather than on a yearly basis, from the general fund of the United States Treasury.

BASIC POSITIONS SUPPORTED BY THE UNDERSIGNED NATIONAL CONSERVATION ORGANIZATIONS

To Public Land Law Review Commission:

1. As the primary principle, retain ownership of federal lands, specifically including lands chiefly valuable for timber production and grazing, to provide for present and future human needs, since these lands belong to all of the people.

2. Retain and complete the National Forest System and provide accelerated acquisition of in-holdings for improved management.

3. Dispose of federal lands only when demonstrated public needs indicate a higher public service will be achieved.

4. Provide an organic act for the Bureau of Land Management containing authority to manage the lands on a permanent basis, and retaining the major provisions of the Classification and Multiple Use Act of 1964.

5. Repeal the Homestead; Desert Land, and other acts inconsistent with the organic act for the Bureau of Land Management.

6. Make BLM lands eligible for classification under the National Wilderness Act.

7. Provide BLM with adequate acquisition and exchange authority to facilitate consolidation of federal land ownership.

8. Make BLM eligible to participate in such programs as the Land and Water Conservation Fund.

9. Provide sufficient funds, manpower and authority to manage the public lands, assure public access, and control trespass, vandalism and other unauthorized use.

10. Give high priority to surveying and marking boundaries of federal lands.

11. Reaffirm the principle of the Multiple-Use Acts that the best use or combination of uses of public lands is not to be decided on the basis of the greatest dollar return or the maximum production of a single commodity.

12. Use a comprehensive planning and coordinating approach, including public participation, in developing and administering federal programs.

13. Give quality of the environment overriding consideration in deciding uses and combinations of uses on public lands.

14. Give fish, wildlife, recreation and aesthetics full consideration with other values in the use of public lands.

15. Support and encourage state and federal efforts to protect and preserve natural areas and rare and endangered species.

16. Require that more attention be given to the perpetuation of nongame species of fish and wildlife on public lands in full cooperation with state fish and wildlife agencies.

17. Application of strict environmental controls of the resources of the Outer Continental Shelf.

18. Replace the antiquated mining law of 1872 with a Mineral Leasing System.

19. Assure that the United States receives fair-market value for resources and services from the public lands where collection is economically feasible, specifically including those marketed for private profit.

20. Require use of competitive bidding wherever possible as the means of establishing fair-market value for public land resources.

21. Charges should be made for recreational uses of public lands only where substantial developments have been provided and regular maintenance and supervision are required.

22. Base all federal land revenue-sharing with state and local government on properety tax equivalents, adjusted by impartial evaluation of benefits and burdens attributable to federal lands within state and local jurisdictions.

23. Affirm the principle that federal land permittees are not entitled to any equity or right to reimbursement at the expiration of their term permits.

24. Enforce the principle that the user of any federal land resource does not attain any "right" to the use of or interest in the land.

25. Assure that judicial review of appeals from local decisions relative to the protection of public land values should occur only after full use of existing administrative procedures.

26. Grant no additional waiver of the sovereign immunity of the United States in litigation of private claims.

American Fisheries Society, C. J. D. Brown, President; American Forestry Association, William E. Towell, Executive Vice President; Boone and Crockett Club, John E. Rhea, President; The Conservation Foundation, Sydney Howe, President; Izaak Walton League of America, Joseph W. Penfold, Conservation Director; National Audubon Society, Charles H. Callison, Executive Vice President; National Recreation and Park Association, Sal J. Prezioso, President; National Rifle Association, Franklin L. Orth, Executive Vice President; National Wildlife Federation, Thomas L. Kimball, Executive Director; The Nature Conservancy, Thomas W. Richards, President; Sierra Club, W. Lloyd Tupling, Washington Representative; Sport Fishing Institute, Richard H. Stroud, Executive Vice President; Trout Unlimited, Ray A. Kotrla, Washington Representative; The Wilderness Society, Stewart M. Brandborg, Executive Director; Wildlife Management Institute, Ira N. Gabrielson, President.

Senator BIBLE. Senator Jordan, do you have questions of Mr. Kimball?

Senator JORDAN. Only one. Before I start, Mr. Chairman, I have a statement which I would like to have inserted in the record.

Senator BIBLE. Without objection, the statement by Senator Jordan will be inserted at this point in the record.

(The statement of Senator Jordan follows:)

STATEMENT OF HON. LEN B. JORDAN, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator JORDAN. Mr. Chairman, I am pleased that the Senate Interior Committee has scheduled this 2-day hearing on legislation largely arising out of the report of the Public Land Law Review Commission, on which I and other members of this panel had the opportunity to serve.

Bills before this hearing on public land and mining policy are of great interest to Idaho and the other public land States of the West. The issues posed are both environmental and economic, and I hope that the Senate Interior Committee moves with great care and deliberation in this complex area.

I am pleased that the chairman agreed to consider the recently introduced Public Land Policy bill, S. 2450, cosponsored by Senator Allott and me, along with the BLM Organic Act bills which were dropped into the hopper earlier this session. Since this bill is not so well known as the others—and since it might prove to be one of the few public land bills approved this session—I would like to take a few minutes to discuss its background and its implications.

This bill, of course, is a modified version of H.R. 7211, authored and introduced in the House by Wayne Aspinall, chairman of the House Interior Committee and chairman of the Public Land Law Review Commission, which was created by the Congress to conduct a 5-year study of the public land laws.

The bill was offered by Mr. Aspinall as a foundation policy bill, which would provide the statutory base for administration of our public lands and for succeeding legislation. Many bills already have been introduced to improve our public land laws and it is obvious that this significant and voluminous legislative package will occupy a major share of the attention of congressional Interior Committees this session and probably throughout the decade.

During this challenging legislative effort, the report of the Public Land Law Review Commission and the 33 studies and reports prepared by the Commission and its contracting organizations will prove invaluable to the Congress in evaluating the problems and the proposed solutions.

My State of Idaho has a tremendous stake in this legislative revision. The State is 64 percent federally owned, an area comprising nearly 34 million acres. This is a Federal fiefdom more than six times the size of New Jersey. Idaho has 16 million acres of prime national forest land and 12 million acres of the public domain administered by the Bureau of Land Management. Our major industries are greatly dependent upon the resources from or the administration of these Federal lands.

In addition to the resource interest in these lands, we have some of the best hunting, fishing, and outdoor recreation areas in the Nation, as well as thousands of interested participants who want to see these aspects of Federal land use adequately considered. We have more than half of the wild rivers in the national wild and scenic river system and several million acres of land under consideration for national parks and recreation areas and wilderness.

Eleven other so-called "public land" States share Idaho's interest in and concern for this legislation. Roughly half of the 724 million acres of public lands are located in the State of Alaska, and 90 percent of the remaining half is confined to the 11 contiguous public land States of the West, which average about 50 percent Federal ownership. All of the other 38 States, of course, have a vital interest in these and other Federal acres, but not to the same degree as the public land States where Federal land ownership and administration is of primary importance to social and economic progress.

S. 2450 sets for some specific policies and administrative procedures with respect to public lands. It provides statutory guidelines to administrators and establishes advisory boards and regional coordination commissions to achieve guidance from and involvement by the users and the areas most directly concerned.

No single bill could cover all the policy and administrative aspects of the public lands; hence many significant problems will remain for subsequent legislation. This foundation bill however, is a good start and I hope the Senate Interior Committee will give it careful consideration.

I would assume that you prefer S. 921 to any one of the other bills which have been introduced to which you have had directed your attention, is that correct?

Mr. KIMBALL. That is correct.
Senator JORDAN. I have no further questions.
Senator BIBLE. Senator Hansen?
Senator HANSEN. I have no questions.
Senator BIBLE. Thank you very much.
Mike McCloskey?

STATEMENT OF J. MICHAEL McCLOSKEY, CONSERVATION DIRECTOR, SIERRA CLUB

Mr. MCCLOSKEY. Thank you. In the interest of conserving time, I would like to summarize portions of my testimony and request the full statement be put in the record.

Senator BIBLE. Without objection, the full statement will be incorporated in the record.

Mr. MCCLOSKEY. My comments are directed to S. 921 and S. 2401. I can provide for the record a copy of our testimony on H.R. 7211 which is the companion bill of S. 2450.

Senator BIBLE. That would be helpful. That will be the order.

Mr. MCCLOSKEY. Both S. 921 and S. 2401 recognize that there is a need for drastic reform in the laws governing our public lands, particularly those administered by the Bureau of Land Management.

Both recognize that our public domain lands are a valuable national resource which should in the main be retained and conserved and that the time has come to repeal the heavy backing of obsolete laws. They recognize that the time has come to turn away from making disposal the main thrust of public land laws and instead toward making conservation of them the main thrust. In addition, S. 921 recognizes the urgent need to reform our mining laws so that the public can control the time, place, and manner in which mining occurs.

Basically, the Sierra Club believes that S. 2401 provides a better vehicle for overhaul of the laws governing the public domain managed by the Bureau of Land Management. In its basic structure and draftsmanship, it possesses qualities which would allow it to become an excellent organic act for the BLM. However, there are many provisions in title I of S. 921 which are superior in our mind, and we would suggest that they be amended into S. 2401. Moreover, the companion version——

Senator BIBLE. Do you comment on which those are that you have in mind?

Mr. MCCLOSKEY. Yes, sir. I proceed to discuss them in detail.

Senator BIBLE. Why don't you develop them?

Mr. MCCLOSKEY. The companion bill of S. 921 in the House of Representatives, H.R. 9911, has some even better language in some places which might be used as the basis for amendment. When it comes to reform of the mining law, however, we must look to title II, S. 921, since S. 2401 does not deal with that subject. Again, however, H.R. 9911 has some superior provisions. We do not, however, favor limiting title II of S. 921 to hardrock minerals alone, unless this committee intends to deal in later legislation with reforming the existing Mineral Leasing Act so that it is more environmentally oriented.

I will just summarize some of the comments we made in our prepared text about the relationship between S. 921 and S. 2401. Basically, we

believe that S. 921 has a better or more complete declaration of management policy and we would suggest that some of its provisions be used. Similarly we feel there are additional points included in S. 921 in its definition of multiple use and sustained yield that are superior and we would suggest that they be used also. In addition, we feel that S. 921 provides a more complete list of goals in managing public lands and we would suggest that these too be incorporated into the bill acted upon.

The provisions of S. 921 specifying the condtions under which sales can be made are generally more satisfactory than S. 2401. Particularly critical is the contrast between the requirement of S. 921 that a finding must be made that land is more valuable in non-Federal ownership before it can be sold, and the provision of S. 2401, in section 8(a) (2), that a finding merely need be made that the public value to be served cannot be satisfied on any other land. This alternative basis for disposal in S. 2401 is a wide-open invitation to massive disposal, because every land claimant will assert that his desire coincides with the public interest and that there is no other land which is feasible for him to acquire. From the public point of view, it should be immaterial as to whether the private entrepreneur can go elsewhere. The test of whether public land should be sold to him should simply be whether it will serve the public interest, not just his interests.

Moreover, we believe that S. 921 has a better procedure for specifying the criteria that are to be used in making disposal judgments and we prefer its provisions regarding notice publication and hearings. Moreover, we believe that the provisions of H.R. 9911 are even better, because they also provide that lands chiefly available for grazing or raising forage crops, those crops which are in surplus, are not available for disposal. That bill also has a provision limiting disposal also by administrative action not exceeding 5,120 acres. We believe there is an important limitation on executive action. Finally, we prefer the provision in S. 921 which deals with the reservation and Federal ownership of mineral rights. We, also, like some of the other provisions in H.R. 9911 particularly section 106 that requires the Secretary of the Interior to inventory land which might qualify for designation as wilderness under the Wilderness Act.

Environmentalists are unified in their agreement that repeal of the Location Mining Law of 1872 is one of conservation's most urgent tasks today. While public lands can and should contribute their fair share of needed minerals for society's use, this law does not provide a fair and balanced way of doing this. It is a one-sided law which establishes a general priority for mining on most public lands, including those in the national forests. Uncontrolled mining is a menace which can strike almost anywhere, often in the midst of the most environmentally valuable and vulnerable places. In recent years, we have seen this happen.

Acting under this obsolete law, miners threaten to tear away the irreplaceable alpine meadows of the Glacier Peak Wilderness in Washington; they threaten the north slope of Mt. McKinley National Park; the high lake country of the White Cloud Mountains of Idaho may soon be torn up; the rock mesa area of the Three Sisters Wilderness in Oregon may soon be chopped up; bulldozers are running amok in the Humboldt National Forest in Nevada, tearing up the range, the meadows, and the creek bottoms. Holes, strips, pits, roads, tailings,

and trash from unregulated mining are making a mockery of multiple use on much of our Western public domain.

The damage that is being done is reason enough to reform this law. But there are also many sound technical reasons for doing so.

(1) The present law is defective because it gives the Government no effective control over mining. It takes place at the unrestricted option of the miner. If some color of mineralization is found, the miners' right to proceed is established regardless of competing public values. The law does not allow any weighing of values; there is no opportunity to determine which use is "more valuable."

(2) Under the act, the miner does not bear the true economic costs of the development. He does not bear the burden of restoration. The true social and environmental costs are not internalized in his operation. These costs play no part in determining whether the mining is to take place.

(3) Because the miner can proceed regardless of other public values when he makes a valuable discovery, the Government is faced with great difficulty in maintaining the integrity and continuity of other multiple use programs. These other programs are subject to sudden and devastating disruption. The only administrative solution is to resort to mineral withdrawals. By custom, these are usually restricted to relatively small areas.

(4) The present law invites abuse, with many spurious claims filed for nonmining purposes. Even where mineralization exists, many claimholders who are trying to move to patent now in high mountain areas wish to do so to obtain title to lands valuable for resort develpments. The Government should not be deprived of title of valuable lands under this abuse.

(5) The present law also invites speculation in buying dubious claims and paper titles; this activity makes it difficult to keep track of ownership and additionally complicates administration.

(6) When claims are abandoned under the present law, it is difficult to extinguish them. Presently, Federal title is encumbered by almost 6 million stale claims. It is a time-consuming process to try to extinguish them, but until they are, they constitute a cloud on the Government's title.

(7) Even when such abandoned claims are extinguished, someone else can immediately reenter and file a new claim, unless the area is withdrawn. This prospect discourages efforts to extinguish stale claims, and engenders laxness in enforcement of the mining law.

(8) Moreover, contests by the Government of claims and patent applications, involving such tests as discovery and marketability, are slow and expensive. Often such contests cost more than the land is worth for legitimate purposes.

(9) Because the present law does not require that claims be recorded with the Federal Government, it is difficult for the Government to obtain current information on ownership. Moreover, there is no good way for the Government to get accurate information on the value of claims. The secrecy of claimants makes it difficult for the Government to know whether a contest is warranted.

(10) Because questions of location, discovery, and recording are handled under widely varying state laws, the Federal Government cannot proceed in any uniform way in dealing with mineral claim-

ants. It is difficult to compile systematic facts about the extent and nature of claims.

(11) The present law also does not provide any uniform way of legally describing the boundaries of claims. Lode claims are described by metes and bounds, placer claims are not. Original corner monuments are often casually identified and are now lost.

(12) Under the present law, there is no way for the Government to recover any real value for the minerals taken from the public estate. Unlike the practice under the Mineral Leasing Act, the Federal Treasury, does not recover any real revenue in return for losing its mineral estate. The patent fee of $2.50 per acre for placer claims and $5 for lode claims is merely nominal.

(13) The present requirements for discovery and annual assessment work are unproductive investments and destroy public values. Discovery no longer really requires digging holes of any certain size. Often the $100 worth of annual assessment work consists of merely scraping a bulldozer around to disturb surface cover. It contributes nothing to legitimate mining, and damages the environment. Great areas are needlessly scarred this way each year.

(14) While there is a special statute governing common varieties of minerals, still the old mining act invites many claimants to try to obtain these substances under it by claiming that deposits like limestone possess "some property giving it distinct and special value."

In addition to all of these aspects of the location mining law which makes it undesirable as far as the Government is concerned and environmentalists are concerned, it should also be noted that it is far from ideal, too, as far as legitimate miners are concerned. Mining claimants are subject to counter-claims. Speculators tie-up vast areas under subterfuges to buildup reserves and to eliminate competition. There is constant uncertainty over whether the Federal Government will be moved to withdraw more areas to protect itself from uncertainty on its part. The various rarified legal doctrines that have developed concerning discovery, valuable minerals, and marketability invite contests because of their vagueness. Many of these doctrines do not relate well to modern prospecting and mining techniques. Prospectors are not afforded any security of tenure for prediscovery efforts, and this is particularly a problem with respect to deep ore bodies. Because of the interbedding of certain minerals, such as tuff containing potash, it is not clear which development system applies. It is also difficult to classify certain claims, as between lode claims and placer claims. The split of control between the States and the Federal Government promotes confusion on questions of the indicia of ownership. For all these reasons, the mineral industry should also want to obtain a better system of handling mineral development on the public lands.

Senator BIBLE. I am inclined to think they are very well aware of that and I think that is what they have attempted to do in S. 2542 and I likewise wish you would study that and make such comments. I am sure it does not reach your basic objection but then it seems to me they have met many of the frailties of the mining law that you have pointed out. Will you likewise give me your comments on 2542?

Mr. MCCLOSKEY. We will be glad to do that.

Senator BIBLE. Fine. You may proceed.

Mr. McCloskey. We think title II of S. 921 provides a proper system for permitting appropriate mineral development on public lands while allowing the Federal Government to protect all other values. This is a modern mineral leasing system which attempts to integrate environmental and social concerns into the planning process for mineral development. The essential differences with this system is that the Government decides where and when mining is to be allowed and under what conditions, and it gets paid a royalty on production. Lest it be feared that this system is too restrictive, it should be observed that over 64 million acres of Federal land were under lease in 1968 for oil and gas production. Environmentalists wished fewer acres had been put out for lease under this discretionary system, but the fact is that this leasing system for oil and gas has provided ample opportunity for developmental activity.

However, we feel that title II should be strengthened in a number of respects. Section 202(3)(C) should be amended in the manner provided in H.R. 9911, namely to provide that not only are National Park System units excluded from leasing, but also units of the National Wildlife Refuge System, units of the National Wilderness Preservation System, the National System of Wild and Scenic Rivers, and that leasing should also be excluded within units of the National Forests and National Resources Lands classified as primitive, roadless, natural or scenic areas. These systems and units have already been identified as having their highest values for nonmineral purposes, and should be exempt from inconsistent development for mineral purposes.

We also feel section 2 from H.R. 9911 should be amended into title II also, and we must say that we are not really saved with any of the various provisions that have been put forth in the bills to deal with the problem of old claims that are outstanding under the current law.

Section 211 of title II, as Senator Jackson proposes to amend it, would provide a better system of recordation, but his old section was better with respect to providing a way to have old claims converted into leases or licenses. Perhaps this option should be continued in the amended version, along with inclusion of the proviso which appears in section 212(b) of H.R. 9911, which authorizes condemnation of unconverted claims. By combining these provisions, old claimants would be forced to record their claims, and they could have the option of converting their recorded claims into leases or be subject to possible condemnation.

In conclusion, we must observe that we question the basic reason for the amendment which Senator Jackson now proposes to title II of S. 921. While it is easier to deal at this time just with hardrock minerals, clearly the Mineral Leasing Act does need reforming, too. It needs some environmental mandates. As title II now stands, it has them. These should not be lost.

We appreciate having the opportunity to testify.

Senator Bible. You have a last paragraph there about in lieu of tax payments, earmarked revenues, restrictions in oil shale developments. You are not abandoning your position on that. You did not comment on the last paragraph.

Mr. McCloskey. I was trying to conserve time, Mr. Chairman. Yes; we feel that these are important——

Senator BIBLE. They are important questions. They are ones that came up recurringly during the deliberations of the Public Land Law Review Commission. You should comment on them. It is only one short paragraph.

Mr. MCCLOSKEY. We feel that legislation should be enacted to change the present system of revenue sharing to provide for a system of in lieu tax payments and generally support the recommendation made by the Public Land Law Review Commission on that particular point. Also, we like the provision in H.R. 9911 which would restrict the development of oil shale until the problems of environmental capability are solved, and we like the provision in H.R. 9911 that would earmark revenues from the programs, the commercial programs on public lands to be used for restoring those lands and for purchasing in holdings and needed——

Senator BIBLE. All right. I wanted to be sure you commented on it. It does seem to me those are rather important areas to be considered by the committee and I thought you at least ought to comment on them.

Senator Jordan?

Senator JORDAN. No questions.

Senator BIBLE. Senator Gravel?

Senator GRAVEL. No questions.

Senator BIBLE. Senator Hansen?

Senator HANSEN. I do have some questions, Mr. McCloskey, on page 10 of your statement, the top of the page. You say:

> Lest it be feared that the system is too restrictive it should be observed that over 64 million acres of Federal land were under lease in 1968 for oil and gas production. Environmentalists wished fewer acres had been put out for lease under this discretionary system, but the fact is that the leasing system for oil and gas has provided ample opportunity for developmental activity.

I would ask you: Is it your opinion that sufficient amounts of oil and gas are being produced domestically now to give the measure of security that you think the country should have?

Mr. MCCLOSKEY. Senator, that is a question which gets into a wide range of problems. To answer it, I would have to say that we believe this country is probably consuming too much oil and gas, more than is good for the state of our air and more than is good for our landscape and the number of freeways that are being built.

Also, we have real questions about whether this country should emphasize in its consumption patterns consuming domestic oil at the expense of foreign oil. We think that it is quite plausible that national security might be better served by minimizing the consumption of domestically produced oil and gas while relying while we can on more imported oil. We think this is an open question, at any rate, for debate.

Senator HANSEN. Do you have any plans for reducing the consumption of oil and gas in the country? Are there identifiable areas of consumption that you think could be cut back or should be restricted? Would you identify them if you have them in mind?

Mr. MCCLOSKEY. Well, again this involves many things but, too, I think obvious examples are the promotion of the use of more mass transit, which would have some effect, and the substitution of smaller cars for larger cars, ones which get better gasoline mileage. It reduces consumption in that fashion.

Senator HANSEN. You think, as a national policy, it would be indicated to have fewer acres of land available for lease than are presently being leased. Is that the thrust of this paragraph?

Mr. MCCLOSKEY. Yes; for instance, as you know, with respect to offshore oil drilling, we and other groups, have opposed certain leasing activities as in the Santa Barbara channel. We also have questions about some of the oil developments in Alaska.

Senator HANSEN. In your opinion, would it be better to bring it in by tanker than to drill in the Santa Barbara channel? Is that the point that you are making?

Mr. MCCLOSKEY. We are very concerned about the possibilities of oil spills on the high seas but I think it is clear that we are going to have both oil brought in by tanker and oil produced on land and it will come from many sources, so I think we have to look at it on a case-by-case basis and to tighten the regulations, environmental regulations, as much as possible.

Senator HANSEN. Do you have any concern or misgivings about the adequacy of our fuel and energy supplies as it relates to national security?

Mr. MCCLOSKEY. I think we do have this problem I related to earlier of whether we should exhaust our domestic supplies, whether we should tend to conserve them. Some economists have suggested that rather than developing areas such as Alaska, we ought to develop them as oil reserves. The Government might have a program for capping wells and actually even in the lower 48 States establishing more oil reserves of wells that would be drilled and then capped, oil that could be stored in one form or another. This might be the most prudent course.

Senator HANSEN. I misunderstood. I guess I thought you were implying in your statement that there were already too many acres of land available for lease. I suppose you were speaking about all 50 of the States.

Mr. MCCLOSKEY. Yes; I was.

Senator HANSEN. Do you mean you think fewer acres should be leased in Alaska and more in the lower 48. Is that what you are saying?

Mr. MCCLOSKEY. We do not have any position on what is the proper number of acres to be under lease.

Senator HANSEN. But you think too many ——

Mr. MCCLOSKEY. Conceivably it could be more than the 64 million specifically. Perhaps my statement was not phrased as artfully as I might have done, but our point here was that some of the specific areas under lease we feel had higher environmental values and should have been put out for lease.

Now, perhaps there are other areas that instead might have been put out for lease.

Senator HANSEN. Does the increasing dependency of this Government in all of its activities, its military activities as well as its industrial uses, does this increasing dependency upon foreign sources of supply give you any concern?

Mr. MCCLOSKEY. Not if this is joined with a program of developing some domestic reserves which are held for national security purposes

and if we have a program to be more conservative in our consumption of oil and gas resources which I think will also help us obtain a better environment.

Senator HANSEN. The behavior and what has happened in the last 2 or 3 years in foreign sources of supply is one which inclines you to think that if we could use a smaller car and take all such other steps as might reduce our per capita consumption energy that those foreign sources would be adequate, dependable and would not pose a threat to the security. Does this sum up what you are saying?

Mr. MCCLOSKEY. Yes; while certainly they are subject to severence in time of turmoil in various lands, I think that the studies I have seen suggested, that in the aggregate, the oil is there and the gas is there to be purchased. The oil is, at any rate. But there may be shifts from time to time in from where it comes.

Senator HANSEN. Would you think that an increased dependency upon foreign sources of supply might result if those dependencies were increased now in a change to foreign policy? I have in mind particularly the Middle East.

Mr. MCCLOSKEY. I am sorry Senator, I am not sure I follow that question.

Senator HANSEN. I say if we were to admit the need for a greater dependency upon foreign sources of supply, my question is: Do you think that that attitude on our part might result in a changed foreign policy insofar as the Middle East is concerned?

Mr. MCCLOSKEY. I am really not certain——

Senator HANSEN. There isn't very much oil being produced in Israel. If I may be specific, there is quite a bit being produced in the Arab countries. My question is: If we were to become more dependent upon that important source of supply which now I think accounts for in the aggregate about 4 percent of what we import, do you think it could result in a changed foreign policy insofar as this country is concerned?

Mr. MCCLOSKEY. I am sure there would be others who could comment better on that than I can, though I recall in connection with the Alaska pipeline study that the Interior Department did, the contrast was between importing something like 24 percent of our oil with the pipeline and 32 percent without the pipeline. I think it is questionable whether the difference between 24 and 32 percent is great enough to, by itself, result in any substantial change in our foreign policy.

Senator HANSEN. Do you know how much of our energy requirements presently in the form of oil and natural gas are imported?

Mr. MCCLOSKEY. I have seen those figures but I do not have them readily in mind.

Senator HANSEN. No further questions.

Senator BIBLE. Senator Bellmon? This is a panel of the Public Lands Conservation Coalition, and we are now hearing the second of their seven witnesses. Mr. McCloskey, I do not know whether you have any questions to pose to him at this time or not.

Senator BELLMON. Mr. Chairman, I have been at another meeting. I am sorry I was late. I do not have any questions.

(The prepared statement of Mr. McCloskey follows:)

STATEMENT OF J. MICHAEL MCCLOSKY, CONSERVATION DIRECTOR, SIERRA CLUB

I am Michael McCloskey, and I am the Executive Director of the Sierra Club, on whose behalf I am appearing here today. Throughout its long history, the Sierra Club has had an overriding interest in the fate of our public lands, and it now welcomes the chance to participate in the historic task of reshaping the fundamental laws governing those lands.

The need for drastic reform in the laws governing our public lands, particularly those administered by the Bureau of Land Management, is recognized by both of the bills which are the subject of this hearing, S. 921 and S. 2401. Both recognize that our public domain lands are a valuable national resource which should in the main be retained and conserved and that the time has come to repeal the heavy backlog of obsolete laws. They recognize that the time has come to turn away from making disposal the main thrust of public land laws and instead toward making conservation of them the main thrust. In addition, S. 921 recognizes the urgent need to reform our mining laws so that the public can control the time, place, and manner in which mining occurs.

Basically, the Sierra Club believes that S. 2401 provides a better vehicle for overhaul of the laws governing the public domain managed by the Bureau of Land Management. In its basic structure and draftsmanship, it possesses qualities which would allow it to become an excellent organic act for the BLM. However, there are many provisions in Title I of S. 921 which are superior in our mind, and we would suggest that they be amended into S. 2401. Moreover, the companion version H.R. 9911, has some even better language in some places which might instead be used as the basis for amendment. When it comes to reform of the mining law, however, we must look to Title II, S. 921, since S. 2401 does not deal with that subject. Again, however, H.R. 9911 has some superior provisions. We do not, however, favor limiting Title II of S. 921 to hardrock minerals alone, unless this committee intends to deal in later legislation with reforming the existing Mineral Leasing Act so that it is more environmentally oriented.

BLM ORGANIC ACT

Since the Classification and Multiple Use Act expired, the Bureau of Land Management does not have a basic statutory charter for its operations. It operates under some authority lingering on from that Act and under a patchwork quilt of ancient disposal laws and piecemeal reform acts. The BLM administers the largest block of landholdings under single administration in the United States, and these lands are simultaneously both fragile, scenic, economically valuable, and ecologically vulnerable. They are a vital national resource and deserve enlightened, modern management. Inasmuch as they are owned by all the people of the United States, the BLM should be charged with being the trustee for their interests in the management of these lands, with all conflicts with sectional, local, and private interests, resolved in their favor.

To achieve this kind of administration, the BLM needs a basic new organic act that will achieve a number of ends. These include:

(1) Repeal of the backlog of obsolete disposal laws;

(2) Development of a broad new policy for managing the great body of public lands which should stay in public ownership;

(3) Application of the kind of environmental thinking mandated by the National Environmental Policy Act to public lands;

(4) Provision of a policy for limited land disposals where they would serve the public interest, and for new land acquisitions and exchanges where they also would serve the public interest;

(5) And conferral of police authority on the BLM to establish and enforce its regulations for these lands.

Both S. 921 and S. 2401 address themselves to achieving these ends. For reasons we stated previously, we believe that S. 2401 should be the basic bill on which we hope this committee will work. However, we do suggest that various provisions of S. 921 be inserted into S. 2401. Section 3, of S. 2401, which sets forth a general declaration of management policy, could be improved by having some of the additional concepts appearing in Section 101 of S. 921 added to it. Section 3(b) is not as explicit as Section 101(2) and (3) in pointing out the variety of values on public lands that need protection, and that these lands need to be "restored, improved, and protected" as well as managed. Moreover, S. 921 makes

"ecological management" an aim, and is clearer in stating that public lands should be managed for both intangible as well as tangible purposes. Section 101 of H.R. 9911 provides an even better statement of management philosophy for public lands. It provides a clear distinction between mandates to maintain environmental quality and to permit appropriate commercial use.

The definition of multiple use in Section 2(c) of S. 2401 could be improved by adding a number of phrases taken from S. 921. For instance, in line 16, after the phrase "without impariment," the words "to the environment or" should be added to show that our concern is not solely with resource productivity but also with intangibles, such as scenery. Moreover, the only limitation here should not be with respect to irreplaceable values because some replaceable values, as with water quality, should not be needlessly impaired either. In line 19, the phrase "and to the ecological relationships involved" from S. 921 should be added to the wording of Section 2(c) of S. 2401. This modification again will add a mandate to consider the science of ecology in public land management. In Section 2(d) of S. 2401, the definition of sustained yield could also be improved if it were amended to read as the definition does in S. 921, namely to provide that sustained yield is to be pursued so that it is done "without impairment of the quality of the land and its environment." This is a much broader mandate than merely preventing "impairment of the productivity of the land" as specified in Section 2(d) of S. 2401.

Both bills provide a list of goals to be pursued in the management of public lands, though Section 103 of S. 921 provides a somewhat longer list. Some of these are particularly important and should be integrated in to S. 2401, perhaps into Section 6(b), which deals with land use planning. Among those that should be carried into S. 2401 from section 103 of S. 921 are subsections (2) (protection of outdoor recreation values), (3) (preservation of environmental quality), (5) (comprehensive and coordinated land use planning), (7) (public participation in land use management), and (8) (payment of fair market value, particularly by commercial users).

The provisions of S. 921 specifying the conditions under which sales can be made are generally more satisfactory than S. 2401. Particularly critical is the contrast between the requirement of S. 921 that a finding must be made that land is more valuable in non-federal ownership before it can be sold, and the provision of S. 2401, in Section 8(a)(2), that a finding merely need be made that the public value to be served cannot be satisfied on any other land. This alternative basis for disposal in S. 2401 is a wide-open invitation to massive disposal because every land claimant will assert that his desire coincides with the public interest and that there is no other land which it is feasible for him to acquire. From the public point of view, it should be immaterial as to whether the private entrépreneur can go elsewhere. The test of whether public land should be sold to him should simply be whether it will serve the public interest, not just his interests.

Section 104 of S. 921 requires that criteria be set forth determining what the public interest consists of in such instances, and factors such as "environmental quality, ecology, priorities of use, and the relative values of the various resources" are to be considered. The procedural requirements governing the publication of such criteria and disposal classifications are superior in S. 921, particularly with respect to notice, publication, and hearings. These provisions are even better yet in H.R. 9911 because greater notice is afforded and there is a bar on disposing of land chiefly valuable for grazing or raising forage crops, or which would be used to raise crops in surplus. Moreover, Section 108 of S. 921 is especially important in providing that the Secretary cannot dispose of public land in any tract exceeding 5120 acres (H.R. 9911 also requires notice of Congressional Committees of disposals over 1440 acres). This limitation will prevent an abuse of discretion, and will require Congressional action with respect to large disposals. This will assure broad public awareness of such proposals and will help prevent ill-considered action. Section 109 of S. 921 should also be carried over into the final draft. This requires that land use zoning be in effect before land can be sold. It will provide at least some assurance that land is used in practice for the ostensible purpose for which it was sold. This provision should also be tightened to require that the zoning actually imposes some restrictions on the use of land, or this will be a hollow gesture.

Generally, we prefer the provision of S. 921 with respect to reservation in federal ownership of mineral rights. In that bill, section 110 provides a uniform policy for reserving such rights to the federal government in all cases of land

disposal. Section 9(a) of S. 2401 provides that such reservations will not be made if later federal mineral development would interfere beneficial private use of the land. While it is clear that cases will exist where such mineral development could cause serious interference, it is not clear that as a consequence private parties should be given the mineral estate. Perhaps a provision could be added to Section 10 of S. 921 permitting the federal government to enter into a covenant not to develop its mineral rights within a specified period.

Finally, though the acquisition section of S. 2401 is generally good (section 10), it could be improved by having the last sentence of section 111(b) of S. 921 added to it. This sentence provides that "the proceeds received from any conveyance under this section shall be credited to the Land and Water Conservation Fund in the Treasury of the United States." This provision would assure that losses in the land estate of the people of the United States would be used to aid in the acquisition of new lands which better serve their current interests.

REFORM OF THE MINING LAW

Environmentalists are unified in their agreement that repeal of the location mining law of 1872 is one of conservation's most urgent tasks today. While public lands can and should contribute their fair share of needed minerals for society's use, this law does not provide a fair and balanced way of doing this. It is a one-sided law which establishes a general priority for mining on most public lands, including those in the national forests. Uncontrolled mining is a menace which can strike almost anywhere, often in the midst of the most environmentally valuable and vulnerable places. In recent years, we have seen this happen. Acting under this obsolete law, miners threaten to tear away the irreplaceable alpine meadows of the Glacier Peak Wilderness in Washington; they threaten the north slope of Mt. McKinley National Park; the high lake country of the White Cloud Mountains of Idaho may soon be torn up; the Rock Mesa area of the Three Sisters Wilderness in Oregon may soon be chopped up; bulldozers are running amock in the Humboldt National Forest in Nevada, tearing up the range, the meadows, and the creek bottoms. Holes, strips, pits, roads, tailings, and trash from unregulated mining are making a mockery of multiple use on much of our western public domain.

The damage that is being done is reason enough to reform this law. But there are also many sound technical reasons for doing so.

(1) The present law is defective because it gives the government no effective control over mining. It takes place at the unrestricted option of the miner. If some color of mineralization is found, the miners' right to proceed is established regardless of competing public values. The law does not allow any weighing of values; there is no opportunity to determine which use is "more valuable."

(2) Under the act, the miner does not bear the true economic costs of the development. He does not bear the burden of restoration. The true social and environmental costs are not internalized in his operation. These costs play no part in determining whether the mining is to take place.

(3) Because the miner can proceed regardless of other public values when he makes a valuable discovery, the government is faced with great difficulty in maintaining the integrity and continuity of other multiple use programs. These other programs are subject to sudden and devastating disruption. The only administrative solution is to resort to mineral withdrawals. By custom, these are usually restricted to relatively small areas.

(4) The present law invites abuse, with many spurious claims filed for nonmining purposes. Even where mineralization exists, many claim-holders who are trying to move to patent now in high mountain areas wish to do so to obtain title to lands valuable for resort developments. The government should not be deprived of title of valuable lands under this abuse.

(5) The present law also invites speculation in buying dubious claims and paper titles; this activity makes it difficult to keep track of ownership and additionally complicates administration.

(6) When claims are abandoned under the present law, it is difficult to extinguish them. Presently, federal title is encumbered by almost 6 million stale claims. It is a time consuming process to try to extinguish them, and until they are, they constitute a cloud on the government's title.

(7) Even when such abandoned claims are extinguished, someone else can immediately re-enter and file a new claim, unless the area is withdrawn. This prospect discourages efforts to extinguish stale claims, and engenders laxness in enforcement of the mining law.

(8) Moreover, contests by the government of claims and patent applications, involving such tests as discovery and marketability, are slow and expensive. Often such contests cost more than the land is worth for legitimate purposes.

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(14) While there is a special statute governing common varieties of minerals, still the old mining act invites many claimants to try to obtain these substances under it by claiming that deposits like limestone possesses "some property giving it distinct and special value."

In addition to all of these aspects of the location mining law which makes it undesirable as far as the government is concerned and environmentalists are concerned, it should also be noted that it is far from ideal, too, as far as legitimate miners are concerned. Mining claimants are subject to counter-claims. Speculators tie-up vast areas under subterfuges to build-up reserves and to eliminate competition. There is constant uncertainty over whether the federal government will be moved to withdraw more areas to protect itself from uncertainty on its part. The various rarified legal doctrines that have developed concerning discovery, valuable minerals, and marketability invite contests because of their vagueness. Many of these doctrines do not relate well to modern prospecting and mining techniques. Prospectors are not afforded any security of tenure for prediscovery efforts, and this is particularly a problem with respect to deep ore bodies. Because of the interbedding of certain minerals, such as tuff containing potash, it is not clear which development system applies. It is also difficult to classify certain claims, as between lode claims and placer claims. The split of control between the states and the federal government promotes confusion on questions of the indicia of ownership. For all these reasons, the mineral industry should also want to obtain a better system of handling mineral development on the public lands.

We think Title II of S. 921 provides a proper system for permitting appropriate mineral development on public lands while allowing the federal government to protect all other values. This is a modern mineral leasing system which attempts to integrate environmental and social concerns into the planning process for mineral development. The essential differences with this system is that the government decides where and when mining is to be allowed and under what conditions, and it gets paid a royalty on production. Lest it be feared that this system is too restrictive, it should be observed that over 64 million acres of federal land were under lease in 1968 for oil and gas production. Environmentalists wished fewer acres had been put out for lease under this discretionary system, but the fact is that this leasing system for oil and gas has provided ample opportunity for developmental activity.

However, we feel that Title II should be strengthened in a number of respects. Section 202 (3)(C) should be amended in the manner provided in H.R. 9911, namely to provide that not only are national park system units excluded from leasing, but also units of the National Wildlife Refuge System, units of the

National Wilderness Preservation System, the national system of Wild and Scenic Rivers, and that leasing should also be excluded within units of the National Forests and National Resources Lands classified as Primitive, Roadless, Natural or Scenic Areas. These systems and units have already been identified as having their highest values for non-mineral purposes, and should be exempt from inconsistent development for mineral purposes.

Finally, we must confess our lack of satisfaction with the various provisions that have been put forth in the bills to deal with old claims that are outstanding under the current law. Section 211 of Title II, as Senator Jackson proposes to amend it, would provide a better system of recordation, but his old section was better with respect to providing a way to have old claims converted into leases or licenses. Perhaps this option should be continued in the amended version, along with inclusion of the proviso which appears in Section 212(b) of H.R. 9911, which authorizes condemnation of unconverted claims. By combining these provisions, old claimants would be forced to record their claims, and they could have the option of converting their recorded claims into leases or be subject to possible condemnation.

In conclusion, we must observe that we question the basic reason for the amendment which Senator Jackson now proposes to Title II of S. 921. While it is easier to deal at this time just with hardrock minerals, clearly the Mineral Leasing Act does need reforming, too. It needs some environmental mandates. As Title II now stands, it has them. These should not be lost.

Other issues which we hope this committee will deal with in the context of reforming public land laws are (1) in lieu tax payments as a replacement for revenue sharing; (2) earmarked revenues; and (3) restrictions on oil shale development. We like the provisions which H.R. 9911 has on these questions (sections 118, 120 and 209(b), respectively), and hope that this committee will deal with them either in the context of this legislation or in the near future in connection with related legislation.

We appreciate having the opportunity to testify.

Senator BIBLE. Very well, we will proceed to the representative from the Wilderness Society.

STATEMENT OF JAMES G. DEANE, EDITOR, THE WILDERNESS SOCIETY

Mr. DEANE. I am James G. Deane, executive editor of the Wilderness Society. Stewart Brandborg regrets very much he was not able to be present this morning. In the interest of time, the society would like the privilege of submitting a written statement before the record closes. We just want to state at this time the society is very heartedly in favor of the enactment of a new organic law for the public domain lands and favors the reform and improvement of the mining and mineral leasing laws. Thank you very much.

(The statement referred to was not received in time for inclusion in the record.)

Senator BIBLE. Senator Jordan?

Senator JORDAN. No questions.

Senator BIBLE. Senator Hansen?

Senator HANSEN. No questions.

Senator BIBLE. Senator Bellmon?

Senator BELLMON. No questions.

Senator BIBLE. The next witness is Dan Poole.

STATEMENT OF DANIEL A. POOLE, PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Mr. POOLE. Thank you. I wish to associate the institute generally with the positions and recommendations taken by other representatives

of the national conservation organizations here this morning. Briefly, we believe that three of the major bills pending before the committee and pending before Congress involve a national land policy and organic act for the Bureau of Land Management and revision of the mineral act. With your permission, I would like to show a few slides showing the practices that are possible under the mining law whereby there is destruction or impairment of surface values and the creation of public hazard.

Senator BIBLE. I have no objections to your showing the film. None at all. It is a good time of the day to see some pictures. (Slide shown.)

Mr. POOLE. This is tailings from abandoned mine in the Black Hills, S. Dak. (Slide shown.)

Next is mineral exploration in Montana. (Slide shown.)

Next is prospecting, Pryor Mountains, Montana. Rip it up, go away and forget about it. (Slide shown.)

Next is Dozen Trail to reach a claim location site, Montana. (Slide shown.)

Next is abandoned vein working, little Rocky Mountains, Malta, Mont. (Slide shown.)

Next is abandoned workings of a gilsonite vein, Vernal District, Utah. (Slide shown.)

Next is patented claim—crushed rock quarry—visible from valley floor near Colorado Springs with Pike's Peak in background. (Slide shown.)

Next is mineral exploration, Nevada. (Slide shown.)

Next is prospecting trench in Arizona. No signs—no warning; purely a public hazard. (Slide shown.)

With the chairman's permission, at this point I would like to insert in the record an official memo of the Bureau of Land Management relating to injuries sustained by a number of people in this type of——

Senator BIBLE. I have no objection to that.

(The memorandum referred to follows:)

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Phoenix, Ariz., March 19, 1969.

To: District manager.
From: Robert T. Mitcham.
Subject: Accidents and hazards—Abandoned mineshafts, Phoenix vicinity.

There has been a recent increase in frequency of recreationists falling into abandoned mine shafts or narrowly escaping injury or death in old mine workings in the vicinity of Phoenix, Arizona. The desert areas around Phoenix are being increasingly used for trail bike riding, hiking, rockhounding, picnicking, etc. Good moisture and cooler climate this winter will bring an unusual flowering in the desert this spring that will greatly multiply public use and increase accident potential.

Although most of the old mine workings of less than one hour access from the Phoenix metropolitan area are on private land, some do exist on public domain.

All of the recent accidents occurred on private land. Information on these accidents was obtained from Captain Jack Watson of the Maricopa County Sheriff's Office. Mr. Keith Miller and myself visited someone associated with the victims and the mine shaft sites on March 12 and 13, 1969. A brief of data obtained is attached.

The County Sheriff's office, State Mine Inspector and others are becoming alarmed over the hazards of abandoned mine workings. The Phoenix Gazette on March 13, 1969, reported, clipping attached, the way the problem is being solved by Tonto National Forest officials.

ROBERT T. MITCHAM.

DATA ON RECENT ACCIDENTS INVOLVING ABANDONED MINE SHAFTS

Date of accident	Victim	Description of accident	Description of workings	Land description
Feb. 9, 1969	Milton Schlenzig, age 13, 4313 East Pinchot, Phoenix	Rode tote-gote up and over mine dump into shaft. Survived with broken bones.	80 feet deep bare vertical shaft water at 40 feet with timbers floating on water.	T. 4 N., R. 3 E., sec. 21, union patented claim 1139.
Mar. 1, 1969	Stephen Rogers, age 19, 22216 North 23d Ave., Phoenix.	Rode trail bike on same path into same shaft. Survived with broken bones.	Same	Same.
Mar. 9, 1969	Paul Roby, age 17	Exploring mine workings. Fell 75 feet from ladder, probably because of dizziness from bad atmosphere. Survived with broken bones.	100-foot vertical timbered shaft	T. 4 N., R. 3 E., sec. 27. 2524.

[From the Phoenix Gazette, Mar. 13, 1969]

MARINES SPEND WEEKENDS COVERING ABANDONED MINE

While Marine Corps engineers fight in Vietnam to preserve democracy, their reserve counterparts in the Phoenix 9th Engineer Co. work weekends to save would-be thrill seekers from possible injury or death in an abandoned mine.

Their project began after a close shave last December for three young adventurers exploring the remains of a barite mine 30 miles northeast of Phoenix that was in operation during World War II. They made their way to the floor of a pit but couldn't return to the surface.

The mine shafts once were safely hidden beneath hundreds of feet of rock and clay, but two decades of erosion have torn the earth in many places down to the shaft level.

The three youngsters were lucky. A team of expert mountain climbers hauled them from one of the miniature "Grand Canyons" extending for thousands of yards.

Since the close call occurred in Tonto National Forest, officials of the forest service decided to ask the 9th Engineers to fill in the caverns.

Maj. Larry P. Stevens, company commander, put a battle plan into action.

Platoons attack a small section of the earth fault at a time. Weapons are air hammers, picks and shovels, used for strategic burial of dynamite charges in the hard rock along the hole's lip. Charges connected with explosive cord for multiple detonation are set off electrically from a safe distance.

As in real war, a day's blasting begins with a briefing by experts on the company's instructor-inspector staff. Briefers say reservists pay close attention because of the work's hazardous nature.

Weekend visitors in the mine area hear the echo of "fire in the hole," followed by the sound of dynamite explosions.

"We'll keep at it until the area is safe," Major Stevens said.

Senator BIBLE. I certainly agree that abandoning mining shafts and open trenches and such as you have shown here are a hazard and I was of the impression that most of the States had enacted enforceable safety laws. Now, I think some of them aren't enforced as thoroughly as they should be. We have excellent laws in my State on fencing and covering up old abandoned shafts so someone does not fall in and seriously injure himself or maybe lose his life. It happened. Are there adequate laws on that subject or not?

Mr. POOLE. Senator, I am told they are not and that they vary greatly and that in many States leaving openings of this type is merely a misdemeanor.

Senator BIBLE. I certainly agree that no one can countenance that type of a situation. I would hope the representatives of the mining industry have that in mind. They will be heard tomorrow.

Mr. POOLE. According to information supplied to me, there are an estimated 10,000 abandoned shafts on public lands in southern California, alone.

Senator BIBLE. 10,000?

Mr. POOLE. Yes. (Slide shown.)

Here is an abandoned loading structure—a common sight—picturesque but also hazardous. (Slide shown.)

Next is uranium pit in Gas Hills, Wyo. No provision for site restoration. A hazard to humans and animals. (Slide shown.)

Next is White Cloud Peaks, Idaho—site of a national recreation area now being considered by Congress. All lower two-thirds could be an open pit mine if allowed to go to patent.

Senator BIBLE. Is that the Sawtooths?

Mr. POOLE. It is in the White Clouds, yes. (Slide shown.)

Next is White Cloud Peaks—site of proposed settling pond. (Slide shown.)

Next is a road to a mining location, Salmon River Valley, Idaho. The land management agency has little control over such access. (Slide shown.)

Next is dredge mining, Newsome Creek, Idaho. (Slide shown.)

Next is dredge mining, Crooked River, Idaho. (Slide shown.)

Next is Crooked River entering the Clearwater River below the dredging. (Slide shown.)

Next is placer mining near Leland, Oreg. (1969). (Slide shown.)

Next is placer runoff entering Grave Creek. In January 1970, Grave Creek below the placer outflow was 150 times more turbid than above. (Slide shown.)

Next is Grave Creek 4 miles below placer outfall; turbidity level undiminished.

Senator BIBLE. What did you tell me the date of these pictures was?

Mr. POOLE. The placer mine is 1969. The date of the runoff from the placer into the creek is January 1970.

Senator BIBLE. Now, all of these pictures are taken within the last year or two.

Mr. POOLE. I would not say so, Senator. Some were taken a number of years ago, and they are representative of what has been possible and what still is possible under the mining law and what remains on the surface of the land.

Senator BIBLE. All right. I just wanted to fix as close a date as I could. But this is 1969 and 1970.

Mr. POOLE. Yes. (Slide shown.)

Next is Grave Creek entering Rogue River 16 miles below mine operation. Turbidity level here is unchanged from placer outflow. (Slide shown.)

Rogue River 1 mile below Grave Creek is twice as turbid as 100 yards above creek entry.

Grave Creek at this point is in the Rogue Wild and Scenic River administered jointly by the Bureau of Land Management and U.S. Forest Service. In fact, a BLM recreational development has been planned at its point of entry. (Slide shown.)

Next is exploration for gold on public domain in California's coast range. (Slide shown.)

Next is a closeup of the destruction of public values in this scenic area. (Slide shown.)

Next is still another closeup of the serious surface disruption and erosion. (Slide shown.)

Next is exploration for uranium in the Blue Canyon of Utah, important bighorn sheep lambing ground. (Slide shown.)

Next is an overview of the same area. You can see the drill rig approximately in the center. Uranium was not found, and a fragile land scarred for all time. (Slide shown.)

Next is abandoned coal stripping, Wyoming. (Slide shown.)

Next is surface bulldozing for jade, Wyoming. (Slide shown.)

Next is exploration for uranium, Lauder District, Wyo.

Now, there are untold patented claims now occupied by filling stations, bars, permanent residences, summer homes and other developments, but I have not commented on these nor attempted to depict

them. I merely wanted to show the disruption of land and surface and allied values that still is possible today under the mining act.

Senator BIBLE. The pictures you have just shown may be identified for purposes of the record as slides 1 through whatever the total number was.

Mr. POOLE. Thirty.

Senator BIBLE. One through 30. And for those members of the committee who might possibly want to see them, they will be obtainable by contacting you should they want to have a reshowing of them. I cannot very well incorporate those in the record. The record might not make much sense in that respect. But they will be obtainable. They are typical scenes. The thrust of your argument is that these are some of the things that have been caused under the old mining law. That is what you are saying.

Mr. POOLE. Yes, sir.

Senator BIBLE. You may proceed.

Mr. POOLE. That concludes my statement, Mr. Chairman.

Senator BIBLE. I have no questions of you, Dan.

Senator Jordan?

Senator JORDAN. No questions.

Senator BIBLE. Senator Hansen?

Senator HANSEN. No questions.

Senator BIBLE. Senator Bellmon?

Senator BELLMON. One question. You had a photograph of the effect of uranium exploration. Are you proposing that uranium exploration be stopped?

Mr. POOLE. No, Senator, not at all. I think that I could well have shown many excellent shots of fine mining operations which are fully justified. What we are concerned about is the virtual lack of control over this kind of exploration and also the failure of requirements that there is some effort made at site restoration but certainly not that it be stopped.

Senator BELLMON. That is all.

Senator BIBLE. Thank you, Dan.

Charlie Callison?

STATEMENT OF CHARLES H. CALLISON, EXECUTIVE VICE PRESIDENT, NATIONAL AUDUBON SOCIETY

Mr. CALLISON. Mr. Chairman, my name is Charles Callison, executive vice president of the National Audubon Society. I appear as a representative of the National Audubon Society.

I thank you for the invitation to present a statement on this very important legislation. I appear as a representative of the National Audubon Society, its 227 chapters in 40 States, and 277 other affiliated organizations.

The first two pages of my prepared statement recite the history of the Audubon Society's long concern with and involvement in the natural resources of public lands.

Senator BIBLE. Without objection, the full statement will be incorporated in the record.

Mr. CALLISON. Having established that for the record, I thank you,

Mr. Chairman. I would just like to read portions of it. Because in this environmental era when America is reordering——

Senator BIBLE. What page are you going to there?

Mr. CALLISON. I am going after reading one sentence on page 2, I will skip to the second paragraph on page 3. It is our opinion that few issues before Congress are more important than determining how best to use and conserve the public lands of the United States.

Now, beginning with the second paragraph on page 3.

It is necessary, in our view, not only to prescribe policy which reflects the public interest but also to establish an efficient and responsive administrative organization and vest it with enough authority to implement policy. For this reason, we enthusiastically endorse title I of S. 921, because it does spell out policy that reflects the fact that all Americans have a stake in these lands that they own. Further, it embodies the principle that in management, disposal, and/or use of these lands, long-term resource values and environmental quality are more important than exploitation for short-term gain. Furthermore, and equally important, it provides the long-needed organic act, or vestment of authority, for the Bureau of Land Management.

With equal enthusiasm and a feeling of even more urgency, we endorse the provisions of title II of S. 921, except that we urge the exemption from prospecting and mining accorded the national parks be extended to the national wildlife refuges, to units of the National Wilderness Preservation System, to the National System of Wild and Scenic Rivers, and also to units of the national forests and national resource lands classified as primitive, roadless, natural or scenic areas.

The existence of the give-away general Mining Law of 1872, and the abuses heaped upon the environment under its provisions, have long been a disgrace to the Government of the United States. It allows mining companies at mere token cost to stake out claims and through the patenting process to secure outright title not only to ore deposits of great value but to the surface of the land as well. It permits them to exploit the minerals without payment of just royalties or revenues to the Government of the public from whom the deposits were grabbed. Congressman Saylor was right when he described the 1872 Mining Law as little more than a license to steal from the people. It even allows claimants to despoil the surface resources. As it is depicted in the slides shown by Mr. Poole, this despoilation can occur long before a mining claim comes to patent, and even if it never comes to patent. I have never been able to understand why Congress did not long ago repeal this disgraceful law out of sheer indignation. I suppose it is because most of the people in the country outside of the West simply have not realized how they are being robbed.

Senator BIBLE. Those are pretty harsh words. I come from a mining State. I think there are defects in the mining law. Maybe there have been abuses. But the mining industry can speak for itself—but the mining industry in my State has made great contributions. It supplied it with employment for many, many people; it supplied us with gold, with silver, and with copper and for many years was our No. 1 industry. It isn't now, but it still ranks No. 2.

I think they pay their way. But they can comment on this. I do not want to be their spokesman. At least in fairness to the record, I should say they are not quite all the badmen that you picture them here

and they do pay income tax, corporation tax both individually and when one of these rich multimillionaires passes on, he has to pay an inheritance tax. Maybe he does not want to do it, but finally they catch up with him, if that is what you are worried about. I do not think they are quite as bad as you picture them. That sounds harsh coming from you.

Mr. CALLISON. Senator Bible, I think perhaps that you misunderstood my statement. I was not attacking the mining industry nor the people in the mining industry but the abuses that are perpetrated upon the public lands and the injustice done the American people under the general Mining Law of 1872. There are many places in many States where the mining industry thrives and makes all these contributions to the economy and general welfare on lands that are not public and not under the general mining law of the United States. This is the point I am making. It is not an attack on an industry or any person.

Senator BIBLE. I may have read it a little too harshly. I thought they sounded like unusually tough words from a kindly gentleman like you. I just wanted to say they were not completely the bad guys you make them.

Mr. CALLISON. Perhaps I read it with too much emphasis.

Senator BIBLE. You read it with a lot of vigor. Maybe that was it. [Laughter.]

All right, you may proceed.

Mr. CALLISON. Mr. Chairman, the National Audubon Society recommends the following language as a substitute for the exception in section 202(3)(c):

> Within units of the National Park system, units of National Wildlife Refuge system, the National Wilderness Preservation system, the National System of Wild and Scenic Rivers, and within units of the National Forests and National Resource Lands classified as primitive, roadless, natural, or scenic areas.

This is the amendment we recommend to provide the same protection for these areas which are concerning public interest and public value as well as ecological value in addition to the National Park System.

With this amendment, we respectfully urge a favorable report on S. 921.

Concerning S. 2401, the administration bill, we think it is fine as far as it goes, but no legislation can really address the problem nor provide for proper administration of the public lands without repealing the 1872 mining law and the Taylor Grazing Act.

Mr. Chairman, I thank you very much for this opportunity to present our views.

Senator BIBLE. It is also good to see you, Charlie, even though our viewpoints sometimes differ on various subjects.

Senator Jordan?

Senator JORDAN. No questions.

Senator BIBLE. Senator from Montana?

Senator METCALF. Yes, Mr. Chairman. I think probably Charlie remembers, as I do, the *Elcerrita* case and some of those other instances where they used the mining law—they did not mine a pound of ore on the *Elcerrita*——

Mr. CALLISON. It was used to rob the public. I have it written down here in case someone asked me for an example, the *Elcerrita* case.

Senator BIBLE. He gave you an example. I do not mean to interrupt your questions. Go ahead.

Senator METCALF. I come from a mining State too, a great mining State. The copper mines of Montana. The gold mines of Ruby Gulch and so forth contributed greatly to the wealth of America. And they grew up under the mining law of 1872. Probably some of those mines and some of the mines in Cour d'Alene where we still have silver and lead would not have existed without the miner and his burro and his mule. And without the mining law of 1872. I think it has made a great contribution, as the Senator from Nevada has suggested—what was it, Senator Jordan, wasn't it a burro that kicked somebody——

Senator JORDAN. That is a story.

Senator METCALF. And uncovered the vein of silver that was the beginning of the Cour d'Alene. We do not have that anymore. We have a very sophisticated and complicated operation in mining areas. I had the opportunity to fly over the high country of Montana near and adjacent to Yellowstone National Park in helicopters the other day during the recess, and we saw explorations from the Anaconda Co. and Kennicott, and several other companies and they all had bulldozers in there. They all had core drilling. They flew things in with helicopters and flew them out. The day of the small mining prospector is pretty well gone. Over in another committee, Mr. Chairman, I found that they do not even want to let a few of our Montana and Nevada prospectors have some dynamite to go out and develop their mines. I am a cosponsor of this bill. Today recreationists pay to go in the national forest and the public domain. We charge stumpage from the lumber operator. We charge grazing fees from the livestock people. Yet we give the land to mining operators and allow them to have not only the mining rights but the surface rights and develop tremendous timber operations if they can go to patent. So I am in somewhat accord, Mr. Chairman, with the statements that Mr. Callison has put forth today that it is not 1872 anymore. It is almost 1972. It is a century later. We should look at our objectives and look at our purposes and look at our technology and maybe amend and change this law that has developed the West, Mr. Chairman, that has developed our area and your area but now is probably obsolete. I appreciate your appearance.

Senator BIBLE. I have no quarrel with the observation of my distinguished friend from Montana, and I am the first to agree that they certainly must move and update and bring the mining law into the 20th century however they do it.

There are abuses. No doubt about that. I do not think we find ourselves in disagreement on that point.

The Senator from Wyoming.

Senator HANSEN. Thank you, Mr. Chairman. Let me say that I think the testimony that we have heard so far from everyone has been helpful. I would hope that we could approach these problems constructively. Some slides were shown of areas in my State of Wyoming during the time I was Governor. I think provision was made to change the way of validating a uranium claim from that which was

depicted by the bulldozer activity to core drilling. It is certainly a technique that is very acceptable as far as I know to everyone. When I say "we," I think I speak for every American. We deplore some practices of the past. As we find some better ways of going about conducting the search for these needed minerals, I would hope that we can keep in mind the needs of our country on the one hand, the desire to be self-sufficient insofar as we can in supplying those needed and scarce minerals. On the other hand, I am sure that we all have a great desire to continue our search for and the development of those productive areas in a manner that will be the least damaging of all possible ways to our environment. I come from an area of the country in western Wyoming. I certainly think it could be said that people appreciate the grandeur of nature out there. I have no doubt at all that recognition of the esthetic value of the country could be such that all other uses be subordinated to that value. I think there may be steps to stop mining activity in western Wyoming, because I think that the impact of it could be of sufficient consequence. We just have to establish some priorities.

I agree with you, Mr. Chairman, that I do not think the mining industry today is characterized by nothing but bad boys and I think they are growing up and maturing. I am sure that in Wyoming, we can find places where certain coal companies have gone in and have done an admirable job before there was need to do it insofar as legislation goes to see that strip mining areas were restored. There is vegetation, I am told, that can be found in certain areas of Wyoming that exceeds that which nature put there itself. I have seen pictures of what has been done in Germany where strip mining and huge powerplant activity takes places that I think will be of interest to this committee.

Senator Gordon Allott from Colorado spent a few weeks over there, and I am sure he will have some ideas and suggestions. Let me conclude by saying that I think if we can keep it on the level of what is possible by way of accomplishment instead of seeking—and I make this charge to no one here—instead of seeking to imply that the very worst of what happened in the past characterizes present day attitude, we will make some more progress.

Senator BIBLE. Any further questions of Charlie Callison?

Mr. CALLISON. Mr. Chairman, may I make another comment please?

Senator BIBLE. Certainly.

Mr. CALLISON. Mr. Chairman, I am confident that under the hard-rock minerals leasing system proposed in title II of S. 921, and I refer to the amended title II——

Senator BIBLE. We are talking about the bill introduced by Senator Jackson with his amendment.

Mr. CALLISON. I am confident that the mining industry will continue to prosper.

Not only that, but through the administration of that kind of law, the instances of negligence and irresponsibility that result in such environmental degradation as shown on the screen a few moments ago can be eliminated to the great benefit of the mining industry in the West as well as all the public.

Senator BIBLE. Thank you, Charlie.

(The complete statement of Mr. Callison follows:)

STATEMENT OF CHARLES H. CALLISON, EXECUTIVE VICE PRESIDENT, NATIONAL AUDUBON SOCIETY

To Senate Committee on Interior and Insular Affairs: I thank you for the invitation to present a statement on this very important legislation. I appear as a representative of the National Audubon Society, its 227 chapters in 40 states, and 277 other affiliated organizations. The first Audubon Societies were organized in the 1880's and 1890's, Mr. Chairman. The National Association was formed in the first years of this century and incorporated under the laws of New York in 1905. Throughout its history the Audubon Society has been concerned about and actively involved in the conservation and management of the wildlife and other natural resources on the public lands of the United States. The first Federal Bird Reservations, the beginning of our present great National Wildlife Refuge system, were established through public land orders by President Theodore Roosevelt upon the recommendations and urgings of the early Audubon leaders. The first substantial measure for conservation of the then endangered pronghorn antelope was established through acquisition of a private ranch with water on it, and withdrawal of adjacent public domain, as a result of the leadership of the then president of the National Audubon Society, the late D. T. Gilbert Pearson, working in cooperation with officers of the Boone and Crockett Club. This was the Charles Sheldon National Widllife Refuge for antelope in northwestern Nevada. The first portions of it were bought with Audubon funds and other monies raised by the Boone and Crockett Club in 1927 and 1928. The executive orders adding the additional lands and making it a federal wildlife refuge occurred in 1929 and 1931. The Audubon Society provided the intial warden service on this area as it had done on the first federal bird reservations, stepping in with its own funds and manpower.

I recite this history merely to establish the fact that our organization is not a Johnny-come-lately in its concern for public lands resources. While it is true that the early preoccupation of Audubon members was with bird protection chiefly, our concerns have broadened and extended to the whole of nature, and to the proper functioning of the ecosystem upon which man's own life and welfare depend.

In this environmental era, when America is re-ordering its priorities and reassessing what is meant by the "quality of life", few issues before Congress are more important than determining how best to use and conserve the public lands of the United States. Principally at stake, Mr. Chairman, are the resources of 450 mililon acres of public domain: mineral deposits as yet unexploited, timber and forage, wildlife and wilderness, scenic and ecological values, and the public's recreational privileges in our last great open spaces. But also vitally involved are the National Forests that were established by reservation from the public domain and where the obsolete mining law of 1872 still applies; and the National Wildlife Refuges and Game Ranges whose diversity and biological productiveness make them as ecologically significant and environmentally important as the National Parks System. We insist that the National Wildlife Refuges be protected as stringently as the National Parks.

It is necessary, in our view, not only to prescribe policy which reflects the public interest but also to establish an efficient and responsive administrative organization and vest it with enough authority to implement policy. For this reason we enthusiastically endorse Title I of S. 921 because it does spell out policy that reflects the fact that all Americans have a stake in these lands that they own. Further, it embodies the principle that in management, disposal, and/or use of these lands, long-term resource values and environmental quality are more important than exploitation for short-term gain. Furthermore, and equally important, it provides the long-needed Organic Act, or vestment of authority, for the Bureau of Land Management.

We think the language of Sec. 101 in H.R. 9911 is clearer and more concise than the similar language in Sec. 101 of S. 921, and we ask the Committee to consider substituting the language from Representative Saylor's bill.

S. 921 correctly and appropriately repeals the Taylor Grazing Act with its philosophy of disposal and its mechanisms that have handcuffed the Bureau of Land Management in the administration of the grazing districts.

With equal enthusiasm and a feeling of even more urgency, we endorse the provisions of Title II of S. 921, except that we urge the exemption from prospecting and mining accorded the National Parks be extended to the National Wildlife Refuges, to units of the National Wilderness Preservation System, to the National System of Wild and Scenic Rivers, and also to units of the National

Forests and National Resource Lands classified as primitive, roadless, natural or scenic areas.

The existence of the give-away General Mining Law of 1872, and the abuses heaped upon the environment under its provisions, have long been a disgrace to the government of the United States. It allows mining companies at mere token cost to stake out claims and through the patenting process to secure outright title not only to ore deposits of great value but to the surface of the land as well. It permits them to exploit the minerals without payment of just royalties or revenues to the government of the public from whom the deposits were grabbed. Congressman Saylor was right when he described the 1872 mining law as "little more than a license to steal from the people". It even allows claimants to despoil the surface resources. I have never been able to understand why Congress did not long ago repeal this disgraceful law out of sheer indignation. I suppose it is because most of the people in the country outside of the West simply have not realized how they are being robbed.

Mr. Chairman, the National Audubon Society recommends the following language as a substitute for the exception in Sec. 202(3)(c):

"Within units of the national park system, units of national wildlife refuge system, the national wilderness preservation system, the national system of wild and scenic rivers, and within units of the national forests and national resource lands classified as primitive, roadless, natural, or scenic areas."

With this amendment, we respectfully urge a favorable report on S. 921.

Concerning S. 2401, the Administration bill, we think it is fine as far as it goes, but no legislation can really address the problem for provide for proper administration of the public lands without repealing the 1872 mining law and the Taylor Grazing Act.

Senator BIBLE. Our next witness is Bill Towell, executive vice president, American Forestry Association.

Mr. Towell.

STATEMENT OF WILLIAM E. TOWELL, EXECUTIVE VICE PRESIDENT, THE AMERICAN FORESTRY ASSOCIATION

Mr. TOWELL. Thank you. I apologize to Dr. Smith for being out of turn.

Senator BIBLE. He was a little late so he pays the penalty.

(Laughter.)

Mr. TOWELL. My statement too confines itself largely to S. 921. However, I have a copy of a statement presented to the House Committee on Interior and Insular Affairs on H.R. 7211 which I will be happy to make available for the record.

Senator BIBLE. That likewise should be before this committee. Without objection, that will be made part of the record.

Mr. TOWELL. I also confined my remarks to 921 over S. 2401 because we feel it is much preferable.

Senator BIBLE. Your preference is 921?

Mr. TOWELL. Yes, sir.

Senator BIBLE. All right.

Mr. TOWELL. Even though my statement is brief, there are several portions that I would like to read and I will omit several portions also.

S. 921 is one of the most important land proposals ever to come before the Congress. It is long overdue. Administration of the public domain lands of the United States has advanced from a passive custodial phase to active management only in recent years. When the Bureau of Land Management was first established in 1946, the administrative tools now proposed in S. 921 should have been given to

the Bureau. The members and officers of the American Forestry Association strongly urge that S. 921 be enacted now.

Several provisions of title I—Public Land Administration, merit special attention.

Section 101 sets forth the purposes and uses for which public domain lands are to be managed. We endorse these purposes and uses.

Section 102 defines "multiple use" and "sustained yield" but in somewhat different language than that used previously by the Congress in the Multiple Use and Sustained Yield Act of 1960.

Section 103(3) authorizes "adequate tenure and opportunity for resource users to plan and develop use and development operations and to secure a fair return for their risk and investment." We approve of this authorization as stated provided it does not also mean that special use permittees can obtain a vested interest in public land.

Sections 104 to 109 contain some fuzzy language which gives one the impression it still is Government policy to let private interests comb over the public lands for choice morsels and leave the dregs in Federal ownership. Such a policy may have been necessary in the days when peopling the western frontier was a major national goal. But, it is not acceptable now nor will it be in the future. The public interest in all forms of resource management takes precedence over private interests.

Therefore, we recommend that sections 104 to 109 be rearranged and rewritten to indicate a clear understanding of national priorities. This recommendation includes the provision on section 106 regarding the "suitability or nonsuitability" of roadless areas for preservation as wilderness. This section implies that if a roadless area is "suitable then it will be wilderness without any regard for other uses identified elsewhere in this bill. Section 106 ought to require that roadless areas be examined to determine if they "are to be or are not to be" preserved as wilderness.

Section 110 reserves to the United States title to all mineral deposits when land is transferred. It is not always wise to separate title to minerals from title to the land and we do not believe it will be in the best interests of the United States always to do so. We have all seen problems arising from private mineral rights on acquired public lands. It can work both ways.

Title II—Mineral Leasing for all Federal Lands, would be a giant step forward in administration of publicly owned mineral resources. We endorse the proposal in principle.

Section 203(9) calls for "maintenance of a competitive environment." What does this mean? Does it mean competitive bidding or quality environment?

Section 207(a) gives the Secretary authority to "utilize competitive means of disposal." Perhaps this is the answer to the question about a "competitive environment" in section 203(9). Competition is a sound procedure and should be encouraged.

Section 211 protects all private interests in any valid mining claim, lease, contract, or other right acquired under any laws repealed by this title. This is as it should be. However, there also should be adequate provision for bringing unpatented claims to patent within a reasonable period of time or else rendering them invalid.

We support the proposed amendments that unrecorded claims be registered within 1 year of the enactment of this act or they become invalid and that any mining claim on which application for patent has not been filed within 3 years after recordation shall be null and void.

That concludes our statement except for the portions I have omitted in the interest of time.

Senator BIBLE. The full statement will be incorporated in the record.

The Senator from Colorado is recognized.

Senator ALLOTT. Thank you, Mr. Chairman. I have no questions. I am sorry I was detained by another hearing. I would like to ask unanimous consent that the statement upon these pending legislations that I have prepared be inserted in the record at the foreground of the hearings immediately after the Chairman's record.

(The statement referred to by Senator Allott is on p. 168.)

Senator ALLOTT. Also another full statement on S. 2450.

Senator BIBLE. Without objection, that will be incorporated in full in the record at this point.

(The statement referred to follows:)

STATEMENT OF HON. GORDON ALLOTT, A U.S. SENATOR FROM THE STATE OF COLORADO

Mr. President, on behalf of myself and Senator Jordan, I send to the desk for appropriate reference a bill to establish public land policy, to establish guidelines for its administration, and for other purposes.

As Senators know, the Public Land Law Review Commission filed its report on June of last year. This Report constituted the most comprehensive review of the public land laws ever accomplished. The Report contained 137 specific recommendations, and to my knowledge, none of those requiring legislative action have been enacted into law.

The bill I introduce today is primarily a policy and procedural bill. The policy of the act can be stated in one sentence as follows: "Public lands shall be retained and managed or disposed of, all in a manner to provide the maximum benefit for the general public."

Section 5 sets forth 11 goals and objectives. While some of these are restatements of existing policy, nevertheless, since this bill would be a basic act in contemplation of a substantial number of follow-on bills, which follow-on bills may repeal existing legislation containing such policy statements, it seemed appropriate to set forth such objectives and goals in one location.

Section 6 sets forth the administrative rule making process by which agencies charged with the responsibility of managing the public lands establish rules and make decisions.

Section 7 establishes advisory boards, committees, and establishes the procedures by which they shall operate. Many advisory boards exist today, but their responsibilities are nebulous since they were established by the head of an agency and continue to exist at his discretion. By statutory recognition of these advisory boards, and by providing for reports to the Congress on their activities, such advisory boards and their activities will be more meaningful.

Section 8 provides for regional land use coordination by authorizing the establishment of interstate land use coordinating commissions.

Section 12 provides for public land use planning. The procedures established by Section 12 are designed to insure that land use planning on public lands will be land use planning by the States of private land, so that the two land use planning functions shall not be counterproductive.

Section 13 provides for withdrawals and reservations. It limits administrative withdrawals to 5,000 acres and to a term of 10 years. It also provides for a hearing procedure, and methods for extending such withdrawals or imposing emergency withdrawals. Congress reserves to itself the authority to withdraw areas larger than 5,000 acres and for periods in excess of 10 years. The Pickett Act would be repealed.

Section 14 provides for judicial review with respect to any rulemaking, and such review is available to any person or party who submitted views to the agency during the course of the rulemaking procedure established in the bill.

Section 15 provides that one year after the effective date of the bill, rules, regulations, practices, or procedures must be accomplished in accordance with the provisions of the act to be enforceable. Mr. President, the distinguished Chairman of the House Interior Committee, Mr. Aspinall, conducted a series of hearings during the week of July 26 to July 30 on his bill H.R. 7211. The bill I introduce today is similar to H.R. 7211 in most respects. Some of the changes were made on the basis that existing law more exhaustively covered the situation, for example, the National Environmental Policy Act; and some were made in recognition of other legislation presently pending before the Senate Interior Committee would adequately cover the situation, for example, legislation to settle the Alaska Native Land Claims which provides for a classification of all of the lands of Alaska and a land use plan; and other changes were made in an effort to reduce redundancy.

With those exceptions, the bill I introduce today follows very closely the policy and procedures as embodied in H.R. 7211.

Mr. President, it is my hope that hearings may be held on this measure shortly after the Senate reconvenes after the August recess. I urge early consideration of this legislative proposal.

Summary

S. 2450 Public Land Policy Act of 1971

Section 1.—Cites Act as the "Public Land Policy Act of 1971."

Findings and purposes.—Pages 1–7.

(a) Contains 20 findings that generally would translate into statutory guidelines the basic philosophy of Public Land Law Review Commission (PLLRC) recommendations, with emphasis on equitable treatment, and coordination of planning.

(b) Sets forth three purposes of the Act:

(1) Provide a planning system.

(2) Establish supplementary administrative procedures.

(3) Provide assistance to regional, state, and local governments.

Declaration of policy.—Page 4.

Section 3—"Public lands shall be retained and managed or disposed of, all in a manner to provide the maximum benefit for the general public."

Definitions.—Pages 4–7.

Section 4—Defines 13 terms:

(a) Public lands.

(b) Classification.

(c) Withdrawal.

(d) Agency.

(e) Person and party.

(f) Rule and rulemaking.

(g) Order and adjudication.

(h) License and licensing.

(i) Sanction and relief.

(j) Agency proceeding and action.

(k) Multiple use.

(l) Sustained yield.

(m) Dominant use.

Goals and objectives.—Pages 8–9.

Section 5—Contains 11 additional findings as follows:

"Congress further finds and establishes that it is in the public interest, and it will serve the maximum benefit for the general public for the public lands to be utilized to the end that—

(a) Current and future needs of the people are met through prudent use of both renewable and nonrenewable resources.

(b) Lands shall be transferred out of public ownership when in the public interest or in furtherance of public policy.

(c) Unless otherwise specifically set aside, use of lands shall assure multiple-use and sustained-yield management.

(d) Quality of the environment shall not be endangered and where feasible shall be enhanced.

(e) Public land management shall be coordinated with regional, state, and local land-management plants.

(f) A proportionate share of projected increased demand shall be met for recreation, fish and wildlife, food and fiber (including livestock, timber, minerals and agricultural products), residential, commercial, and industrial use (including new cities).

(g) Incentives shall be provided for discovery and development of additional sources of minerals, including off-shore.

(h) Use of public lands and their resources shall continue to be made available to persons and communities dependent thereon.

(i) Police powers and legislative jurisdiction over public lands shall be permitted to be exercised generally by state and local governments or concurrently by them and the Federal Government.

(j) Occupancy for a period commensurate with a user's projected investment shall be provided for, as well as equitable compensation should use be terminated before expiration of the term.

(k) Participation by the public in rulemaking, a waiver of soverign immunity, and the right of judicial review shall be assured.

Administrative procedures.—Pages 10–12.

Section 6—Unless agency head finds U.S. security would be impaired, following procedures shall be adhered to:

(a) Within 90 days of this Act and thereafter as required, initiate formal rulemaking procedures by publishing proposed rules.

(b) Publish final opinions or orders in adjudication of cases and all rules.

(c) Make available matters of official record.

(d) Prior to formulating a rule, consult with advisory boards, state and local governments, Interstate Regional Land Use Coordinating Commissions, and others known to be interested (such as adjacent landownners, users, etc.)

(e) Give notice of proposed rulemaking by publishing in Federal Register and advising Congress.

(f) Provided for anyone interested to participate in the rulemaking, giving him from 30–90 days to appear.

(g) 180 days after this Act, no adjudication may take place except in accordance with rules formulated in accordance with this Act.

(h) If a formal finding of emergency is made, rulemaking procedures may be dispensed with.

(i) Deviations from this Act (communicated to Congress and published in Federal Register) are permitted (1) in cases where security of U.S. will be impaired, (2) where rule will have no significant impact on administration of the public laws, or (3) where an emergency exists making it impracticable, unnecessary, or contrary to the public interest.

Advisory boards.—Pages 12–15.

Section 7—Establishes advisory boards and committees as follows:

(a) National Adivosry Boards—25 members appointed by agency from among cross-section of those interested; plus those designated from other departments and agencies with similar interests.

(b) Subsidiary agencies shall have similar advisory boards with overlapping of membership generally permitted (e.g., Secreary of the Interior and BLM can have same persons provided no more than 15 of 25 non-Federal members are the same).

(c) Agency head shall designate from among the non-Federal members a chairman of each advisory board or committee.

(d) Advisory boards and committees shall meet at least twice a year.

(e) Meeting rules: (1) agency head shall approve calling a meeting, (2) agency shall be represented at each meeting, (3) copies of minutes of each meeting shall be provided Congress.

(f) Board or committee appointments shall be for four years (staggered terms).

(g) Statutory and administratively established advisory bodies, other than those established by this Act, may continue to exist and be set up.

(h) Boards' and committees' functions shall be advisory only.

(i) Agencies shall publish directories of their advisory bodies.

(j) Regulations governing advisory bodies may be issued by "President and head of each public land management agency" in accordance with rulemaking procedures.

(1) Per diem and reimbursement for transportation applicable to Federal employees shall apply to advisory board members.

Regional coordination.—Pages 15–17.

Section 8—Provides for establishment of an *Interstate Land Use Coordinating Commission* to represent regional, state and local governments within an area composed of two or more States or portions thereof.

(a) Secretary of the Interior shall announce creation of commission when more than one-half of the states indicate a desire to join together in such commission.

(b) Each commission shall establish its own rules and independently recommend public land actions deemed to be in the public interest.

(c) Each state represented shall have an equal number of members on a commission.

Section 9—

(a) Authorizes appropriation of $5 million annually to assist in financing the committees and the commissions.

(b) Secretary of the Interior authorized to make grants to (1) states willing to join coordinating commissions, and (2) coordinating commissions (not to exceed two-thirds of the cost, however) and to make rules governing application for such grants.

(1) Secretary to provide regulations or grant procedures.

Section 10—Donations and grants may be accepted by an interstate commission, which will be reflected in its annual budget.

Section 11—Each interstate commission shall report annually to Congress.

Planning public land use.—Pages 17–21.

Section 12—

(a) Within 60 days each land-management agency shall publish proposed procedures by which land use planning will be pursued. If there is a finding that some land is not suitable for planning, rule to that effect shall be published. Copies of all rules shall go to Congress when submitted to Federal Register for publication.

(b) Each agency shall consult with persons interested in public lands including the advisory bodies and state and local governments.

(c) Land use plans shall be developed to classify the land in order to obtain the best net public benefit. Management plans will be developed, regardless of whether lands have previously been "classified," "withdrawn," "set aside," utilizing the following criteria:

(1) Classify no land for disposition if important public values would be lost thereby.

(2) Unless specifically set aside for some use, BLM and FS land shall be managed in accordance with the principle of multiple use. Other land shall encourage compatible secondary use (e.g., Defense Department).

(3) Management plans shall provide maximum multiple use or compatible secondary uses.

(4) Where an area is classified to indicate that it is chiefly valuable for one particular use, that use shall be referred to as the dominant use. "Each area . . . having a dominant use shall be managed under the principle of multiple use with as many compatible uses being carried on as possible except that, in the event of a conflict between uses, the dominant use shall, during the period of conflict only, prevail. . . ."

(d) A determination that maximum benefit for the general public will inure from non-Federal ownership shall be based on the following criteria:

(1) Land is isolated, difficult to manage, or no longer required for the specific purpose acquired or other use.

(2) Land is best suited to meet the goals of this Act, or to produce resources under non-Federal ownership.

(3) Land is needed as an integral part of an approved statewide outdoor recreation or other plan of the state or local area.

(e) Following adoption of a land-management plan, the agency shall again consult with the interstate commission or state and local governments involved. "Within 30 days of receipt of views . . . the agencies shall offer the plan for consideration by all concerned in accordance with the rulemaking procedures of this Act."

(f) Land management plans shall be consistent with state and local government programs unless there is a formal finding that there is "an overriding national need" for variance.

(g) Long-range comprehensive land-use plans for each state and for each interstate area also shall be established and Congress shall be advised of progress annually.

Withdrawals and reservations.—Pages 21–26.

Section 13—

(a) Authorizes the Secretary of the Interior to withdraw not exceeding 5,000 acres for specific purpose, thus excluding the public from all uses as specified in the withdrawal order. "No withdrawal order shall be issued without consideration of the following factors which shall be included in the statement published in the Federal Registser as part of the rulemaking procedures:"

(1) Proposed use of land involved.

(2) Probable effect of withdrawal, with particular attention to degradation of environment.

(3) Probable effect on present users of land.

(4) Analysis of incompatibility of present use with proposed use; provision for continuation of existing uses.

(5) Analysis of proposed use in relation to requirements thereof.

(6) Possible alternate sites.

(7) Comparison of costs and suitability of alternate sites.

(8) Effect on state and local government interests and impact on regional economy.

(9) Need for withdrawal for length of time proposed.

(10) Notification of time and place of hearing on proposed withdrawal.

(b) A state wherein the land is situated may require a hearing if none is announced, if request therefor is made on timely basis.

(c) Following receipt of comments, Secretary of the Interior shall again consult with advisory boards, interstate commission, and state and local governments, et al. Therafter publish withdrawal order.

(d) Withdrawals shall be limited to a period not to exceed 10 years, except five years if in aid of prospective legislation or for emergency purposes. Extension of five years authorized.

(e) Reserves to Congress authority to withdraw lands (1) which exceed 5,000 acres, (2) for periods in excess of 10 years, (3) of unique value for incorporation into NP System, NF System, Scenic and Wild Rivers System, National Trails System, Wildlife Refuge System, Wilderness Preservation System, etc. If Congress is requested to make withdrawals, section 13(a) shall be complied with by requesting agency, indicating whether or not public hearings have been held.

(f) Upon notation on land office records that application has been made for withdrawal, land affected shall be segregated and restricted from use for six months. Upon publication in Federal Register of a proposed withdrawal, or upon application for legislation withdrawal, segregative effect shall continue for an additional six months. Still another six months extension may be gained if diligence is shown in the case of an administrative withdrawal. And, further extensions are authorized during a session when Congress is considering a legislative withdrawal.

(g) Establishes procedure for review each 10 years of all withdrawals. If, after review, Secretary of Interior determines withdrawal should be continued, it may be extended not to exceed 10 years from date of withdrawal. If longer than that is desired, recommended legislation shall be submitted to Congress. At end of each calendar year, Congress shall be advised of review actions.

(h) If Secretary of the Interior finds a requested withdrawal not justified, he shall notify requesting agency or agency having administrative jurisdiction over lands, advise Congress, and establish a date within six months at which time segregative effect will be rescinded

(i) Authorizes Secretary of the Interior to delegate authority to effect administrative withdrawals to any Department of the Interior "officer or official appointed to his position by the President."

(j) Repeals the Pickett Act, subject to valid existing rights.

Judicial review.—Pages 27–28.

Section 14—

(a) Authorizes any person who submitted views in the course of rulemaking or other procedure, and any persons suffering legal wrong because of agency order to appeal to a U.S. District Court for judicial review.

(b) Pending review, action may be taken either by agency or court to postpone effective date of the action involved. Review shall be initiated within

60 days after announcement of adoption of a land management plan, classification of lands, or issuance of a final order of withdrawal or rejection or recission of a withdrawal. Upon filing thereof, agency shall turn over the complete record to the court.

"No objection to the order complained of shall be considered by the court unless such objection shall have been urged before the agency involved, unless the court finds that there is reasonable ground for failure to have done so."

Agency enforcement.—Page 28.

Section 15—On and after one year after the effective date of this Act, determination based on any rules, regulations, practices, or procedures covered by this Act shall be unenforceable unless procedures required by this Act have been followed.

Senator BIBLE. Senator Jordan?

Senator JORDAN. No questions.

Senator BIBLE. Senator Hansen?

Senator HANSEN. No questions.

Senator BIBLE. Senator Metcalf?

Senator METCALF. I have no questions. I want to compliment the witness for bringing to us suggestions for specific amendments and arguments for those amendments and certainly assure that we will consider them very carefully. In my experience in western activity, I think some of them were very well taken. I hope we do not ever pass a law that will take away any of the rights that people have acquired under previous legislation.

I know that this committee is never going to provide that unpatented mining claims will be taken away from people who have worked so hard to develop and control them. I question somewhat the suggestion that any mining claim on which application for patent has not been filed within 3 years after recordation shall be null and void.

I know a whole lot of miners, some of those pick and shovel burro miners, who are forever living in hopes of getting a little further along. They may have a discovery and still they do not have enough for a patent. I would hate to take anything away from them.

Mr. TOWELL. I would agree, Senator, that the time element may be somewhat arbitrary but this is the one that was suggested in S. 2542. Originally, in my testimony, I had suggested 10 years.

Senator BIBLE. Suggested how much?

Mr. TOWELL. Ten years.

Senator BIBLE. All right.

Mr. TOWELL. But when I saw 2542, it was a step in the right direction and I felt it was worthy of endorsement.

Senator METCALF. I am glad I brought this up. Maybe 10 years is better. Maybe we should not have the end of the rainbow for more than 10 years for some of these prospectors, but we should at least hold out hope for them for that long.

Thank you very much.

Senator BIBLE. Further questions?

Senator ALLOTT. Could I just address one question to the Senator from Montana? I just want to be sure what he means. You do think, however, that it is a step in the right direction that we start cleaning off some of the old obstructions to titles that we had for so many long years. The only question is what sort of a limitation we put on it.

Senator METCALF. Certainly I do, and I think we should—I direct this to the chairman of the committee. I think we should appropriate a lot of money to the Forest Service who is already going to work to

clear up some of these titles to unpatended mining claims. My only point is that somebody goes out and makes what they feel—what he feels is a legitimate discovery, and he works on it and I think we should change a whole lot of this business of destroying our environment by bulldozers and so forth, but he works on it and after 3 years if he has not a patentable claim he has to abandon it. I think that is wrong.

Senator BIBLE. Thank you very much. Further questions of Mr. Towell?

(The prepared statement of Mr. Towell follows:)

STATEMENT OF WILLIAM E. TOWELL, EXECUTIVE VICE PRESIDENT, THE AMERICAN FORESTRY ASSOCIATION

Mr. Chairman and Members of the Committee, I am William E. Towell, Executive Vice President of The American Forestry Association.

Although this hearing pertains to legislation in addition to S. 921, specifically S. 2401, the Administration's proposal for a "National Resource Land Management Act of 1971," which to large degree parallels S. 921 and S. 2450 which sets up basic public lands policy as proposed by the Public Land Law Review Commission, I will confine my remarks to S. 921 because we feel it is preferable to either S. 2401 or S. 2450.

The "Public Domain Lands Organic Act of 1971", S. 921, is one of the most important public land proposals ever to come before the Congress. It is long overdue. Administration of the public domain lands of the United States has advanced from a passive custodial phase to active management only in recent years. When the Bureau of Land Management was first established in 1946, the administrative tools now proposed in S. 921 should have been given to the Bureau. The members and officers of The American Forestry Association strongly urge that S. 921 be enacted now.

Several provisions of Title I—Public Land Administration merit special attention.

Sec. 101 sets forth the purposes and uses for which public domain lands are to be managed. We endorse these purposes and uses.

Sec. 102 defines "multiple use" and "sustained yield" but in somewhat different language than that used previously by the Congress in the Multiple Use and Sustained Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531).

It seems to us unwise to enact two different legal definitions for the same term. Trouble could result in the future. For example, the "multiple use" definitions in S. 921 contains a phrase "without impairment of the environment". This phrase is not in the Multiple Use Act. What does it mean? Apparently there already is a difference of opinion on this point as indicated by the number of court actions against projects involving development of natural resources.

Similarly, the definition for "sustained yield" in the Act of 1960 contains the phrase "in perpetuity". This phrase does not appear in S. 921. Does the definition in S. 921 mean then that sustained yield is only for a year, a decade or a rotation, but not in perpetuity?

Therefore, it is suggested that the definitions in S. 921 conform to those previously accepted by the Congress or that the Multiple Use and Sustained Yield Act of 1960 be amended to agree with the new definitions.

Sec. 103(4) directs that national resource lands be managed "under principles of multiple use and sustained yield". We are pleased to see these principles given permanent recognition in public land administration.

Sec. 103(9) authorizes "adequate tenure and opportunity for resource users to plan and develop use and development operations and to secure a fair return for their risk and investment". We approve of this authorization as stated, provided it does not also mean that special use permittees can obtain a vested interest in public lands.

Secs. 104 to 109 contain some fuzzy language which gives one the impression it still is government policy to let private interests comb over the public lands for choice morsels and leave the dregs in federal ownership. Such a policy may have been necessary in the days when peopling the Western frontier was a major national goal. But, it is not acceptable now nor will it be in the future. The public interest in all forms of resource management takes precedence over private interests.

Therefore, it is recommended that Secs. 104 to 109 be rearranged and rewritten to indicate a clear understanding of national priorities. This recommendation includes the provision in Sec. 106 regarding the "suitability or nonsuitability" of roadless areas for preservation as wilderness. This Section implies that if a roadless area is "suitable" then it will be wilderness without any regard for other uses identified elsewhere in this Bill. Section 106 ought to require that roadless areas be examined to determine if they "are to be or are not to be" preserved as wilderness.

Sec. 110 reserves to the United States title to all mineral deposits when land is transferred. It is not always wise to separate title to minerals from title to the land and we do not believe it will be in the best interests of the United States always to do so. We have all seen problems arising from private mineral rights on acquired public lands. It can work both ways.

Secs. 112 and 113 provide for enforcement of public land laws and regulations. This provision is vital to successful management of public property. Heretofore, timber theft and other forms of trepass have plagued administrative officers because they did not have adequate authority. Therefore, we urge that Secs. 112 and 113 be enacted as written.

Sec. 118 provides that the Director of the Bureau of Land Management shall be a person of "broad background and experience in public land and natural resource management". This should strengthen the position, but there may be good reasons why the Director should not always be selected from the federal Civil Service.

Title II—Mineral Leasing for all federal lands would be a giant step forward in administration of publicly owned mineral resources. We endorse the proposal in principle. Our comments on specific Sections follow.

Sec. 203(2), (3) and (4). This is the first time so far as we know that "quality of the environment", "multiple use" and "land use planning" have been recognized in any legislation pertaining to mining. All of these objectives are important and deserve to be recognized specifically.

Sec. 203(7) provides for payment "of fair market value". This is important. There has been far too much subsidy of mining in the past.

Sec. 203(9) calls for "maintenance of a competitive environment". What does this mean? Does it mean competitive bidding or quality environment?

Sec. 203(11) "rehabilitation of the environment" has not been recognized previously in mining legislation, but is a necessary provision for efficient management.

Sec. 207(a) gives the Secretary authority to "utilize competitive means of disposal". Perhaps this is the answer to the question about a "competitive environment" in Sec. 203(9). Competition is a sound procedure and should be encouraged.

Sec. 209 authorizes the Secretary to incorporate terms in leases, licenses and other contracts that "promote good business practices", "promote conservation of lands and other natural resources", "preserve and enhance the environment", "maintain ecological balance", "protect the public health, safety and welfare" and "enable proper use of the lands". All of these goals are necessary to protect the interests of the public.

Sec. 211 protects all private interests in any valid mining claim, lease, contract or other right acquired under any laws repealed by this Title. This is as it should be. However, there also should be adequate provision for bringing unpatented claims to patent within a reasonable period of time or else rendering them invalid.

We support the proposed amendments that unrecorded claims be registered within one year of the enactment of this Act or they become invalid and that any mining claim on which application for patent has not been filed within three years after recordation shall be null and void.

An estimate of the magnitude of the problem involved is apparent in a verbal account of administration of the 1937 O and C Act. The Act required that all claims be registered. A review of Court House records at that time indicated that some 20,000 claims existed. Only 1,200 were registered as called for in the Act and one-quarter of these turned out to be invalid; i.e., they were on private land.

The O and C lands are only $\frac{1}{200}$th of the area administered by the Bureau of Land Management. Assuming that mining claims exist on other lands in about the same proportion, it appears that there are some 4,000,000 unregistered claims of which 95% are invalid. These invalid claims should be liquidated.

Mr. Chairman, we have raised a number of questions about the details of S. 921. But, we think the principles set forth are sound.

Senator BIBLE. Next Dr. Spencer Smith, Jr., secretary, Citizens Committee on Natural Resources.

STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES

Dr. SMITH. Thank you very much. I would like to file my statement for the record if I may and simply summarize it briefly.

Senator BIBLE. Without objection, the statement will be incorporated in full in the record.

Dr. SMITH. Frankly, I have very little to say that isn't redundant at this point. Almost everyone has taken some particular aspects of the bill and stressed them. However, I want to call attention of the bills pending that there are two philosophies involved. One is an omnibus approach to all Federal lands. As I understand it, this could be characterizing H.R. 7211 and S. 2450. H.R. 9911 and 2401 are the administration's versions, at least S. 2401; H.R. 9911 is not exactly identical, but both deal with the generic act for the lands administered by BLM as such. S. 921, to which most of my remarks are addressed, is limited primarily to the public land under the jurisdiction of the BLM. There are three very major questions, it occurs to us. First, mining treatment. I feel this has been given a rather good scrubbing this morning, back and forth. I do not know that I can add a great deal to it. I can say to the chairman that we are in the process of analyzing S. 2542, and our problem is trying to find out how the amended version will lay down with the Mineral Leasing Act as we now know it. We are not through that analysis.

When we are, we will make that available to the committee.

Senator BIBLE. Thank you.

Dr. SMITH. Our present state of thinking is very strong in abandonment of the 1872 mining law as it is now written, and we would be eager to substitute the Mineral Leasing Act for it. Many others have testified on this, pointing out certain restrictions and certain exclussions which we feel are appropriate. I do not think anyone suggests that the Mineral Leasing Act is operating ideally. I do not know any act, of course, that is. The difficulty is that the bad organization over mineral leasing can cause extreme damage to other resources which often can be avoided. I do want to commend many of the gentlemen on this committee, especially Senator Hansen. I remember very specifically when he went out and chatted in the field with some of the mining interests when he was Governor, and I wish to commend him for it. I know many other members of this committee have steadfastly opposed bad mining practices. Whether S. 2542 provides some vehicle or whether S. 921 as amended which established the Mineral Leasing Act as opposed to the 1872 hardrock mining law. I think the 1872 law should probably be abandoned or at least be rewritten.

I think second, we have not perhaps said enough about the improved management operations which the bill S. 921 does achieve. For the first time, we have some real effective means of classification. We have a problem where we have comingled lands, either disposing of them if it meets the criteria for so doing or of acquiring them. For too long, we had an inability—where we have not had equal exchange of land. We have not had the opportunity to either pay for them or

pay net back and forth, whichever the exchange would be. I do not see how you can really consolidate into manageable units the lands under the BLM unless this is done. This is one of the reasons, Mr. Chairman, we prefer a generic act for the lands administered by BLM rather than trying to deal with all Federal lands, because we feel the management of the Federal lands under BLM management has never been really funded, never been really given the tools to establish the kind of management that is required. I think part of it is just simple neglect.

If we take the number of personnel and spread them over the lands under BLM, I do not see how they could possibly, if this act were enacted, achieve all that we ask it to do unless it were properly funded.

As the chairman indicates, I am trying to get two bites on the apple on occasion, and this is another instance of doing that. Also, I want to point out that the disposal package, so to speak, as indicated here in S. 921 is a good one. I think the BLM ought to have the opportunity to dispose of it, of land. There are many areas which they cannot administer. It would be absolutely impossible for the Government to administer them to a level which should be required. In many instances, these lands are better used for other purposes. The criteria ought to be very carefully investigated and I think many other members of the panel pointed this out. I shan't bear on it too heavily. I do think, however, there should be this authority in BLM for this consolidation into manageable units, and I think that, in many instances, the commercial interests would be best served by this process as well as many of us who are concerned about the environment wilderness and the management of the lands, per se.

I do feel one thing is needed. This is the philosophy of use, I suppose you could call it, whether multiple use or sustained yield. I think there should be conformity with the 1960 act. We have no real strong feeling in the wording, and we went back and looked at the 1960 act very carefully. Whether you take the language that is used in the 1960 act or whether you take the language used in S. 921, I do not have any strong feeling, but I do feel they ought to be consistent as they apply in both instances. So I would think that this would be very important. I will say one thing that is extremely important to give you some idea of the divergency of intensive management being done on public lands compared with that being done on the national forests.

At the present time, the lands under BLM management, we spend 5 cents an acre. In a national forest, we spend 20 times that. It occurs to me that this is an effort to upgrade. I am certainly not trying to downgrade the national forest. I want to bring up management of the public land.

Senator BIBLE. Would you permit a question at that point? I wish you would supply for the record the backup of your statement that for every $5 we give to BLM for administering and managing the public domain we give 20 times that much to the Forest Service. Was that your statement?

Dr. SMITH. Yes.

Senator BIBLE. That is the way I understood it. Will you give us the backup for it?

Dr. SMITH. Yes.

Senator BIBLE. Supply it for the record. I am not questioning your conclusion. I would just like to see how you arrive at it.

Dr. SMITH. We are perfectly aware of the disparity. We know that the problems are somewhat different and that will account for part of it, but it does not account for all of it.

We can document that carefully and we will be happy to do that.

Senator BIBLE. That can be supplied for the record.

(The information requested was not received in time for inclusion in the record.)

Dr. SMITH. I have one commentary to make in regard to one of the comments that Senator Hansen mentioned. I do serve on a business and consulting economist panel on fuels and energy supply and, frankly Senator, I am sorry I do. This is one of the most vexing and most difficult problems with which this country has to come to grips. It has all sorts of impact on foreign policy, determining what we do here. It involves transit systems. It involves various and sundry means of pollution control, both in the water systems and in the air. The late Milton Pearl commented when he was appointed to take over the executive directorship of the Public Law Land Review Commission, it was like having a string, the end of which apparently went around the world. The fuels and energy policy which I know this committee and others of the Congress are struggling with is a desperately complex and difficult one.

I can make one observation of being caught wearing two hats. One was when a group of people approached us from New York to jumping on Commonwealth Edison, which is almost a favorite sport these days, whether you watch the late talk shows or whether you happen to be in New York, because people have few kind words to say for them. This one particular group suggested that I join them. I went up to New York to do so. They sought audience to simply shutdown a certain percentage of power that Commonwealth Edison has in New York and the people would have to make do with the rationed result. This is when some of the agonies of choices come about. First of all, the biggest customer for Commonwealth Edison Power is the mass transit system. So you would cut back on the mass transit system significantly. This is one thing you would not want to do. I suppose you need more automobiles on the Island of Manhattan like you need an outbreak of leprosy. So the problem is not a simple black or white either/or proposition in many of these instances. I simply want to point out that we are trying to improve the environment, certainly, and we think this goes a long way in improving the administration and the environment of the public land. We hope we will do it constructively. We are certainly trying to.

Thank you.

Senator BIBLE. Thank you very much, Dr. Smith. Your comments are also helpful.

The Senator from Colorado?

Senator ALLOTT. I have no questions.

Senator BIBLE. Senator from Montana.

Senator METCALF. I concur that Dr. Smith is always an eloquent and able witness. I have no questions.

Senator BIBLE. The Senator from Idaho?

Senator JORDAN. No questions.

Senator BIBLE. Senator from Wyoming.

Senator HANSEN. I want to thank you for your excellent statement. I think you demonstrated long ago far greater and wider awareness of the problems that go along in trying to set national policy than most of us have and I think your statement here confirms the opinion I long held of you.

Thank you very much.

Senator BIBLE. I want to thank each and all of you. You made an unusually fine presentation. It has been of the highest order. It has been to the points we must face and we recognize the complexity. You have done an excellent job. I thank one and all.

(The prepared statement of Dr. Smith follows:)

STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES

Mr. Chairman, members of the committee, I am Dr. Spencer M. Smith, Jr., Secretary of the Citizens Committee on Natural Resources, a national conservation organization with offices in Washington, D.C.

The matter before the Committee, specifically, HR 7211 and related measures, deal with major policy decisions, which grew out of the long and exhausting study of the Public Land Law Review Commission. The last conversation I had with the late Milton Pearl, who served this Committee with distinction prior to his executive role in the Public Land Law Review Commission, and later returning to this Committee, stated my quandary better than anyone. His comment was: "It's like having the end of a string, the length of which goes round the world." I may be pardoned, therefore, if I'm unable to give an unequivocal response to all of the problems inherent in the following discussion. Such a challenge defies anyone to be the final arbiter on all matters.

I say to the Committee for my own orientation, perhaps more than the members themselves, that the problems of the Public Lands, the National Parks, the National Wildlife Refuges, and the The National Forests, have been foremost in the attention of the public recently. Some would contend, however, that the appropriation bills relative to these matters would indicate that they have not yet found full favor with the public at large and/or the Congress. Irrespective of one's conclusion in this matter, it appears obvious that with some 70% of the population of the United States existing on about 1% of the land mass and leaving a residual 30% to reside on the remaining 99%, poses physical and philosophical problems which are partly the result of this odd urban-rural development.

I will spare the Committee my full "I told you so lecture," which has put many a college Sophomore to sleep. I cannot allow the opportunity to pass, however, without stating that I was among those who urged that we deal forthrightly with Agriculture, else a general exodus of skilled farmers from the farms would become unemployed unskilled workers of the city. Many of us also suggested that the cost of relief, transportation, housing, and the "economics of congestion," could well exceed various subsidies to agriculture that were being debated. I am convinced that our lack of success in this area was a failure to become oriented with the ratio of people to resource availability and resource management.

The documenting, section by section, of HR 7211 and related measures, would be a Herculean task, which I and my very small organization have neither the ability nor the resources to perform. As a result, we shall suggest some of the major problems that we feel exist in the management of the federal lands and suggest further as to their resolution.

First, may I state an ambivalence shared by many. Can the problem of having a Public Lands Law that will impose itself upon all Federally owned lands irrespective of whether they are within the National Forests, National Wildlife Refuges, National Parks or Public Lands, per se be implemented without severe administrative problems. I must confess that the long established administrative procedures as well as different legislative directives appear to make the total scope of the bill difficult.

An effort, within the context of this legislation, to bring a more even-handed view by the Congress and the Executive, irrespective of the particular type of classification of Federal Lands, can be achieved in part but whether it can be taken as far as the present proposals is questionable.

The major concern, which has plagued our own activities over the many years, is the inability to obtain sufficient funding for management. I have a sinking sensation, Mr. Chairman, that if all of the confrontations and discords could be resolved in the administration of Public Lands the actual policy may not change significantly. My reason for this observation is due to the fact that the appropriations have been so woefully inadequate to administer these lands whether to refurbish them when the need is evident or to practice continuing and effective conservation. Neither has ever been achieved, irrespective of whether we are discussing the supervision of a mine operation, timbering, unlawful hunting, and/or the misuse of areas for picnics and other public gatherings. Revised or existing statutes will require a complete reevaluation of appropriations by which this bureau is funded.

The most salient issues therefore appear to be (1) the concept of dominant and/or multiple-use; (2) the question as to whether a combined organic act which provides statutory guidelines for the management of all Federally owned lands or whether statutes for particular areas be dealt with separately; (3) the procedure for assuring a public input into the policy-making functions of the various bureaus with responsibility for management and supervision of the Federal Lands generally.

There has been extended discussion regarding the meaning of dominant-use as used in the report of the Public Land Law Review Commission. The distinction has been emphasized as to the statutory language that appeared in the Multiple-Use and Sustained Yield Act of 1960 (Public Law 86–517). It is not our purpose to comment at length on the report of the Public Land Law Review Commission though it serves as background information for the consideration of the pending legislation. We prefer to direct our attention to the term "dominant-use" as used in HR 7211, section 4(m). The citation would indicate to us that the dominant-use consideration does not mean exclusive use.

For example, during the colloquy on the floor of the Senate at the time of the passage of the Multiple-use Act, it was specifically concluded that wilderness was a part of the multiple-use concept as applied to the National Forest system. It was argued at that time that multiple-use in no way connotes that every possible use of the natural resources of the National Forests must be practiced on every square foot of the National Forests. This will never be possible. If an area is to be classified as wilderness, this obviously precludes the harvesting of timber and/or the building of roads. It does not, however, preclude the retention of water as the result of the standing forests, the protection of wildlife habitat, various and sundry types of recreation including scenic beauty, and the perpetuation of significant natural phenomenon such as geysers, etc. Other areas may be timbered with the accompanying necessity of road building, the use of machines, and depending upon the type of operation, may be consistent or inconsistent with certain wildlife habitat and certain types of recreation. Certain timber harvest may improve wildlife habitat. By the same token, it may damage it. Timbering operations may accelerate the possibility of fire or it may retard it, depending upon the kinds of practices pursued.

In short, Mr. Chairman, the dominant- or multiple-use concept may not be only a matter of semantics but it is difficult to understand how a major use can be applied to a particular area and not have an adverse impact on certain other uses. A specific case in point is timber harvest and wilderness preservation. If you have timber harvest you cannot have a wilderness area and, by the same token, if you have a wilderness area you cannot have timber harvesting. The fact that either of these programs is applied does not vitiate, in our mind, the concept of multiple-use and would not be in conflict with the definition of multiple-use in secton 4(k), page 11, line 5, of HR 7211.

It is difficult to determine what the authors of the measure have in mind in distinguishing these two terms. If dominant-use means, as in the case of wilderness, that while it is consistent with many other uses of the forest resources, it is also inconsistent with certain uses, then we have no strong objection. If, however, the concept of dominant-use means that one and only one use can be utilized and that the pursuit of this use shall not be modified to accommodate other uses, then we question the wisdom of a dominant-use concept. It is our judgment that a fine line has developed and that it is not the intent of the sponsors to suggest that dominent-use is essentially a departure from either the philosophy or the practice now existing under the Multiple-use Act.

There is another important element involved in the determination of land use and it impinges upon these concepts—the implications of administrative prac-

tices. It would occur to us that the bureaus charged with the responsibility of this administration would support the multiple-use concept on the basis that greater flexibility is allowed them in discharging their responsibilities. The interpretation of multiple-use, where it is now applied, is not inconsistent with the provisions cited in section 4(k) of HR 7211. The crucial issue, however, is who is to determine the use of these resources or assign priorities in certain uses? We shall not attempt to detail our concern through the various sections of the bills but we will offer the observation that if one clings to the concept of multiple-use, the decision, by and large, as to what constitutes the best balanced combination of uses that will best meet the needs of the people now and in the future, is essentially left to the various bureaus now charged with the responsibility of management. In the case of dominant-use priorities, in our judgment, would be achieved, either through the participation of various and sundry advisory councils—including the rule making procedures or Congress must set forth a zoning procedure or approve a zoning procedure which is presented to it. It would appear that the general statement in section 5(m), which suggests a participation by the general public involving general and specific users implies that the bureau will be subject to a decision on classification.

The Administration has criticized HR 7211 on the grounds that HR 7211 would apply to all Federally owned lands. The proposal supported by the Administration entitled "The National Resource Land Management Act of 1971" would apply only to lands managed by the Bureau of Land Management. We find ourselves in an extremely difficult position in aiding the Committee to any substantial degree in resolving this problem. If our hesitation is distressing to the Committee, we can plead only that the nature of the problem rather than our own inadequacy dictates a lack of strong resolution.

We are aware that the basic purpose of the Public Land Law Review Commission was to remove a variety of inconsistencies in the management of Federally owned lands. We wish to be understood that we are not discussing lands purchased by the Federal Government for specific purposes, such as a defense base, the erection of future public buildings, creation of National Parks and Monuments, and the establishment of National Wildlife Refuges. These and other withdrawals have been very specific and the statutes that govern their separation and management are limited. What is at issue, however, is the National Forests that have been created out of public domain and those created by the purchase of lands under the Week's Act. Also, the procedures of timber harvest including the distribution of monies received to the localities, the general treasury, etc., which vary greatly from the Oregon and California lands, primarily in Oregon, and those of the National Forests in general. Forestry practices on BLM lands and on National Forest lands are not uniform with no good reason as to why they should not be. The regulations regarding prospecting and general mineral exploration are not the same with no good reason why they should not be, and the disparity of appropriations to lands administered by the BLM constitute approximately 5¢ per acre for management and conservation while the lands administered by the Forest Service receives approximately 20 times that amount.

We do not mean, therefore, to deprecate in any way the efforts of the Commission or the sponsors of the legislation in their efforts to achieve some sort of uniformity on a significant area of lands owned by the Federal Government. We have by no means exhausted the distinctions and inconsistencies in the present Acts that govern the management of our land resources, and we are in sympathy with any effort to attempt some uniformity with equity in the management of these lands.

We must confess, however, that despite the merits which occur again and again in the measures to achieve these goals that as a pragmatic matter such achievement appears fraught with difficulty. We are not concerned with the usual agonies or problems that normally beset us and we choose the word "difficulty" advisedly. We are concerned with the over-all impact on the administration of the Federal Lands. For example, if we could have the assurance or even a right to a reasonable hope that a measure similar to HR 7211 would result in an adjustment of the total appropriations now received by the BLM and the Forest Service across the board, resulting in raising the administration of the BLM from pitiful to mediocrity and reducing the Forest Service from "fair" to mediocrity, then we could become much more sanguine over the prospects of upgrading the entire efforts of these land management agencies. Our fear is serious and significant. We doubt that the lands administered by the BLM will be upgraded sufficiently and we question whether the National Forest system will not be downgraded significantly.

It would be our recommendation that the lands under the jurisdiction of the BLM be upgraded by this legislation without posing the threat or at least offering a potential threat that could downgrade other areas.

We have considerable sympathy with the concern by the Committee in their efforts to achieve an opportunity for the public to make an input into the procedures whereby policy is made at several levels. The sponsors of the legislation appear to imply in the discussion of Administrative Procedures, that as bureaus and agencies expand in size and responsibility, decisions are made at a relatively low level in the governmental structure and we all know that good bureaucrats support their employees to the extent that a rigidity results and decisions on major policy matters are a fait accompli before the public is fully informed as to the particulars.

If I may be pardoned a personal observation, I have been a bureaucrat who has worked with advisory committees and have been a member of advisory committees which have worked with the various bureaus. I am almost to the conclusion that this effort to establish and regularize public participation is counterproductive. Generally speaking, Advisory Committees are (1) captured by the commercial interest involved, or (2) become the lackeys of the bureaus or organizations they seek to advise. My personal frustrations in attempting to influence policy at various levels has never been ameliorated by serving on an advisory committee, nor have I determined that the rule making process was ever significantly changed by advisory committees.

We would much prefer a procedure that would require a full disclosure by the bureau, their intent in terms of management policy with an accompanying announcement as to public hearings in that regard. While I am aware that the legislation pending before the Committee provides in a number of instances for public hearing, they, by the same token, are regulated to an advisory process and structure. I will suggest somewhat dogmatically that such a procedure is often more intimidating to public hearings than it is enhancing.

I am sure that the Committee has pondered at length in conjunction with the authors of the legislation as to the use of the Administrative Procedures Act. In our opposition to the various advisory committee structures, we do not feel that the Executive Branch of the Government either in this Administration or in the previous administrations should be exonerated via the Administrative Procedures Act. We have gone through the labyrinth of the Administrative Procedures Act, being referred thereto by responsible officials of the Executive Department as the appropriate means of redress for our complaints. Quite candidly, our successes in this venture are so minuscule as to be zero. Our own Board Members and Executive Committee members have received copies of the Administrative Procedures Act as amended on more occasions than I can possibly count and to the best of my knowledge few have understood the unique methods by which one may avail himself of the procedures therein.

It would be unfair to burden the Committee with our trials and tribulations in this matter, but suffice to say the most common experience I have had has been the following: 1. One is told that he has not availed himself of all the possibilities under the Administrative Procedures Act by which one can challenge the decisions of this bureau (agency). 2. In attempting to determine how to proceed under the policies available to one under the Administrative Procedures Act, one often finds that his efforts are again rejected because that part of the Administrative Procedures Act is not recognized in dealing with the particular bureau or agency involved.

We are perfectly aware that the Administrative Procedures Act is a document meant to streamline the entire system of appeals—that it offers opportunities for a hearing or review of your concern and that in the final analysis, having exhausted all such appeals, you may then seek redress in a court of law. The theory supporting this procedure is admirable. The actual operation of it, however, to offer the individual citizen or citizen's groups a serious input has been most ineffective. We, therefore, appreciate the sponsors of the legislation and their efforts to establish a procedure that would accommodate more directly the problems that beset the various groups involved in the management of the Federal Lands. Unfortunately, it appears to us that Sections 8 thru 16 in their effort to be helpful would establish an enormously complicated procedure of administrative and judicial review which would add little in simplifying the present Administrative Procedures Act. We would suggest that the Congress direct the applicable part of the Administrative Procedures Act to the land management agencies and specifically detail the guidelines so to inform the public.

The most difficult aspect of the recommendations would appear to be that of

Judicial Review as detailed in section 16. While a number of readings may be given to this section, it would appear to us that any person dissatisfied with the decision of the agency could take the matter directly to court. This is in addition to ". . . any person suffering legal wrong because of any agency order . . .". If this section remains in the final determination of the Committee, we would hope that the burden of proof would be more than dissatisfaction on the part of the person regarding the decision of the specific policy. It should be further pointed out that while this is in accordance with the rule making procedures, one cannot be sure that said rule making procedures would preclude an adventitious or capricious action on the part of an individual or group.

Many conservation and environmental groups see this as an effective option to influence policy that they do not now possess. Unfortunately the procedure applies equally to commercial users, who are generally in a better financial position to take advantage of such a procedure. In short, it may be great for a citizen's group to be able to stop the timbering of a particular area but would the classification of a primitive area to wilderness be subject to judicial review prior to compliance under the existing statute?

In summary, we endorse some procedures that could apply in common to Federal lands. Excepted would be the specific cases of withdrawal previously mentioned.

We urge a revision of the mining laws. Our preference is a repeal of the Act of 1872, which would be replaced by applying the provisions of the Mineral Leasing Act. We would recommend guidelines for the administrative regulations that would be promulgated and hold each Department responsible for their execution.

We would endorse procedures allowing the participation by the public at the several levels of policy making requiring the Bureau and or Agency to make a full disclosure as to their planning operation with full opportunity for public hearings at each level.

We would recommend the establishment of uniform forestry practices on all forest lands irrespective of which Bureau, Department or Agency has jurisdiction. Such practices should be equated with the best and highest forestry practices not the worst.

As to BLM lands per se, we would recommend and support the acceleration of a land use classification program, which would permit the disposal of checkerboard tracts—many of which are isolated and fragmented and by the same token permit the consolidation of well blocked tracts. In the latter instance, it is estimated that this comprises 142 million acres in eleven Western states, the total of which is 172 million acres (not including Alaska). We also approve of exchange by value rather than attempted equal land exchanges.

We indicated at the outset that we attempted no definitive analysis of the totality of matters before the Committee. We hope, however, that our observations and recommendations may be helpful to the Committee in their most difficult undertaking.

We thank the Committee for the opportunity to present this statement.

Senator BIBLE. Our next witness will be John F. Hall of the National Forest Products Association.

Mr. Hall?

STATEMENT OF JOHN F. HALL, NATIONAL FOREST PRODUCTS ASSOCIATION

Mr. HALL. Mr. Chairman, members of the committee, I am John Hall with the National Forest Products Association, representing the wood products industry throughout the Nation. We support legislation which would assist Federal agencies in managing public lands more effectively and productively.

The three proposals today are constructive and would be helpful toward this goal. The provisions of S. 921 and 2401 are in harmony and are in accord with the recommendations of the Public Land Law Review Commission with which we agree in principle. S. 2450 is intended to have a broader scope in setting up a basic framework for

administration of public land law recommendations and is in basic accord with the tenets of our industry toward management of these lands. We have a few suggestions.

The definitions of multiple use and sustained yield contained in S. 921, while patterned after the 1960 Multiple Use Act, do have a few new phrases. They refer to "impairment of the environment," "ecological relationships," "impairment of quality" and "environmental values." These are abstract and do not lend themselves to the qualitative and quantitative controls needed in this type of legislation. Other provisions in S. 921 contain ample provision for environmental protection of the public lands. While the current definition of multiple use is subject to various interpretations, injecting more ambiguity into the definition would only complicate the problem. We suggest that either the current statutory definition of multiple use and sustained yield or those contained in S. 2401 be incorporated in the final bill reported by this committee.

We recommend retention of the provision in section 103(1) which authorizes the use of nonmineral resources to provide "an adequate supply of resources to meet national, regional and local requirements at reasonable market prices in timely fashion." This is a good basic objective of public land management.

There are quite a few similiarities between the provisions of section 6 of S. 2401 and the goals and objectives contained in section 103 of S. 921. A melding of these proposals should be incorporated in the final bill developed by the committee. One provision in S. 2401 (section 7 subsection (2)) would require land reclamation as a condition of use and require "performance bonds guaranteeing such reclamation of any person permitted to engage in extractive or other activity likely to entail significant disturbance or alteration of the land." This would significantly change the relationship of the forest products industry with the Federal timber managing agencies.

Under current practices, the Federal Government, as the forest owner and manager, provides for reforestation of harvested forest areas. The provision cited in S. 2401 implies that the purchaser of Federal timber would be responsible for reforestation. This is a basic change in responsibility which should be carefully evaluated by the Federal agencies, the industry and the Congress before it is adopted. It is not at all analagous to the situation concerning mineral exploration or development.

Apparently it is not the intent of any of these bills to change the current law governing funding for management and development of the revested O. & C. lands and the Coos Bay Wagon Road lands. The existing procedure whereby 50 percent of the receipts are available for management and development has enabled BLM administrations to develop long range management practices.

Since this is a basic act for administration of these lands, we suggest an additional paragraph recognizing the authority and responsibilities for access to and across the intermingled public and private lands involved. Legislation similar to that developed in 1964 covering access across national forest lands should be incorporated in any bill reported by the committee. We would like to provide a suggested paragraph providing that authority.

With reference to S. 2450, our industry has long been an advocate of national land use policy legislation. One of the greatest problems we face is the lack of assurance for many operators dependent on Federal resources that those timber sales will be offered on a timely and continuing basis.

Several organizations and individuals have expressed sentiments that dominant use zoning as suggested by the Public Land Law Review Commission would encourage greater commercialization of the public forest lands. Adoption of dominant use zoning might restrict rather than increase public forest land areas which can be available for commercial forest management. Many Federal lands are now in dominant use such as wilderness, wetlands, primitive areas, wildlife refuges, national parks, and similar areas where timber management is excluded. We recognize it is proper in specific instances for lands to be reserved for such dominant use and have supported such designation. We consider it no less proper than lands most suitable for growing timber be accorded recognition.

Any public land use policy should contain a statement requiring public land managers to develop the timber resource by cultivating current timber stands for optimum production and by developing new stands, where feasible, in the public benefit. This would form a basis for future legislation dealing with the specifics of public commercial forest lands. It would also be in accord with the provisions for discovery and development of additional domestic sources of minerals as contained in S. 2450. A similar policy for timber management should be contained in the bill reported out by this committee.

We are in general agreement with the concept of increased public participation in land use decisions. The advisory committees and board set up in S. 2450 may prove a bit cumbersome in practice and we suggest that a date be established in the legislation for review of the effectiveness of those two sections. The emphasis in S. 2450 on local land use planning is well placed. However, the national needs, particularly those pertaining to the flow of natural resources which are needed by the entire Nation, should be covered by a national level committee. It is with some temerity that we suggest another committee be formed. It should be a cabinet level committee on public land resources which would have available to it the talent of the Council of Economic Advisors and the Council on Environmental Quality to provide balance in achieving our long range national objectives. In summary, we feel that the measures under consideration are constructive, workable and will do much toward an improved, efficient management of the public land.

Senator BIBLE. Thank you very much for your statement. I appreciate your participation and appearance here this morning.

I have no questions at this time.

Senator ALLOTT. Thank you very much. I have no questions at this time.

Senator BIBLE. The Senator from Montana?

Senator METCALF. Thank you, Mr. Chairman. I also congratulate you on your splendid statement. During a late recess, I had the privilege of touring several areas in Montana both with members of the Lumber and Sawmill Workers, with timbermen and with the Forest Service, and we were largely concerned with clearcut practices in that area.

One of the things that kept coming up is the failure of the Forest Service, for lack of appropriations and lack of manpower, to do the reforestation that is necessary to establish a new growth in clearcut areas. I wonder if it would not be better to put the provision that you suggested might be in here as a part of the sale to require the private operators to do the reforestation or replanting or something of that sort and try to catch up.

Mr. HALL. Under current law—Knutson Vandenberg Act of 1930—the Forest Service does obtain from Federal timber purchasers an amount for reforestation of the cut over area.

Senator METCALF. But they do not do it.

Mr. HALL. The money obtained from the timber purchasers is supposed to be equivalent to the money needed to do the job. The money is available for Forest Service use.

There are some difficulties that would be encountered in transferring that obligation from the landowner and manager to the timber operator who happens to be on the ground only for the harvest of that particular sale. The selection of the species to be grown in the area, the timing of regeneration, the methods of regeneration—aerial seeding, natural regeneration or tree planting—dictate the harvest method. Transferring the responsibility would be a basic change and needs a thorough review by the Forest Service, Bureau of Land Management and Federal timber purchasers before we could say yes, this is the new way to go.

Traditionally, it has been the obligation of both public and private landowners to contract separately for reforestation service or to provide their own reforestation.

Senator METCALF. In a previous administration, there was a launching of a so-called program called Mission 76 to provide that by 1976 we would have reforested most of our logged-over land and land that was barren and abandoned.

Looking at it now, it looks like Mission 76 is about 2006 instead of 1976 to do the reforestation needed. This is a combination of a whole lot of things. I do not think that Forest Service is completely to blame. I certainly do not think the people who are logging land under contracts with the Forest Service are to blame. I think we should carefully look into something, some new program that might help us do the job. I would not want to just shrug this off. You people in the lumbering business are just as skilled as the Forest Service in reforestation and so forth. You have tree farms and you are doing a good job on a lot of it. Maybe this should be part of the timber sale, that you do the job instead of pay the money to the Forest Service and they do not have the manpower to do it.

Mr. HALL. There are several possibilities. As you recognize from the hearings that you have been conducting around the country on your legislation and that of Senator Hatfield, we do have within the national forest system alone a backlog of commercial forest land in need of reforestation. The bulk of this is lands that have either suffered from wildfire or disease or were not forested at the time they were acquired by the Forest Service. It includes some timber harvested areas where the planned regeneration did not occur as expected. That is the smallest portion of the total backlog. We do need to increase the pro-

ductivity of our forest lands and one way to do it is to get these idle acres back into trees.

Senator METCALF. Well, I just wanted to make this point for the record, Mr. Chairman, because this is going to be a vital part of our sustained yield and perpetual product, forest products in America. We all have to work together.

Mr. HALL. An essential part.

Senator BIBLE. Thank you, Senator Metcalf.

Senator Jordan?

Senator JORDAN. I have no questions.

Senator BIBLE. Senator Hansen?

Senator HANSEN. No questions.

Senator BIBLE. Thank you very much.

Senator ALLOTT. Mr. Chairman, could I just ask a question?

Senator BIBLE. Certainly.

Senator ALLOTT. I have a second guess coming here. On page 7, you say:

> Our industry is in general agreement with the concept of public participation in land use decisions as provided by the system of advisory committees and boards set forth in S. 2450.

I am wondering if, in writing this, you might have been thinking of H.R. 7211 by the chairman of the Interior Committee in the House which could set up an extensive system of boards, commissions, et cetera.

Mr. HALL. This portion of my statement today was patterned after my statement before the House committee last month. However, S. 2450 does establish a national board, composed of the directors of the various resource agencies, and advisory committees in statutory form, which is a new approach. Most of these boards now are set up at the discretion of the administrators and do not appear in statutory form.

Senator ALLOTT. I assume then, from what you are saying, that you are opposed to the board as set up in this bill?

Mr. HALL. No, sir. I think the boards established in the bill are a sound, reasonable approach to providing additional citizen participation in the land-use decisionmaking process.

Senator ALLOTT. But you would be opposed to the multiplicity as provided in H.R. 7211.

Mr. HALL. Let's say that the multiplicity in that proposal concerns me a bit more than the boards establishment in S. 2450.

Senator ALLOTT. Thank you.

Mr. HALL. I suggest if these are set up in statutory form there ought to be a provision for taking a look at it in a few years to see if it has functioned well.

Senator BIBLE. Thank you, Mr. Hall.

I have three more witnesses remaining this morning. We are under a voting situation on the floor of the Senate.

We will stand in recess until 2:30.

AFTERNOON SESSION

Senator METCALF. Subcommittee will be in order. This is a continuation of hearing on several bills relating to the public domain lands and mining legislation.

Senator Moss held a hearing on general mining practices in Billings, Mont., during the recess and in the course of those hearings, Senator Moss and some of the members of this staff and I visited various operations, especially in the high mountain country around the Stillwater area. I recommend that anyone with an interest in the proceedings here today should consult the record of those hearings which were held in Billings. I believe that there was much material presented in Billings which relates to these measures we are considering today.

The first witness this afternoon is Mr. Don Nichols from the Utah Mining Association. You are certainly not bound by the agreement that you gave the chairman this morning. You are on your own.

STATEMENT OF DON A. NICHOLS, UTAH MINING ASSOCIATION

Mr. NICHOLS. Thank you, Mr. Chairman. I am Don Nichols, division minerals landman of the Getty Oil Co., and I appear before you today on behalf of the Utah Mining Association, a statewide trade association representing Utah's mining industry.

This date we have submitted to your committee a written statement establishing several premises and positions regarding Senate bill 921, as well as general views regarding public land administration and locatable mineral leasing.

The following is a summary of the submitted statement: We would like to suggest that a large number of agencies under several departments of the Federal Government have primary responsibilities for public land administration; responsibilities that are often duplicated and/or overlapped. We suggest that in the interest of an orderly conduct of governmental affairs it may be desirable for Congress to first establish the proposed Department of Natural Resources. Following this consolidation, appropriate changes could be made in the land laws, including the mining laws.

Senator METCALF. May I interrupt? Your very able and distinguished Senator, Senator Moss, has been the author of a bill for the Department of Natural Resources for quite awhile. I have cosponsored that legislation with him and I cosponsored similar legislation while a member of the House of Representatives. We had very great difficulty in getting some support for that bill until this year, when the President has also come in with a Department of Natural Resources which is before a committee upon which I also serve, the Government Operations Committee, and I have high hopes that somewhere between Senator Moss' bill and the administration's bill, we will attain that objective at long last.

Mr. NICHOLS. We would like to wish you our best.

Senator METCALF. Thank you very much.

Mr. NICHOLS. I will now address my remarks to title I of S. 921, titled Public Land Administration.

We believe strongly that Congress should provide much greater detail in its legislative direction and guidance for the management of public lands than established within the scope of S. 921. We find that a number of the terms used in this title are subject to wide interpretation and in effect appear to give the Secretary of Interior excessive administrative power.

We believe the bill also provides several areas requiring uncalled for administrative overhead expenditures. Section 106, for example, apparently would require a wilderness study on all public land roadless areas containing 5,000 acres or more. Our State alone harbors many, many such blocks of land; few of which would lend themselves to wilderness classification. Such an all-inclusive review procedure would, in our judgment, be a very costly and unproductive exercise.

Section 110 would prohibit the transfer of title to mineral resources in public lands. We suggest that such a section is in opposition to the obligation of the Federal Government under previous acts of Congress to convey certain lands, including mineral estates, to the public land States such as Utah. We further suggest that such a requirement will greatly limit the flexibility of Government agencies when considering land exchanges with private owners.

Section 118 of the bill provides lifetime tenure for the Director of the Bureau of Land Management, and requires selection to fill the position from Federal Government civil service ranks. While this important administrative position certainly requires an individual of recognized management and professional stature, we suggest that such competence is not confined to the ranks of the civil service. Similarly, we suggest that lifetime tenure is not always good management practice.

With your permission, I would like now to address our comments to title II of S. 921, "Mineral Leasing".

Title II would repeal the 1872 mining law and all acts dealing with currently locatable minerals and place essentially all such minerals of the public lands under a leasing system. The Utah Mining Association is of the opinion that no leasing system could be reasonably administrated without partially inhibiting the future supply of this nation's domestic minerals and substantially increasing the administrative cost of both the Government and the private user.

Our association recognizes the need to modernize and revise many of the provisions of the 1872 mining laws. We recognize that with changing times, the mining laws should be substantially updated to bring them in harmony with the goals of today's and future generations. We suggest that the Public Land Law Review Commission spend several years studying the public lands. The recommendations of that Commission were in favor of a modified location system, which we believe is commensurate with the goals of the public, and will be substantially simpler and less costly for the Department of Interior to administrate. In this context, we respectfully suggest that the premises established in legislation proposed in Senate bill 2542, titled "A Proposed Mineral Development Act of 1971" be seriously considered.

Thank you, Mr. Chairman.

Senator METCALF. Thank you very much, Mr. Nichols. As to the last suggestion, I grew up in a mining state and many of the people with whom I associated as a small boy were prospectors, and they went out and prospected and made a living developing mining claims. I have no quarrel with those of you who say that the way we built the West was in this business of giving an opportunity to people to find minerals, to develop them. Some made fortunes and some just laughed their life out, a life of terrible work and not very much reward. However, the miner is the only person that goes on to the public land and has a free opportunity to locate mines, to develop the surface, to get

title to the surface, to get title to the timber, we have sumpage for the lumber operator. We are now requiring those people who want to have recreation on the public lands to buy permits to go on. We are requiring livestock and grazing operators to pay annual unit fees. It would seem to me that we should require especially the large mining companies that fly in with helicopters, as we did up in the high country on the Stillwater, and drop very sophisticated exploration machinery to pay leases and to provide that they pay to go on the public land just as everybody else. What do you think about that?

Mr. NICHOLS. As a general statement, the premise of the lease is you go to a Federal agency, contact the Federal agency and file an application. Then there is a period of time when they consider your application and then they either issue you a prospecting permit or, in the case of reacquired minerals at the present time, a prospecting permit. Then you go and do your exploration. From the standpoint of good judgment, it would seem that the means that you pay in application fees as a general statement go to administrative cost. Would it not be apropos to go to the field, find the area that you think is prospective, and then come in and make filing of the lands that you have? It would appear to our association that the cost involved is to people who take care of the paperwork.

Senator METCALF. Believe me, I do not want to have our mining people have mining paperwork anymore than they have to, but don't you agree that we have to do something 100 years later about our mining laws on public lands?

Mr. NICHOLS. Yes, sir. Yes, sir. I think that our industry in Utah is cognizant of the fact that we have to update them. I think the question in mind is how do you go about doing it? What is the proper way? And what is the best for the public, the United States?

Senator METCALF. And the best for the industry?

Mr. NICHOLS. Yes, sir.

Senator METCALF. Have you had a chance to study the proposed amendment that Senator Jackson has submitted to title II?

Mr. NICHOLS. Yes, sir.

Senator METCALF. Now, is that the kind of amendment that we can agree on that would move us into the 20th century?

Mr. NICHOLS. I think the proposed amendment talks about prospecting permits. There again, we are back-dooring the problem of going to the field and prospecting. A prospecting permit, as a general rule, is filed upon with the Bureau of Land Management. And a fee paid. Then there is a period of time in which you have to do a certain amount of work to maintain your prospecting permit. At least that is the way it turns out under the rules and regulations of the Bureau of Land Management at this time. I think that may not be—I think that may somewhat be a backward way of going about it. I would—I believe that the provisions under Senator Bible's bill recently submitted will find a way to do it without having the administrative overhead that is involved with the prospecting permit approach.

Senator METCALF. Well, of course, those of us who looked at the Stillwater area, a fantastically beautiful area, we looked out through the doors of the helicopters and literally could see 100 lakes at a time. You could see the scars created by—not by mining but by prospecting. Some of those scars were created because we in the Congress, or the

people in the State legislature, required unrealistic locations and development laws and the miners went in with bulldozers and complied with the law, and yet they moved so much dirt and—there really was not any direction as far as this was concerned. You complied with the law. The law should be changed. It would seem to me, as I went over that area and some of the areas in Montana—I have been in quite a few areas in Utah with helicopters and so forth—that there should be some sort of control on mining activity and exploration activity. This is what we are seeking here. We are not seeking to stop legitimate mining. I know that I speak for the chairman and I speak for myself, but we are trying to have some control over this kind of activity until an actual discovery is proven, and then, of course, you are out of the multiple use program and are just into the business of producing copper and lead and zinc or one of the other minerals that we have.

Now, go ahead and comment.

Mr. NICHOLS. Well, my comment could be that I think that we all understand there has to be controls on all of us as public people. I think the problem is to define your terms and so forth. Our concern with 921 was that it did not describe what the controls were going to be. We like to know what kind of a situation we are going into, like all people.

We think that arbitrary decisions are possibilities and have happened in the past. We are not adverse to having controls on certain areas of the public domain. We would like to have a say in what the controls are, and we think that under the provision of 921, for example, that perhaps the normal orderly say would not be available.

Senator METCALF. Well, I certainly cannot quarrel with anything that you have said in your response. I think all of us are trying to devise some way to protect the public lands and at the same time protect the legitimate interests of the mining corporations who have done so much to develop our area of the United States. I may have had another comment here. Oh, I am glad that you pointed out the lifetime tenure for the director of the BLM. I do not think it is anybody's desire to give many lifetime tenures, and we certainly will look at that. On the other hand, we want to have him independent enough so that he can make very difficult decisions. I do not envy him his job in making decisions under this legislation. So I am grateful to you for pointing out a defect in that provision.

Thank you very much for most helpful testimony.

Mr. NICHOLS. Thank you, Senator.

Senator METCALF. If it isn't ordered, the complete statement of Mr. Nichols will be incorporated in the record immediately following his oral statement.

(The prepared statement of Mr. Nichols follows:)

STATEMENT OF DON A. NICHOLS ON BEHALF OF UTAH MINING ASSOCIATION

Mr. Chairman and members of the committee, I am Don Nichols, Division Minerals Landman of the Getty Oil Company located in Salt Lake City, Utah. I appear before you today on behalf of the Utah Mining Association a statewide trade association representing Utah's mining industry. Members of our Association currently number forty-five who collectively produce over 95% of the metallic minerals produced in the state and over 50% of the non-metallics, excluding coal, oil and gas.

Personally, my work includes a broad range of mineral exploration activities throughout the Intermountain West. As you may know, Getty Oil's interests

extend beyond the petroleum business. I am a landman whose every day responsibilities involve dealing with the public domain lands and other lands found in the United States.

The Utah Mining Association wishes to applaud the interest currently evident in Congress in revising and updating the nation's administrative framework and laws governing the public lands, including the mining laws. We note that S–921 is one of many approaches to this problem.

But while the existing array of laws and regulations are confounding in their volume, presenting areas of conflict and sometimes misuse, we submit that the basic principles established under these laws have led to and indeed have made it possible for the West to develop as a viable part of the nation's economy and society. During these development years, and today, the West supplies a substantial percentage of the nation's food, fiber, energy and minerals on which all of the people depend for their security and the maintenance of their standard of living.

In the face of this background, we submit that the underlying principles governing the administration of public lands should not be changed nor dealt with lightly because of the long-term effect that such action could impose upon the people—particularly in the West.

For example, in Utah over 70% of the area of the state is administered by the Federal Government, with over 65% in public lands. Utah's productive economy is land-based and dependent upon the ability of its people to generate value from natural resources—minerals, timber, grazing, agricultural products, to name a few. Our per capita income is below the national and regional averages, yet demands for tax supported services are high and increasing sharply. The administration of the public lands is of vital concern to the people of Utah and other public lands states of the West.

S–921, by its two titles, covers two major subjects: Public lands administration on one hand and secondly, the mining laws. We suggest that because of the profound importance of both subjects, they be divided into separate legislative actions, thus enabling proper emphasis and attention to be given to each.

A large number of agencies under several departments of the Federal Government have primary responsibilities for public land administration, responsibilities that often are duplicated or overlap. We suggest that in the interest of an orderly conduct of governmental affairs that it may be desirable for the Congress to first establish the proposed Department of Natural Resources which would bring these various agencies together. Following this, appropriate changes could be made in the land laws, including the mining laws, in light of the existence of an administrative structure that could undertake such changes in an orderly manner.

COMMENTS ON TITLE I OF S.921

I will now address remarks to Title I of S–921, titled Public Land Administration.

Many of the statements contained in this title, defining the purpose and general management principles under which the public lands should be administered, we find to be worthy of strong support. However, we view the overall impact as one of creating a virtual czar of the Secretary of Interior with respect to the public lands. We believe strongly that Congress should provide legislative direction and guidance for the management of the public lands, such as recommended by the Public Land Law Review Commission.

A number of terms used in this title are subject to wide interpretation. We suggest that terms such as the following should be defined with some degree of precision: "undue concentration of ownership"; "fair market value"; "criteria for classification of public lands".

Without belaboring detail, we note that Section 106 would require wilderness studies on all roadless areas in the public lands of 5,000 acres or more. There are thousands—perhaps tens of thousands—of such areas throughout the public lands, few of which would lend themselves, by any reasonable judgment, to Wilderness classification. We suggest that most, if not all, areas that might reasonably be considered for Wilderness classification are well known today and that the review procedure provided for in Section 106 would be a very costly and unproductive exercise.

Similarly, Section 107 would apparently require that all public lands be physically identified on the ground by use of signs, etc. In the State of Utah there are hundreds of parcels of public lands ranging in size from a few acres to many

thousand. Many of these units have very irregular boundaries. Much of the land is in extremely rough terrain with boundary lines following legal land surveys, thus physical access to boundaries is a substantial problem. In addition, some units contain parcels of private land, others are "land-locked" with no public access from surrounding private land. Some have never been surveyed. Although the objective of physically identifying the public lands on the ground stands the test of reason, we suggest that the potential benefits to be derived at this point in time do not justify the enormous expense of identifying all of the lands now. We offer the thought that, ultimately, it will be in the best interests of the people and the Federal Government to "block-up" the public lands into more regular units, through sale and exchange, thereby facilitating both public and private land management. When that point in time is reached, perhaps many years hence, on-the-ground identification of all the lands could be considered.

Section 110 would completely prohibit the transfer of title to mineral resources in public lands when land patents are granted. This restriction would stand as a major impediment to the government in arranging land exchanges. Such exchanges are often arranged to further the government's interests. Typically, both surface and mineral estates are exchanged. In such circumstances, if the government were to reserve mineral values to itself, the other party to the exchange would often make a similar reservation to retain mineral values in lands traded and deeded to the government with the resultant fragmented ownership. The Section 110 provision would also cloud the Federal Government's ability to satisfy its land obligations to some states, such as Utah, which have in-lieu land selection rights, including the mineral estate in such lands.

Section 118 would, in effect, provide lifetime tenure for the Director of the Bureau of Land Management and require selection to fill this position from Federal Government Civil Service ranks. While this position, in our opinion, certainly requires an individual of recognized management and professional stature, we suggest that such competence is not confined to the ranks of the Civil Service. Similarly, we suggest that effective lifetime tenure is not always a good management practice.

In summary, we believe that legislation for the management of the public lands should more nearly follow the recommendations of the Public Land Law Review Commission, such as H.R. 7211, a *Public Land Policy Act.*

COMMENTS ON TITLE II OF S. 921

With your permission, I would like now to address our comments to Title II of S–921, titled Mineral Leasing.

Title II would, in effect, repeal the 1872 mining law and all related acts dealing with currently locatable minerals and place essentially all such minerals in the public lands or held by the government under a leasing system. Under such system, the Secretary of Interior would determine when, where, how much and, indeed, whether any such mineral might be explored for or produced from the federal domain.

Mr. Chairman, I am sure that you and the Committee members are well aware of the mining industry's opposition to any type of federal leasing system that would apply to the so-called locatable minerals—primarily, but not exclusively, the metallic ores: iron, copper, gold, silver, lead, zinc, molybdenum, beryllium, uranium, chromium, nickel to name a few.

During these hearings you will hear many reasons from other industry representatives for opposing a minerals leasing system. The Utah Mining Association respectfully adds its voice in this opposition. We know of no reasonable leasing method that could be properly applied without sharply inhibiting the future supply of this nation's domestic minerals.

The very nature and configuration of locatable mineral deposits do not lend themselves to the premise of going to a Federal office, filing an application, paying a fee then after a lease or license issues going to the field to make the discovery of a valuable mineral deposit.

Mineral deposits are found by individuals going into the field and prospecting an area he believes to contain the proper environment that might host one or more significant mineral occurrences. This premise holds true whether we are referring to the full-time prospector, weekend prospector or the employee of a large firm (also a prospector). After the prospector comes upon an area which appears attractive he must decide if such occurrence warrants the expenditure of his (its) resources on the further exploration and development of the showing.

Development of locatable minerals requires tremendous investments in plant

and equipment and such investments must be based on long-range forecasts of the cost of operations, supply and demand factors and worldwide price fluctuations. Such development requires the broadest decision-making power. A leasing system such as developed in S–921, would grant the Secretary such broad arbitrary powers as to impose strict limitations on such decisions. Exploration would be confined to those lands offered for leasing. Long-range production plans would be hampered by the required readjustment of lease terms. This would also hamper the acquiring of investment capital. A system by which leases are offered by competitive bidding would destroy any incentive by the private prospector.

Incentive for the discovery and development of the locatable minerals must be maintained and, if possible, enhanced if this country is to retain both its international and economic security. Congress recognized this with the passage of the National Mining & Minerals Policy Act of 1970. Adoption of a leasing system would, in our opinion, only hasten the day when this country will find it necessary to subsidize substantial elements of the mining industry in order to maintain domestic availability of strategic raw materials and metals.

The mining industry, and our Association, recognizes the need to modernize and revise many of the provisions of the 1872 mining law. But we strongly believe that the location principle embodied in this historic legislation, which has served our country so well, should be retained.

Starting about 1965, members of our Association, and others in the industry, commenced developing ideas on how the 1872 mining law could be changed to eliminate abuses, simplify operation and encourage equity in the public interest as well as the interest of the industry. We recognize that with changing times the mining laws should be substantially updated to bring them in harmony with today's and, hopefully, future generations.

We observe that the Public Land Law Review Commission spent several years studying the public lands. The recommendations of that Commission were in favor of a modified location system which we believe is much easier and less costly for the government to administer.

In this context, we respectfully suggest that S–2542, a proposed *Mineral Development Act of 1971*, be seriously considered.

Thank you, Mr. Chairman.

Senator METCALF. Now, Mr. T. L. Meredith, national director of the Association of Conservation Districts.

STATEMENT OF T. L. MEREDITH, NATIONAL DIRECTOR, THE ASSOCIATION OF CONSERVATION DISTRICTS

Mr. MEREDITH. Thank you, Mr. Chairman. My name is T. L. Meredith. I am a supervisor of the Tonto Soil Conservation District of Arizona and a director of the National Association of Conservation Districts (NACD). I also serve as a member of the Association's Committee on Public Lands.

We appreciate the opportunity to testify before this committee on matters of public land policy and the proposed Public Domain Lands Organic Act of 1971.

NACD represents over 3,000 individual soil and water conservation districts, created under State law, and their associations in the 50 States, Puerto Rico, and the Virgin Islands. The purpose of these districts in every State is to develop and carry forward an affirmative program for the protection, improvement, and use the natural resources within the boundaries of each district—using and coordinating all the available assistance from private, State, and Federal sources. The districts are managed by more than 18,000 men and women who contribute their time and services and who are intensely involved in the process of upgrading the conservation and use of natural resources for the benefit of their home communities and the Nation.

We recognize the importance of public lands to the economic and

social well-being of the entire country—in the East and Midwest, as well as in the West. Conservation districts have a special concern for the quality and management of the public lands, whether they are National Forests and National Parks in the East, National Grasslands in the Midwest, or public domain lands in the West.

Although there are many large and solid blocks of public domain lands in the West, it is also true that substantial areas of these lands are intermingled with private owned lands. Consequently, the condition of the public domain lands and the policies that govern their use and management are of direct concern to conservation districts and their citizen cooperators.

Most conservation districts having lands adjacent to, or intermingled with, public domain lands have memorandums of agreement with the Bureau of Land Management. These set forth certain joint objectives and also the areas of mutual cooperation in working toward these goals.

Over and above these matters of direct association with the public lands and their administration, we have the concern of all Americans for their protection and wise use. Like everyone else, we want to see these lands and their resources managed in ways that will yield the maximum public benefits, not only during the rest of this century but for the long years thereafter.

In this connection, we find much to support in S. 921, the proposed "Public Domain Lands Organic Act of 1971."

It recognizes the public domain lands as vital national assets to be managed carefully for all the people of the Nation, rather than as residual pieces of property slated for ultimate disposal.

The bill provides a modern and long over-due charter for the Bureau of Land Management, setting forth broad policies to guide its activities as well as specific goals and objectives to be attained through its operations.

It would consolidate and modernize the law governing Federal mineral interests in both Federal and non-Federal lands.

We are concerned, however, by a feature of S. 921 which, in our judgment, could lead to troublesome and unwanted consequences. This is the virtually complete delegation of power and responsibility in connection with the public domain lands ("national resources lands") to the Secretary of the Interior—and through him to the Bureau of Land Management.

As we read the bill, there is an almost unrelieved grant of authority to the Secretary and BLM to decree the rules and regulations governing the "national resource lands," to enforce these rules and regulations, and so to function as an independent and unchallenged landlord in every other important respect.

Presumably the Office of Management and Budget could exercise an element of review, on behalf of the President, over the agency's actions bearing on the "natural resource lands."

In addition, we recognize that the actions and programs affecting these lands would be subject to annual review during the course of hearings before the Appropriations Subcommittees of the House and Senate.

In view of the size of the "national resource lands," however, and their exceeding importance to the well-being of the American people, it would appear that additional check points and inputs would be

desirable. For example, we believe a biennial or triennial review of the condition and status of "national resource lands" would be useful. Such a review conducted by an appropriate committee or committees of the Congress would periodically focus public attention on the "natural resource lands," appraise the administration of these lands, and identify the need, if any, for helpful legislation.

We also believe there would be merit in providing more definitely for citizen and non-Federal consultation on "national resource land" affairs. Section 115 of the bill authorizes the Secretary of the Interior to establish such advisory boards and groups as he deems necessary in connection with these matters. But it does not require any. We believe the public interest would be served by a legislative requirement that State and national advisory boards be established, so that additional and non-Federal viewpoints could be introduced regularly in behalf of the purposes set forth in S. 921.

There are a few other points in title I of the bill where we recommend changes, or clarification of the language. In order to set these forth in an orderly way, and without regard to relative importance, we offer the following comments section-by-section:

In section 103(3) we hope our intent will not be misunderstood when we question the use of the term quality environment. One might as well oppose motherhood or apple pie these days as oppose quality environment, and we certainly favor all three. Nevertheless, this is a broad term, not readily subject to definition. Generally, it seems to us, the term means what each individual wants it to mean—and in that respect it is something like "The American Way." Our point is that "preservation of a quality environment," when it is set forth in legislation as a goal in the administration of "natural resource lands," probably ought to be given some dimension or definition. If important decisions are to be made in the name of quality environment, we should have a legislative definition of what the term means.

In section 103(11) there may also be a need for clarification. We are puzzled by the present language. The objective set forth is "prevention of undue concentration of ownership or rights to public land resources." Is this correct—or is the intent here the "prevention of undue concentration of permits to use public land resources?"

In section 104(b) the Secretary is directed to give notice at least 30 days in advance of any public hearing on proposed regulations and criteria to govern the classification of public lands for disposal or retention. The notice is to be given through publication in the Federal Register. Inasmuch as these could be hearings of considerable importance, and the Federal Register is a publication with limited circulation, we recommend that the period of notice be increased from 30 to 60 days.

We appreciate this opportunity to present our views on S. 921.

Senator METCALF. Thank you very much. I see—as far as the latter is concerned, I see no reason why we should not extend it to 60 days. Having practiced law, I always found out on the 29th day that something is running out. In something of limited publication, I agree with you. Let's not have any mistake, the members of this committee are in favor of motherhood and apple pie and quality environment, too. We concur with you that all three are essential. Witness after witness today has objected to these very general statements. I would

like to say to you—I was not in the chair before, but I would like to say to the other people that have testified that I know the committee will be very grateful if some definitive language was submitted that we could work with, and it was more specific than this broad general language. At the top of page 4, you questioned what you call the focus of attention on natural resource lands and questioned whether or not ownership should be in permits or ownership of the resource lands. I think that probably that question is going to be considered by this committee. We are, all of us in the Congress—and I think all of you—are gravely concerned by the concentration of control over our energy resources, whether they are oil or coal or other resources. You raise an important point but it is a point that will be considered in relation to other legislation before the committee.

However, it would seem to me that we should give as broad an opportunity for people to exploit and develop the resources as long as the public interests are carried out. I am sure that that is our purpose here, and that is why we have called you to testify and help us work this bill out.

Now, none of us are wedded to any specific legislation. I know Senator Jackson is a fine and distinguished lawyer, and he and I both feel that introduction of a bill is sort of like an introduction of a pleading. It is subject to attack and this kind of hearing is most helpful to us in developing the final legislation. So, I appreciate your appearance here.

Thank you very much.

Mr. MEREDITH. Thank you.

Senator METCALF. I think this concludes the hearing. However, I was told this morning that Mr. Dan Poole, who parenthetically is a former Montanan, had some slides that were very interesting.

The hearing will be recessed, but I would hope you would present those slides for my benefit, and for anybody else tha might not have seen them this morning. We will recess until tomorrow at 10 a.m.

(Whereupon, the committee was recessed at 3:05 p.m.)

LEGISLATION TO REVISE THE PUBLIC LAND LAWS

WEDNESDAY, SEPTEMBER 22, 1971

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

The committee met at 10:08 a.m., in room 3110, New Senate Office Building, the Honorable Alan Bible, presiding.

Present: Senators Bible, Hansen, Allott, Metcalf, and Fannin.

Staff present: Jerry T. Verkler, staff director; Porter Ward, professional staff member; Mary Jane Due, staff counsel; Charles Cook, minority counsel; and Thomas Nelson, assistant minority counsel.

Senator BIBLE. The hearing will come to order.

Chairman Jackson was called out of town today and, as a result, he will not be here for this hearing today. My indications are that there have been at least five Senators who indicated they would be here. I am delighted that Senator Hansen is here at the start of this hearing. I do regret we do not have a full committee membership here because this is a very, very important area of controversy.

We have three bills before us. I know of the commitments of all of the Senators and I am sure you people will understand.

Yesterday we heard various representatives from the conservation organization. In my judgment, they made many valuable comments and suggestions. They did not have before them, unfortunately, S. 2542, because that bill was only introduced last Friday and it did not come from the printers until Tuesday, so I asked them individually and collectively to examine that bill and make whatever comments they might have on it. Much of the testimony from them obviously was pointed toward the old mining law of 1872. I know that the bill S. 2542 meets some of those objections of those groups. I think, in fairness to the record, it should be very thoroughly explored and that is my intent today.

Today we have a very distinguished panel before us. We have from the American Mining Congress, Howard Gray, a very distinguished lawyer from my own State of Nevada, who is chairman of the AMC Public Lands Committee. Mr. Gray, I am going to ask you to introduce those with you at the head table, if you will.

STATEMENT OF HOWARD GRAY, ESQ., CHAIRMAN, AMERICAN MINING CONGRESS PUBLIC LANDS COMMITTEE

Mr. GRAY. Mr. Chairman, I am W. Howard Gray, attorney at law, and I am privileged to act and serve as chairman of the American Mining Congress Public Lands Committee. I serve as a member of the Advisory Council of the Public Land Law Review Commission.

Permit me to identify my colleagues who constitute the panel before you. Each one of these gentlemen will handle a particular topic which we think is very important in our consideration.

Mr. George B. Munroe, president of Phelps Dodge Corp. Mr. Munroe will speak on the need for a Government policy which will encourage mining exploration and development in the public lands.

The next gentleman, Mr. Ian K. MacGregor, chairman of the American Metal Climax, Inc. Mr. MacGregor will discuss the problems of obtaining investment capital for mineral exploration and development and how revision of the mining laws will affect the mineral industries' ability to finance mineral activities on public lands.

The next gentleman is Mr. Howard L. Edwards, vice president and secretary of the Anaconda Co. Mr. Edwards will comment upon title II, as amended of S. 921.

Mr. Barber is the fourth and last gentleman we have on the team. He is chairman of the American Smelting and Refiining Co. Mr. Barber will discuss S. 2542, the Mineral Development Act of 1971 as introduced by Senator Bible, Senator Allott, and Senator Moss.

Mr. Chairman, before Mr. Munroe begins, let me say that the testimony we present today is directed only to the provisions of the business pending before you which specifically affect mineral development on the public land. S. 2401 and S. 2450 and title I of S. 921 in varying degrees set forth goals and objectives for land management and provide the administrative authority to accomplish these purposes. Our study of these provisions which is incorporated in the various bills before you is not complete. I respectfully ask that we be permitted to file for the record at a later date our comments in regards to these provisions of these bills dealing with the public land management.

Senator BIBLE. There will be no problem on that. I do not know what the chairman contemplates as to future hearings but obviously there will be future hearings, I assume both in Washington and possibly in the field. I do not think a fiinal determination has been made. There will certainly be adequate time for you to make whatever additional comments you want on any of the bills that we are considering now.

As you know, the bills are S. 921, S. 2401, S. 2450, and S. 2542.

You may proceed.

STATEMENT OF GEORGE MUNROE, PRESIDENT, PHELPS DODGE CORP.

Mr. MUNROE. I am George Munroe, president of Phelps Dodge Corp., the Nation's second largest domestic copper mining company, and a director of the American Mining Congress. Because of the very great significance to my company, my industry, and my country of the subject you are considering today—a major revision of this country's mining laws—I am grateful for this opportunity to testify before you.

As the first of today's mining industry witnesses, I would like to emphasize the close and complex interrelationship between the mining industry, the economy and well-being of the country, and the character of the laws regarding mining which are enacted by the Congress.

Mining, together with other industries engaged in the winning of natural resources, is one of the fundamental supports of our economy. This is the reason Congress passed the Mining and Minerals Policy Act of 1970, fixing the policy of our Government to encourage the development of an economically sound mining industry. The reasons are apparent. Because of its basic nature, domestic mining has been estimated to have a direct impact on 40 percent of our gross national products, and to be directly or indirectly involved with nearly 75 percent. Accordingly, national security and balance of payment considerations, as well as domestic economic factors, require that our domestic mining industry remain healthy and active.

Just as the mining industry's role in the economy is basic, so are the mining laws fundamental to the development and growth of the industry. The need for an affirmative governmental policy, embodied in sound legislation, grows ever more important as the average grade of our domestic ores declines, and mining operations necessarily become more complex and more costly. The cost of opening a major new mine can be in the range of $100 million to well over $200 million, and the availability of capital of such magnitude is very closely tied to the political and legal framework within which the industry must operate.

Moreover, it is to the public lands that the mining industry must look for a great portion of our country's future metal and mineral requirements. In the eight Western States in which the bulk of hard-rock mining is done, nearly half the land is public land, or under the supervision of the Federal Government. The Public Land Law Review Commission recognized that the public lands are vital to the function of domestic mineral production and reported that ". . . individuals should be encouraged—not merely permitted—to look for minerals on the public lands." It is important, therefore, that the mining laws serve to encourage the search for deposits of metals and minerals on those lands and the development of those deposits when they are found.

Of course, the public lands have many other important uses, and must be carefully administered to conserve their multiple values for the benefit of all citizens and the generations to come. The mining industry has the clear duty to minimize adverse effects of its activities on other resource values, and I am confident that, with rare exceptions, full development of our mineral resources can be accomplished in a manner wholly consistent with sound conservation principles.

Therefore, I urge that your committee, as you work to develop a new law, keep before you the essential objectives of any mining law—to so provide for the discovery and development of minerals that private capital will be encouraged to support mining ventures and that an adequate flow of metals into our economy, produced at reasonable cost and under circumstances that allow for efficient development and maximum ultimate recovery, will be assured.

There are, of course, a nearly endless number of factors which can either frustrate or encourage these objectives. There are, however, four concepts which are basic to any realistic and effective mining law.

First, prospecting for minerals should be encouraged by allowing individuals and companies maximum and nonexclusive access to the public lands to search for mineralization. Second, a prospector should

be given exclusive exploration rights for any particular area for the time he is focusing detailed exploration attention on it. Third, a person who discovers a valuable mineral deposit should have an exclusive right to develop and mine it, including the right to defer such development for a reasonable period of years until economic or technological conditions justify production. Finally, the law must provide a mining venture with security of tenure for the duration of mining, on terms reasonably set in advance. Inclusion of these four items in any new mining law is of utmost importance if the mining industry is to fulfill its responsibility to supply the country with necessary metals and minerals—and none is incompatible with the need, which we all recognize, to protect our public lands from environmental abuse.

The reason for permitting nonexclusive and ready access to the public lands for minerals prospecting is, I think, clear. Our growing needs demand the continuing discovery of additional mineral reserves, but deposits of economic mineralization are very uncommon. By making the search open to individual prospectors and great mining enterprises alike, and to the many exploration ventures that fall somewhere in between, we can maximize the competition, and therefore, also the chances of success. Therefore, I believe legislation providing for competitive bidding for access to the lands for exploration should be avoided, because it would effectively remove all but a few major corporations from exploration. Smaller companies and individuals have made many major discoveries in the past, and their help in the future can benefit us all.

A somewhat related drawback of S. 921 is that it appears to close to prospecting all lands except those which are designated as available by the Secretary of the Interior. This is counter to the recommendations of the Public Land Law Review Commission and, in my opinion, is strongly counter to our national interest. Because needs and techniques are constantly changing, there is no sure way of telling where economic mineralization will, or will not, be found—even as to lands which have been explored and reexplored in the past. Modern exploration techniques allow preliminary prospecting work to be done with little or no environmental impact, and, with the help of protective legislation to require less responsible operators to follow these modern practices, there seems no reason why nearly all of our public lands should not remain open for prospecting.

The reasons for giving an explorer security against "invasion" of his prospect by others while he is carrying on an active exploration program are self-apparent, and provision for this is included in both S. 921 and S. 2542, before your committee.

Similarly, each bill recognizes that the person who discovers a valuable mineral deposit should be entitled to develop it—although it is not clear what value or certainty that right might have under S. 921's broad delegation to the administrative branch of the power to set the terms and conditions of that right.

It is also not clear how S. 921 would treat the situation when a discovery is made of a deposit which is too low grade or metallurgically complex to be economically mineable at present. It is not in the public interest, and is unsound as a matter of natural resource conservation, to require the discoverer to choose between losing the benefit of his discovery on the one hand and attempting premature

development on the other. S. 2542 handles the matter well, by providing for an increasing annual work requirement, or payments in lieu of work, to hold property prior to development, coupled with the right to carry forward prior expenditures in excess of annual requirements. Under S. 2542 a prospector who finds a marginal deposit can hold it for future development until the credit for his exploration expenditures is exhausted and only so long thereafter as he is willing to make substantial payments to the Government for that privilege.

The last of my four points is that not only should a mine developer have the right to mine his orebody for its full life, but also that the conditions attached to his right be clearly fixed before he commits his capital to the venture. The capital requirements for modern mine development are enormous, and the recovery of capital can be speculative, or effected, over many years. In order for a miner to attract capital to develop a new mine, it is vital that, after having taken into account all of the risks involved in projecting the results of future operations, he not be subjected to the further completely unpredictable risk that the ground rules under which he works will be changed to turn a viable project into a financial loss. Therefore, I believe the provision for production leases in S. 921, which provides for neither the right to mine for the life of the orebody, nor for the establishment of terms and conditions which will be fixed throughout that time, is not adequate for the industry's needs.

There have been many examples in recent years of the way capital behaves when faced with uncertainties of law or government regulation—in Latin America, Canada, and elsewhere. It behaves by staying out; it is placed in "safer" investments. It would be hard on the domestic mining industry, were this to happen here; it would be hard, too, on our national economy and well-being.

For this reason, I recommend to you S. 2542, which would fix a body of law which would permit a mine developer to judge in advance the chances of his success or failure. The comparative simplicity of S. 921 may be attractive, but it merely surrenders to the Secretary of the Interior the function of setting, and changing, the laws under which mining may operate.

That, I submit, is not the better procedure. The stakes here are the strength of our Nation and its continued economic and social progress. These, I submit, are too high to warrant the rules being set by an administrator rather than by the Congress of the United States.

Thank you.

Senator BIBLE. Very fine statement. I do appreciate it, Mr. Munroe.

Mr. Gray, would be it easier to hear all of the witnesses through and then open it for questions or have questions as they occur?

Mr. GRAY. I would suggest we hear all four of the witnesses.

Senator BIBLE. You would prefer to have the opening statement so we have the whole picture in front of us and then go back and open it up for questions?

Mr. GRAY. We can make more mileage that way.

Senator BIBLE. We will proceed in that manner. It may be more orderly. Maybe part of the questions we might ask would be anticipatory of a later statement. I am sure many question will occur to all members of this committee. Let's proceed with that method.

Now, your second witness.

Mr. GRAY. Mr. MacGregor.

STATEMENT OF IAN K. MacGREGOR, CHAIRMAN, AMERICAN METAL CLIMAX, INC.

Mr. MacGregor. Mr. Chairman and members of the committee, my name is Ian MacGregor. I am chairman of the board of American Metal Climax, Inc., engaged in a wide variety of mining operations both here and abroad. I appear here today as a representative of the American Mining Congress, the national organization of the mining industry. I have with me Stanley Dempsey. He is available to help answer questions.

Mr. Munroe has described the position of the mining industry in the economy of the United States and the importance of the legal setting within which the industry operates. My statement deals with the economic dimensions of mineral exploration and development and how revision of the mining laws will affect the mineral industry's ability to finance mineral activity on public lands.

The report of the Public Land Law Review Commission reflects a clear understanding of the U.S. position with respect to mineral supply. That report wisely recommends that public land mineral policy should encourage exploration, development, and production of minerals on the public lands, and it recommends continued reliance on the private sector for such activity.

If the Public Land Law Review Commission's recommendations are to be implemented, mining law revision must take into account the legitimate needs of the individuals and firms who organize and finance the search for and development of mineral deposits. It is helpful in defining these needs to have before us some facts concerning modern exploration and mineral development.

Before discussing the costs and problems of metallic ore mineral exploration, a distinction must be made between these materials and other more commonplace and familiar minerals which have a wider geographical distribution and larger bulk sales. Historically, our mining laws have provided different methods for acquiring these different types of minerals. Coal has never been a locatable mineral. Oil and gas and a number of other mineral substances, including phosphate, sodium, potassium, oil shale, and potash were removed from the location system by the Mineral Leasing Act in 1920. For some of these, the removal was earlier but it was finally recognized with the change of the act in 1920. Common varieties of sand, stone, gravel, and other materials were removed from the system in 1955.

Using coal for comparison, coal seams underlie almost 80 percent of Illinois and 20 percent of the Eastern States, whereas metallic ores underlie no more than 0.4 percent of any one of the Western States. The accompanying circle graph (fig. 1) shows the relative area of the Western States and of Arizona with a small dot representing the relative area occupied by the major copper mines of Arizona and their ancillary facilities. In 1970, Arizona produced 53 percent of the total United States, and 13 percent of all world mine production of copper.

More than 450 discrete metal mining districts scattered about in the Western States have yielded some production whereas there are only 50 much larger coal basins in the United States. Two new districts were discovered in the entire Western United States in 1970, but

geologists maintain that all the coal basins in the world have been identified.

More than 50 percent of the material mined from a coal seam is saleable in contrast to less than 1 percent from large copper mines. The United States produced approximately 600 million tons of coal in 1970, but only 1.7 million tons of copper and only 1,500 tons of silver.

Clearly, metallic-ore districts are limited in extent, more difficult to find, and the chances for successful exploration are much less. Because of their distribution, size and grade, ore minerals are mined and beneficiated differently than the bulk minerals. This is not to say that bulk mineral exploration is not fraught with difficulties (thickness and grade of a coal seam, extent of a gravel deposit, et cetera), but that differences between bulk minerals and metallic ore minerals must be recognized in the mining law.

I want to emphasize that the balance of my statement deals with metallic ore minerals of specific geographic distribution, and the legal system which should be provided for such minerals on public lands.

Let's deal with exploration.

Over the past 15 years, total expenditures on metallic ore mineral exploration in the Western United States have increased significantly. The actual amounts spent are very difficult to determine, but it appears that at least three times as many people are being used in the search for metallic minerals in the Western United States today as in 1955. Along with the increased manpower being employed, exploration technology has become considerably more sophisticated and expensive: Consequently, the cost of putting a man into the field has increased significantly in the same period, currently to an estimated $100,000 per year per geologist. These two factors—manpower and technology—have combined to increase total mining industry exploration expenditures, stated in terms of 1970 dollars, by at least 2.5 to 3 times between 1955 and 1969, as illustrated by the accompanying bar graph (fig. 2), based upon estimates within my company.

The number of discoveries made in the three 5-year periods 1955 through 1959, 1960 through 1964, and 1965 through 1969, has increased more than two times, but the average gross value of each discovery in the latest period, 1965 through 1969, is only about 60 percent of the average in the earliest period, 1955 through 1959. The estimated gross value of all discoveries has increased only by a factor of about 1.5, as illustrated by the accompanying graph (fig. 3). Therefore, even though increased exploration activity has brought about in increase in the number of deposits discovered, the cost of finding one dollar's worth of product was about twice as great in the latter period.

Although 47 significant deposits were discovered from 1955 through 1969, only 16 of these (34 percent) are currently in production.

As an example of how great the odds are against finding a viable mineral deposit, consider that from 1939 to 1949, the U.S. Government strategic minerals development program examined 10,071 prospects and only 1,342 of these deposits were ever worked. Of the 1,432 deposits worked, only 1,053 developed ore-grade tonnage, but not necessarily successful mines. The only substantial success from this entire Government program is the San Manuel Mine of Newmont Mining Corp. These statistics suggest that the odds are over 10,000 to 1 against finding a good ore body.

Now, let's deal with mine development.

The current trend in mine development is toward larger productive capacity. The accompanying graph (fig. 4) shows the daily tonnage capacity of several recently developed mines. Silver Bell, with a capacity of 7,500 tons per day when intially brought to production, was one of the major mines developed during the 1950's. Sierrita, which was brought into production in 1970 at 72,000 tons a day, is nearly 10 times larger.

I believe the tonnage has even been increased since we examined the statistics a few months ago.

Despite economies of scale achieved in building larger plants, costs as calculated on a per unit of capacity basis are increasing. The same graph shows the escalation of costs for new copper mining facilities. These costs, expressed in terms of dollars per ton of annual copper production, have risen signicantly over the 19-year period shown.

Today's larger and more complex total mine facilities take longer to develop. As an example, my company is developing the Henderson Molybdenum Mine in Colorado which will be capable of producing 30,000 tons of ore per day when it becomes operative in 1975. When completed, this facility will have cost in excess of $250 million, and will have taken 7 years to develop. The 10-mile-long tunnel which is an integral part of the facility will require at least 3 years to complete. Incidentally, environmental considerations were a major factor in the decision to build this tunnel. Divisions of this kind are being adopted by the mining industry in its desire to accommodate itself to the general public desires on environment.

Infrastructure costs are also on the rise. Mines are often located in areas where local and regional facilities such as roads, railroads, housing and communication and electrical systems are not adequate to accommodate large production facilities. In such cases mine developers are required to finance, either directly or indirectly, the cost of upgrading such facilities. As an example, new or expanded utility facilities required for the Henderson Mine will cost $9.75 million, and improvement of access roads will cost another $2.4 million.

Let me deal now with corporate ability to finance mineral development of the dimensions we speak about.

While mining project size and cost are escalating, the ability of mining companies to finance such undertakings is on the decline.

The concept of corporate liquidity has long been used as a measure of a firm's ability to meet financial obligations as well as finance growth in order to insure continuing life. Liquidity is best measured by means of financial ratios, the comparison of which, over time, gives insight into a company's financial condition.

Similarly, the liquidity of an entire industry can be compared over time by means of financial ratio analyses. The 10 major firms in the nonferrous metal mining industry—Alcoa, AMAX, Asarco, Anaconda, Cerro, Kaiser Aluminum & Chemical, Kennecott, Phelps Dodge, Reynolds, and St. Joe Minerals, have been grouped together to study the liquidity position of this industry.

As can be seen, in figure 5, the industry's capital expenditure—entirely financed by depreciation and depletion allowances in 1961, have grown to two and one-half times depreciation and depletion allowances by 1970. This is the result of the rapidly increased magni-

tude of capital projects as well as inflation which has negated the ability to recoup investment expenditures by means of depreciation and depletion. The increase also reflects the large capital expenditures which are being made to bring plants into compliance with new environmental standards. As a result, the industry's reliance upon external financing has grown dramatically, as shown in figure 6. This is reflected by the relationship of debt to equity for the industry, increasing from 32.5 percent in 1961 to 43 percent in 1970.

By the way, for those of you who wish to extract, for example, the aluminum industry from these figures, the change would be somewhat different. Excluding aluminum, the mining industry was in much better shape at the beginning of the period having about a 10 percent number, but at the end of the period, the mining industries figure had doubled, reached 20 percent. The amount of debt has risen from $1.32 to $3.5 billion over the same period. Reliance upon debt has increased at the rate of 10.2 percent per year. Significant mining company borrowings in 1971 will probably accelerate these trends.

The relationship of long term debt to working capital, a measure of current liquidity given the burden of debt, indicates that over the past decade a serious decline in liquidity has occurred as shown in figure 7. For the industry, this relationship was 67 percent in 1961 and 130 percent in 1971, as shown in figure 8.

Incidentally, if you wish to extract the aluminum companies again, the numbers are perhaps even more dramatic. Excluding the aluminum companies, the number shown as 67.3 at the low point there was 24 percent but increased almost three times to 49 percent by the end of the period. The continued trend of larger scale projects requiring ever larger capital commitments, combined with the industry's increasing utilization of debt suggests that the mining industry is approaching a liquidity squeeze.

The deteriorating effect that chronic inflation has had upon the ability of depreciation and depletion allowances to recoup investments and fund new projects serves to further compound the liquidity squeeze.

The conclusions are clear. The search for minerals is becoming more costly. The size of new mines is increasing. Each new unit of mineral producing capacity is costing more than the last.

At the same time, declining corporate liquidity is making it more difficult for mining firms to finance new ventures. The mining industry is becoming more dependent upon external financing for construction of new mines and expansion of existing mines.

If we expect to achieve the goals recommended by the Public Land Law Review Commission, that is, the encouragement of exploration, development, and production of minerals on the public lands by the private sector, a revised mining law must provide for the degree of certainty and predictability of conditions which is required by prudent investors when considering undertakings of the magnitude that I have been describing.

Mr. Chairman, the bills now before your committee which provide for a hard minerals leasing system do not adequately meet the needs of the mineral developer as I have described them. In this respect such bills are at variance with the recommendations of the Public Land

Law Review Commission. Mr. Edwards will discuss the deficiencies in the proposed leasing systems.

A better approach is adopted by S. 2542. It provides for a modified location-patent system very similar to that recommended by the Public Land Law Review Commission. The approach of S. 2542 adopts new and innovative property law concepts, reflects the influence of environmental concern, and satisfies the needs of the public land managing agencies. S. 2542 achieves such policy goals, but it still retains those features which the mining industry has consistently maintained are vital to continued public land mineral exploration and development.

Mr. Barber will discuss the provisions of S. 2542 in greater detail.

Senator BIBLE. Thank you very much, Mr. MacGregor.

(The illustrations referred to by Mr. MacGregor follows:)

FIG. 1.

COPPER PRODUCING AREA OF ARIZONA COMPARED TO TOTAL AREA OF ARIZONA AND OF WESTERN U.S.

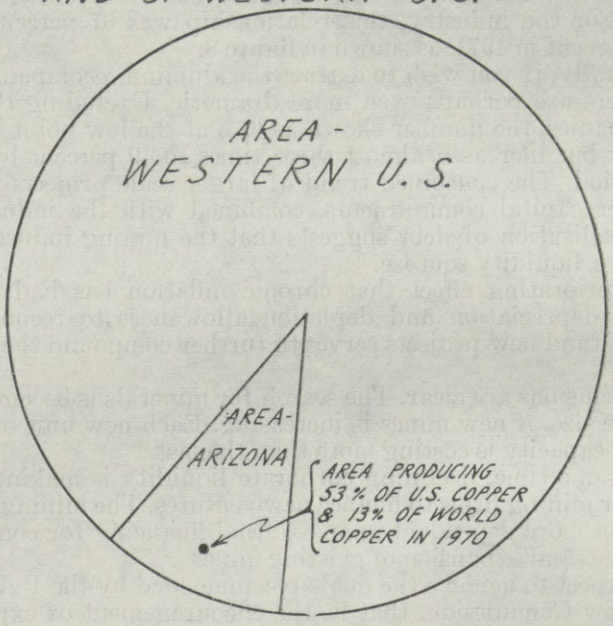


FIG. 2.

ESTIMATED TOTAL EXPLORATION EXPENDITURES FOR METALLIC ORE MINERALS, 1955-1969, WESTERN U.S.

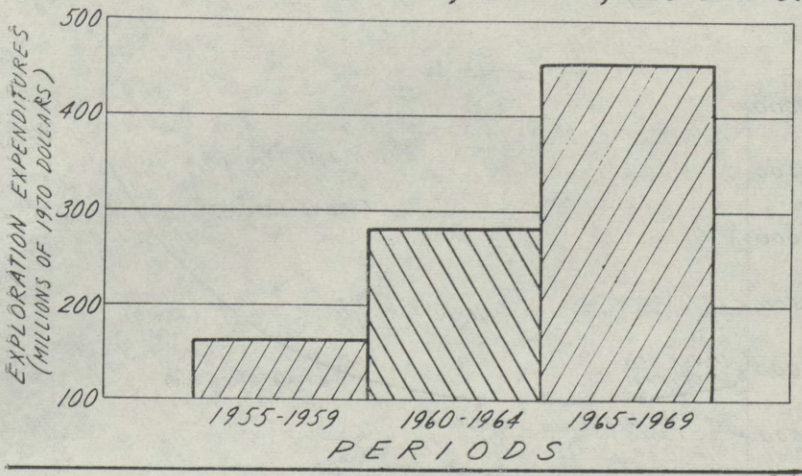


FIG. 3.

ESTIMATED TOTAL GROSS VALUE OF METALLIC ORE DEPOSITS DISCOVERED, 1955-1969, WESTERN U.S. (INCLUDES ONLY THOSE DISCOVERIES WITH GROSS VALUE GREATER THAN $100 MILLION).

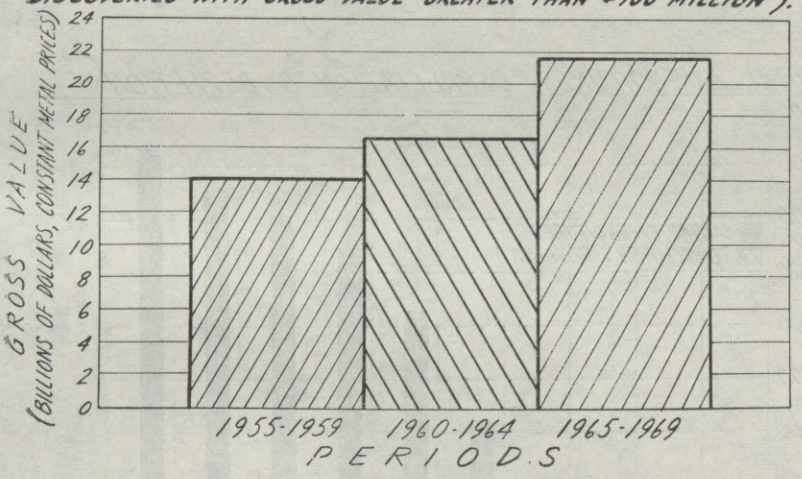


FIG 4

COST OF NEW OPEN PIT COPPER MINES

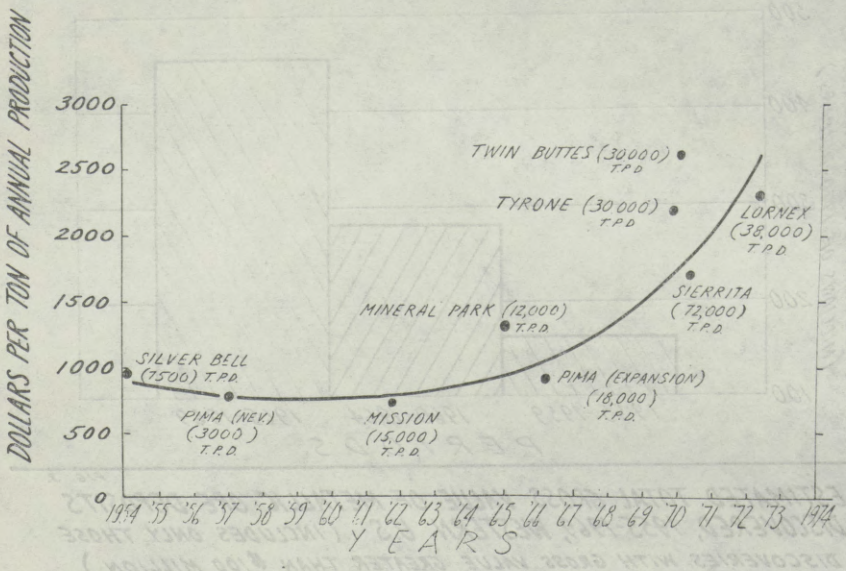


FIG. 5

CAPITAL EXPENDITURES, DEPRECIATION & DEPLETION

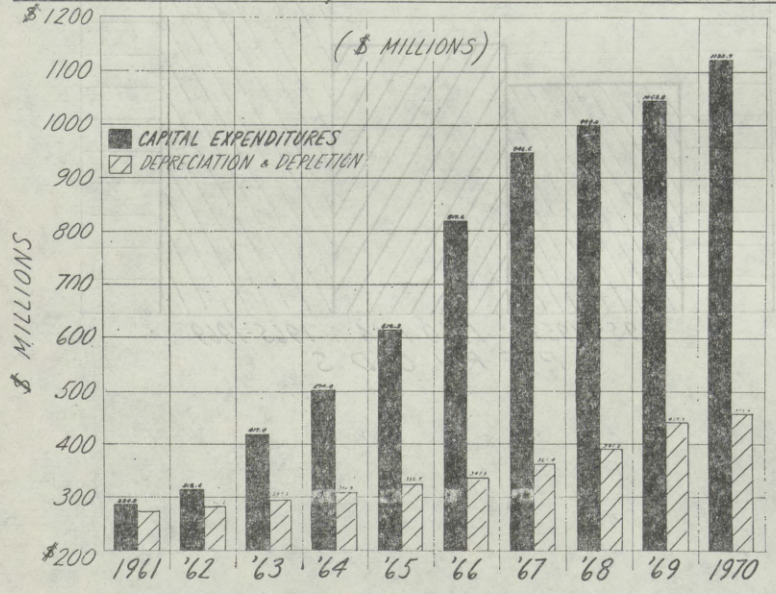


FIG. 6

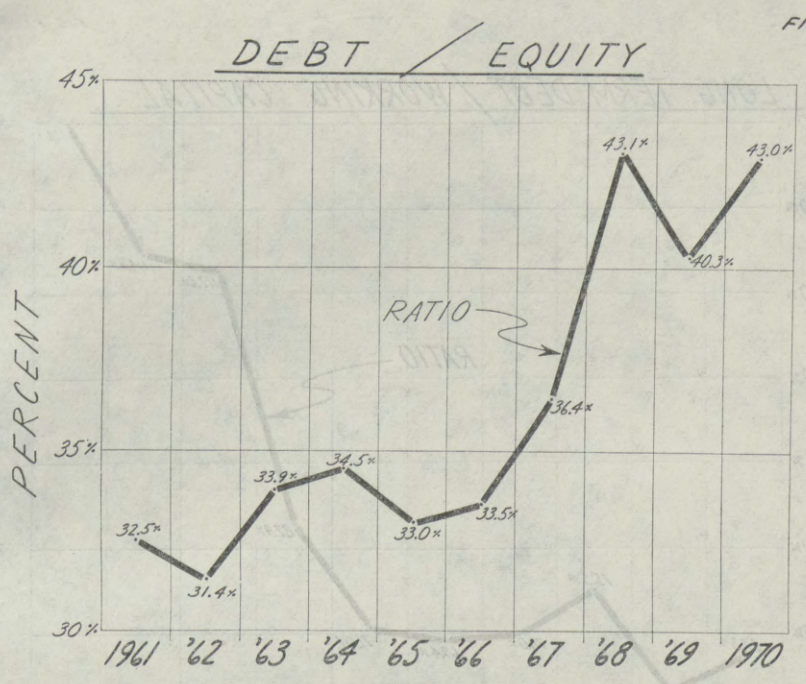

DEBT / EQUITY
PERCENT
45%
40%
35%
30%
RATIO
32.5%
31.4%
33.9%
34.5%
33.0%
33.5%
36.4%
43.1%
40.3%
43.0%
1961
'62
'63
'64
'65
'66
'67
'68
'69
1970

FIG. 7

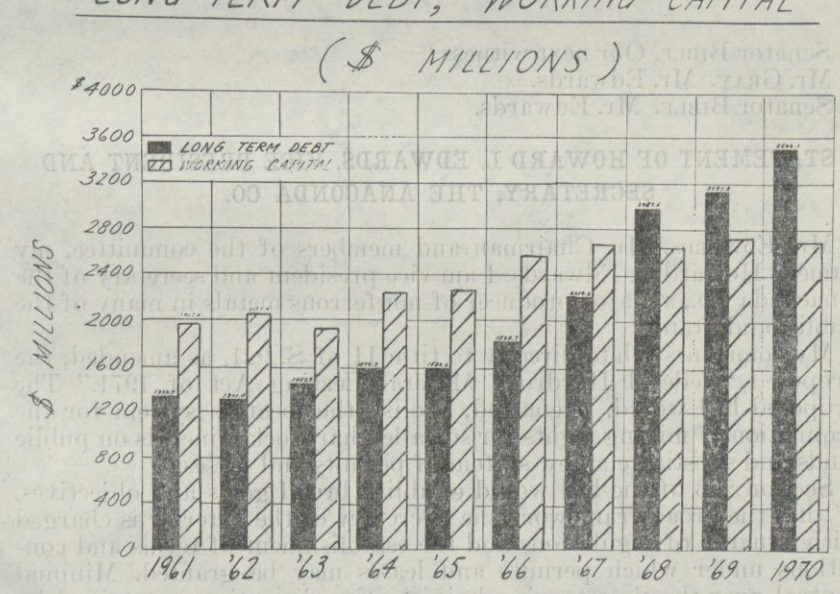
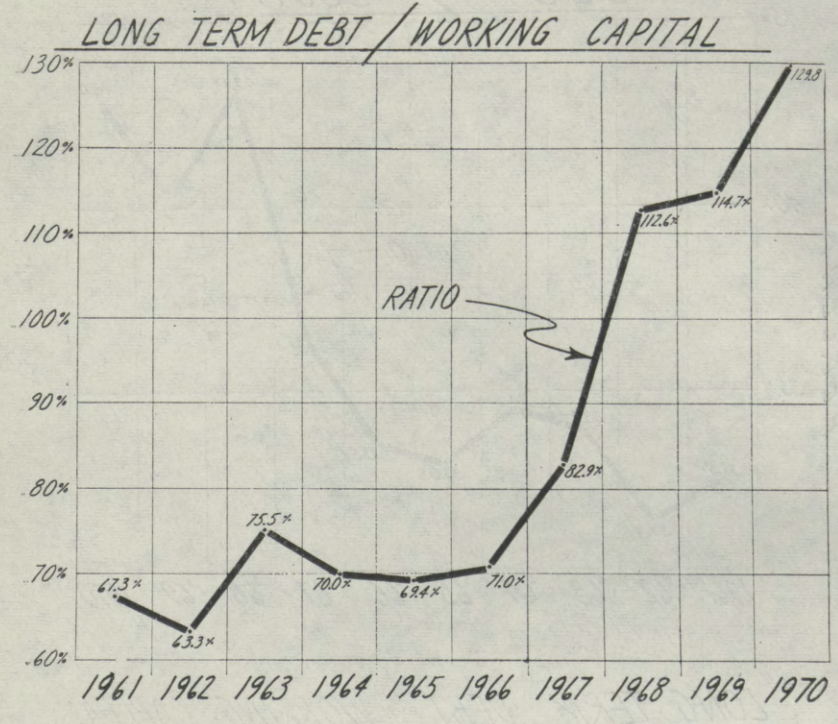

LONG TERM DEBT, WORKING CAPITAL
($ MILLIONS)
$ MILLIONS
$4000
3600
3200
2800
2400
2000
1600
1200
800
400
0
LONG TERM DEBT
WORKING CAPITAL
1961
'62
'63
'64
'65
'66
'67
'68
'69
1970

FIG. 8



Senator BIBLE. Our next witness?
Mr. GRAY. Mr. Edwards.
Senator BIBLE. Mr. Edwards.

STATEMENT OF HOWARD L. EDWARDS, VICE PRESIDENT AND SECRETARY, THE ANACONDA CO.

Mr. EDWARDS. Mr. Chairman and members of the committee, my name is Howard L. Edwards. I am vice president and secretary of the Anaconda Co., a major producer of nonferrous metals in many of the public land States.

My comments relate directly to title II of S. 921, as amended, the proposed "Federal Hardrock Mineral Leasing Act of 1971." The proposed bill would, if enacted, abolish the location system for the acquisition of mining rights for so-called hardrock minerals on public lands and substitute a new system of permits and leases.

Section 203 of the bill would establish broad goals and objectives. Within the broad framework the Secretary of the Interior is charged with issuance of regulations and the establishment of terms and conditions under which permits and leases may be granted. Minimal control over the Secretary's administrative discretion is retained by Congress. The Secretary is authorized to issue permits or leases under "such terms and conditions as the Secretary finds consistent with * * *

(those) goals and objectives." The broad grant of rulemaking authority to the Secretary is similar to some types of legislation that has been invalidated by the courts as an unlawful delegation of legislative power.

The recommendations of the Public Land Law Review Commission for legislative limitations on delegation of discretionary authority are contrary to the philosophy of S. 921. The Commission noted that Congress had largely delegated its plenary constitutional authority over the management of public lands and recommended that in the future Congress prescribe the controlling standards, guidelines and criteria for the exercise of authority delegated to executive agencies. The goals and objectives of S. 921 are not standards, guidelines and criteria. The Commission also took special note of the fact that administrators of mining leases, under existing mineral leasing laws, have broad discretion to refuse to issue prospecting permits or leases and to prescribe operating terms and conditions. The administrator can set royalty rates, reclamation requirements, work requirements and can approve or disapprove an exploration or mining plan. There is today complete discretion to issue or not to issue permits or leases on lands otherwise open to leasing. S. 921 would extend to the Secretary even broader discretionary authority for hardrock minerals than exists for existing leasing act minerals.

The Public Land Law Review Commission, in criticizing the broad discretionary authority of the administrators, noted that although representatives of the oil industry have indicated general satisfaction with the leasing system, producers of other minerals under the leasing acts have stated their dissatisfaction with the manner in which broad administrative discretion has been exercised. Possibly the difference in opinion exists because leasing practices have become more standardized with regard to oil and gas, while more difficulty is encountered in adapting lease terms and conditions to mining situations, with more widely varying characteristics. In any event, the Commission concluded that the leasing system for minerals other than oil and gas could be improved, and that modifications should be accomplished by statutory limitations on the Secretary's discretion. It was recommended by the Commission that the discretionary power be limited by having Congress prescribe the guidelines under which permits and leases may be refused on public lands open to exploration and mining. S. 921 fails to meet that recommendation.

In addition to perpetuating existing problems of existing leasing systems and extending their scope, S. 921 denies the national and public benefits of the system proposed by the Public Land Law Review Commission. Keeping public lands open to prospecting, authority to acquire ownership rights in a mineral deposit by discovery, perfection of ownership and production rights and tenure are important needs that are simply not met by a S. 921 type of leasing system.

The arguments of the mining industry for preserving a location system, with however, important modifications to the system, are known to this committee. Likewise, arguments for and against a general leasing system are well known. There are two objections to leasing, both contemplated by S. 921, that deserve special attention. The first is competition in the allocation of resources, which contemplates

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competitive bidding for the awarding of leases, and second, adequate tenure.

S. 921 would authorize a granting of prospecting permits to qualified applicants with a preference right lease to be awarded after discovery.

Competitive bidding would be required for lands known to contain valuable deposits of hardrock minerals. If history is meaningful, it can be anticipated that with such direction the Secretary would invoke the use of competitive biddnig in the maximum number of cases permitted by law.

The Department has been extremely reluctant to issue prospecting permits under the existing mineral leasing laws. In those cases where the existence of mineralization is known or inferred but the workability or mineability of the deposit is unknown, prospecting permits should be issued. However, such lands are typically only offered for lease by competitive bidding requiring the payment of competitive bonuses merely to acquire the right to explore. This situation was called to the attention of the Public Land Law Review Commission by mining industry witnesses and forms the basis of the Commission's recommendation that the discretionary powers of the Secretary be limited by statute. A specific case where this practice has been followed is in the phosphate lands of Eastern Idaho where very few prospecting permits have been issued in recent years and promising lands available for exploration have only been offered by competitive bidding.

While competitive bidding provides an initial economic return to the landowner, in this case the Federal Government, it is not a fair way to allocate leases. The practice discriminates against small miners, is an economic waste, discourages development and investment, and is an anticonservation measure. The practice is contrary to the Federal mining policy of promoting a Federal mining industry.

An illustration of effects of competitive bidding is the 1971 Navajo uranium lease sale No. 5. This was conducted under the Indian Lands Mineral Leasing Act. Lands that had not formerly been leased were offered competitively. Of a total of 198,000 acres subject to the sale, none of the lands are presently known to be valuable for uranium. For the right to prospect and explore individual lease parcels it was necessary to be the successful bonus bidder. High bids were received totaling $5,482,402. One company bid over $1,600,000. Out of the 198,000 acres, only one tract of 1,280 acres, or one-half of 1 percent of the land area in the sale was acquired by a company that could be called a small mining company. The other tracts were acquired by familiar companies—all of which are large corporations—Anaconda, Conoco, Marathon, Gulf, Humble, Phillips, Mobil, Kerr-McGee, and so forth. Mining companies alone acquired 39,000 acres, or 20 percent of leased lands. Large oil companies were the high bidders for the remaining 80 percent of the lands.

The competitive bidding experience at the Navajo sale leads to several conclusions. First, no individuals or small companies are going to prospect for uranium on the Navajo Reservation. Second, the traditional mining companies are well behind the oil companies in acquiring exploration rights on the reservation. Third, if uranium is discovered, it will have to be of a quality and quantity sufficient to offset the large sums paid as front-end charges.

Contrast the forthcoming exploration on the Navajo land to the discoveries of uranium in our generation on open public land by Charles Steen, a penniless geologist who discovered, developed, and mined Utah's largest uranium mine; Vernon J. Pack, an electric motor repairman, who went out of business in Minnesota when his plant burned down and then made a discovery in Utah which he sold to a mining company for $9 million; and Fred Schwartzwalder, a school janitor, who discovered one of the few vein deposits containing high grade uranium ore near Golden, Colo.

This effect is not restricted to uranium lands. According to Bureau of Land Management statistics the last phosphate land in eastern Idaho offered by competitve bidding was in 1966 and 1967 when 280 acres were leased for a bonus bid of $39,630 and 2,526 acres were leased for a bonus bid of $176,100.

In October 1963, 1,688 acres were leased for a high bonus bid of $675,000. Successful bidders in all cases were established phosphate mining companies. No small miners or potential competitors were in a position to compete against such substantial bids. Before that, in bidding for exploration rights on two parcels of Papago Indian Reservation land, all bidding was by major corporations, and the successful bids were $301,938 and $256,000.

Are we at a time when the small miner and prospector should be eliminated? I think not. An individual prospector or a small mining company made the initial discoveries at every mine presently operated by our company, with the single exception of our New Mexico uranium mine. Most of the feed for our lead and zinc plants is furnished by small miners. Most of our national output of flourspar, diatomaceous earth, antimony, and many other minerals is produced by small miners. Within the last 12 years, the initial discovery that led to the development of the world's largest deposit of beryllium ores at Topaz Mountain, Utah, was not made by the expertise of a major mining company but, rather, by a moonlighting schoolbus driver from Delta, Utah.

Hence, competitive bidding is anticompetitive in the broad sense. The individual and small companies are squeezed out of the economic arena. Only those companies with large existing financial resources are able to participate in the development of mineral resources. This result not only runs counter to the traditional American policy of encouraging competition, it also dampens mineral exploration incentive. Competitive interest becomes high simply when it becomes known that a competent individual or a mining company has developed enough information to make application for a particular parcel of land. Hence, after one person or company has made a diligent effort to define a good prospect, someone else might very well reap the benefits.

There is no doubt that the owner looks to his land for revenue, and through the means of the bonus, rental payments, and royalties he obtains his return. Many more considerations come into play, however, when the landlord is the Government. The Government may extract a far greater return in the form of tax revenues, both direct and indirect, from the wealth created by the mining operation. Local and State governments also benefit in this manner. Moreover, as expressed in the Mining and Minerals Policy Act of 1970, it is in the

interest of the Nation to encourage development of minerals because of national and international economy and political considerations. Since competitive bidding operates to discourage minerals development, and to change the economics so that less ore is available, then the benefits that accrue to the Nation from such direct payments must be weighed against the indirect losses of tax revenue and domestic mineral reserves.

My second point is tenure. S. 921 does prescribe that the Secretary provide for adequate tenure and opportunity for resource users to plan and develop prospecting and mining operations and to secure a fair return for their risk and investment. The bill thus recognizes that a major operating problem under Federal mineral leasing policy is how to cope with the limited life of the leases.

The typical new nonferrous metal mine is an open pit mine with extensive overburden to be removed and a low grade disseminated type of ore to be processed. In order to be an economic unit, the facilities must be large, and huge volumes must be processed. Parenthetically, I thought it was interesting to note, for example, that every open pit copper mine that has been opened in history is still in production, some for over 50 years. When such a mine is developed with the characteristic investments of a capital intensive industry, the payout and economics are based, in part, on lease and royalty requirements. If the term is short, it is difficult to finance the required investment. Even if the term can be extended, the typical Government leasing policy provides for revision of the lease terms at periodical intervals, such as every 10 years. In some cases, perhaps 20 years. The right of the Government to revise lease terms, including work requirements and royalty terms at frequent intervals, is tantamount to denying adequate tenure.

The newest domestic mine of our company is the Twin Buttes Mine in southern Arizona, which required 7 years and an investment in excess of $200 million before production commenced. Suppose that the Twin Buttes Mine were on leased lands where the terms could be revised every 10 years. Only 3 years of production could be obtained before the revision date. With the tremendous investment in the mine the lessee would have little flexibility and virtually no bargaining power in resisting what can be discriminatory increases in lease requirements.

Under S. 921 there would be no statutory limitation on such increase other than an admonition to the Secretary to use his best judgment. The legal right to assert an abuse of administrative discretion is an extremely difficult proposition, especially in the absence of standards. Faced with such uncertainties, a mining operator and supporting financial institutions are very reluctant to make the investments needed to develop such mines.

S. 921 simply does not meet the national needs as expressed in the Mining and Minerals Policy Act of 1970. Because of its broad delegation of rulemaking power to the Secretary it abdicates the constitutional authority of Congress over the management of public lands. It authorizes the Secretary to formulate, without statutory restraint, his own methods for the protection, retention or development of public land mineral resources. It makes the Secretary the czar of mining. Moreover, the bill, as drafted, contemplates or permits the use of prac-

tices, such as competitive bidding, inadequate tenure and periodic revision of lease terms, which are inimical to the maintenance of a sound healthy domestic minerals industry.

It is submitted that a much more practical and workable alternative to the proposed bill is a measure in the nature of the recently introduced Mineral Development Act of 1971. S. 2542 will be discussed by Mr. Barber. That bill does establish statutory standards and guidelines, promotes bona fide competition, encourages investment and protects national and public values and interests.

Thank you.

Senator BIBLE. Thank you very much.

Now Mr. Barber.

STATEMENT OF CHARLES F. BARBER, CHAIRMAN, AMERICAN SMELTING & REFINING CO.

Mr. BARBER. Mr. Chairman and members of the committee, my name is Charles F. Barber. I am chairman of American Smelting and Refining Co., a major producer of copper, lead, zinc, silver, and other nonferrous metals in the United States and abroad. For more than a decade, I have served as a member of the Public Lands Committee of the American Mining Congress, under the chairmanship of Howard Gray, who is with us here today, and in that capacity participated in the review of the existing mining law that preceded the January 1968 presentation of the American Mining Congress to the Public Land Law Review Commission and to the later review and study of the recommendations of the Commission.

S. 2542, the proposed "Mineral Development Act of 1971" is supported by the American Mining Congress as a 20th century substitute for the Mining Law of 1872. It is an alternative to S. 921 and other proposals which call for outright repeal of the mining law and the establishment of a mineral leasing system to be administered by the Secretary of the Interior. S. 2542 deals effectively, we believe, with the problems which have been identified in the operation of the 1872 law, many of which you heard about yesterday. It provides a coherent, comprehensive statutory plan which preserves the dynamic elements of the mining law which have served the country well over most of the last century. In so doing, careful regard has been given to the recommendations of the Public Land Law Review Commission contained in its report "One Third of the Nation's Land." Most of the applicable recommendtaions of the Commission have been incorporated in the bill.

In chapter 7 of its report, the Commission found the public interest requires that the exploration, development and production of minerals on the public lands be encouraged—not merely permitted—by maintaining a continuing invitation to the private sector to explore for and develop minerals on the public lands. You heard reference to that language from each of the witnesses today and I think it is entirely appropriate, because this is the very nub of the difference between those of us in the mining industry and some of those on the conservationist side of the public discussion that is now going forward with such intensity. The Public Land Law Commission recognized that private enterprise has succeeded well in meeting our national

mineral needs and that the Federal Government should generally rely on the private sector for such mineral exploration, development and production. S. 2542 does this with respect to minerals now subject to the Mining Law of 1872. Enactment of the bill would simplify administration of the public land laws and the mining law, avoid abuses which are possible under the present mining laws, facilitate multiple use of public lands and accommodate the increasing use and demands for such lands, for all purposes, including the continuing needs of the country for all mineral production.

Lands used for prospecting or mining would be subject to the applicable provisions of laws and regulations designed to protect the environment against degradation. The problems relating to land use and the protection of the environment are currently the subject of regulations being developed by the Federal land agencies and of legislation now under consideration by the Congress. The regulations will apply to lands under the jurisdiction of the United States. The proposed legislation will apply in addition to exploration and mining on private lands. The American Mining Congress is supporting both the promulgation of appropriate regulations and the enactment of laws of general application.

In the paragraphs which follow I will review in broad terms the principal features of the bill.

TITLE I—PURPOSE

Title I states that the purpose of the bill is to provide for the development of mineral resources of the public lands in a manner consistent with congressional policy as expressed in the Mining and Minerals Policy Act of 1970. It also contains definitions of terms used in the bill.

TITLE II—DEALS WITH THE EXTINGUISHMENT OF UNPATENTED MINING CLAIMS

Title II of the proposed bill provides for the orderly elimination of existing unpatented mining claims and mill sites which are property rights protected by the Constitution. It provides that the owner of an unpatented claim may abandon the claim within the year following the effective date of the act and file a new claim under the provisions of title III of the act. If he does not do so, he must file a declaration of interest within 3 years with the Secretary of the Interior and an application for patent based on discovery of a valuable mineral deposit within 5 years, or the claim will be null and void. These provisions we believe will accord reasonable protection for existing mining claims and thus meet the constitutional requirement. At the same time, the bill imposes new requirements so that within a period of 3 years the Federal land offices will have a record of all existing mining claims of possible continuing validity and within 5 years the public domain will be cleared automatically of all unpatented mining claims located under the 1872 act except those claims for which applications for patents are pending.

Title III of the proposed bill provides for a new kind of mining claim which would be located and maintained only in accordance with Federal laws and regulations. It eliminates the provisions of existing law which permit the States to impose additional and different require-

ments for the location and maintenance of mining claims—a feature of existing law which has led to much confusion and considerable unnecessary abuse of the surface of the land. I refer in particular to the now pointless discovery pit provisions which still prevail in some States.

The new mining claim provided by the bill would have characteristics very different from the present unpatented mining claims under the 1872 law. I refer to the following:

1. Insofar as possible the new mining claim, which may be as large as 80 acres in size, must conform with legal subdivisions of public land and where it does not, the Land Office must be furnished a map of the mining claim which contains a tie to a mineral monument or a permanent natural object.

2. Location notices and other documents relating to the location and maintenance of the mining claim would be filed with the Land Office of the Bureau of Land Management in addition to being recorded in the county or district recording office.

3. The location procedures noted above would permit Federal agencies and other interested parties to determine readily the existence of unpatented mining claims and their exact location.

4. The exercise of rights under a mining claim would be conditioned on the holder furnishing a bond to secure payment of damages to the surface resources and tangible improvements.

5. The present distinction between lode and placer deposits would be eliminated and both types of deposit would be located in the same manner.

6. The new mining claim would not have extralateral rights.

7. Annual labor requirements would be substantially increased. Work of value of $5 per acre would be required in each of the first 5 years. This would increase to $10 per acre for the second 5 years and $15 for the third. After 15 years $20 per acre would have to be spent each year to hold the mining claim. This is equivalent to interest at 8 percent on a land evaluation of about $350 per acre, which is substantial for most of the land we are talking about. These requirements are at a level sufficiently high to discourage the holding of claims where the mineral potential is other than substantial.

8. The holder of a mining claim, in lieu of performing annual labor, could pay the United States an amount equal to the amount which otherwise would have to be expended for annual labor. This follows a provision of British Columbia law which has worked well in practice and avoids the necessity of performing annual labor where in fact the work is unlikely to be productive as such or where the costs of gaining access to the claim to perform it are excessive. It also would have the effect of making unnecessary periodic disturbance of the land where the conditions are such that it would not serve the end of mineral development.

9. The annual labor requirements would be made more stringent in other respects. For example: Failure to file an affidavit of annual labor or make a payment in lieu of annual labor would cause the claim to be null and void. Material false statements in affidavits of labor would cause the mining claim to be voidable by a proper proceeding instituted by the United States or by a subsequent locator. The filing of a false statement would subject the person filing such

a statement to criminal prosecution under the Federal False Statements Act, 18 U.S. Code section 1001. These provisions are designed to prevent fraudulent avoidance of the annual labor requirement.

10. A patent for a mining claim could be obtained either (a) by proof of discovery of a "valuable mineral deposit" as defined in the bill, or (b) if the owner of the claim files a plan of development with the Secretary of the Interior, and the Secretary approves such plan and thereafter equipment and facilities are acquired and installed in substantial compliance with the plan or development, previously approved by the Secretary. This latter provision implements the recommendation of the Public Land Law Review Commission and it is believed will probably be the provision under which most mineral patents will be granted in the future. It meets the owner's requirements of secure title, or rather the right to secure title, at the time he seeks financing for the development of the mineral property. The alternative basis for the grant of a patent—proof of discovery of a valuable mineral deposit—continues the provisions of existing law, as contemporaneously interpreted by the courts. This provision will serve primarily the interests of the individual prospector and small operator—enterprising men of a class who have contributed enormously to the development of the mining industry but who typically are unable these days to finance the development of their claims.

By providing a mechanism for the issuance of a patent at a time short of the completion of a plan for development, such prospectors will be more secure in their regard for discovery and more likely to continue to devote their energies to the high risk business of searching out and locating valuable mineral deposits.

11. The purchase price for lands covered by a mineral patent would be substantially increased. Under the present mining law, the payment of $5 per acre for lode claims, for example, is nominal. The proposed bill provides for the payment of $50 per acre for the mineral deposits in the mining claim plus the appraised fair market value of the remaining interests in the land owned by the United States to be conveyed by the patent.

12. The bill provides for the payment of a royalty of 2 percent of the mine value of the minerals mined, but not more than 5 percent of the net income, before income taxes, allocable to the minerals for which said royalty is payable. The provision for the payment of royalties is supported by the American Mining Congress with great reluctance, for the effect of such a provision will necessarily increase the costs of mining and, concomitantly, increase the cutoff grade of ore which will be mined. The imposition of fixed royalties thus works contrary to the principle of conservation that would require that, once a mine is opened, the available minerals should be fully extracted. The potential loss of minerals because of the imposition of royalties can be of particular importance in the mining of low-grade halo-type porphory copper deposits typical of most of the operating properties in southern Arizona. I call attention to Mr. MacGregor's testimony where he pointed out the huge investments required for the mines being brought into production in the last decade. The reason is that the trend in mining is to handle ever lower grade deposits in massive size rather than the high grade vein deposits of the former day. Many of these deposits are of the halo type where you have a central core mineraliza-

tion which is of sufficient high grade to justify the investment and then as you go from the center of the ore-body the mineral content, to use figures which are currently the figures being used in copper, goes from five-tenths, four-tenths, three-tenths, 2-tenths as you extend your development out from the center of the ore-body. When you go from 3-tenths to 2-tenths, you may double the tonnage of the ore available. It is at this margin that the imposition of fixed costs in the nature of royalties can have a very important effect on the quantity of minerals which can be mined from the deposit. To the extent that copper, lead, and zinc, for example, are not produced in the United States because of the imposition of royalties, additional quantities of these metals will have to be imported to meet domestic requirements. Notwithstanding the foregoing, we support the royalty provision out of deference to the conclusions reached by the Public Land Law Review Commission which thoroughly considered all aspects of the problem and concluded that royalties should be payable.

13. Instead of the mineral patent granting full title in the lands as provided by the present mining law, the proposed bill provides that the patent would state that the lands could be used only for mining, mineral exploration, development, processing, or uses reasonably incident thereto. Use of the lands for other purposes without the consent of the Secretary of the Interior after notice by the Secretary to the owner of the land to discontinue the unauthorized use would result in the land under the patent reverting to the United States. The effect of this reverter would also assure that the land would ultimately revert to the United States on the conclusion of the extraction of the contained minerals, for the land could not be used for any purpose unrelated to mining by the owner of the patent. Yesterday you heard reference to the use of mining claims after the conclusion of mining for the erection of resorts and other uses. That would not be possible under S. 2542.

14. Finally, the bill makes it clear that the owner of a mining claim is not exempt from and must comply with applicable Federal, State, and local laws relating to protection of the environment. We believe, Mr. Chairman, that these characteristics of the mining claim which is proposed by S. 2542 meets head on the observations that have been made on the operation of the Mining Act of 1872 which we all concede has been out of date in recent years when the demands on the public lands have been so great.

Title IV deals with records, to which I already made reference. For the first time under the provisions of the bill, the Land Office would have readily available information concerning all patented and unpatented mining claims and would be able to maintain public records so that this information would be readily available to Federal agencies and other interested parties.

TITLE V DEALS WITH OTHER LANDS REQUIRED FOR MINING

There is no provision in the present law authorizing the Secretary of the Interior to grant the owner of a mining claim other lands needed for mining his claim, other than by the use of a mill site, which was recognized as inadequate by the Commission, or by various laws providing for the exchange of lands under certain conditions, the sale of

small tracts, et cetera. Title V would authorize the Secretary of the Interior directly to sell at the appraised fair market value other lands owned by the United States to persons having an interest in mineral deposits which are reasonable necessary for mining, processing, and related operations with respect to such mineral deposits. Although the United States would receive the appraised fair market value for lands sold or exchanged, provision is made in the proposed bill that patents issued under title V for lands sold or exchanged would contain the same reverter clause similar to the reverter clause to be included in mineral patents, providing that the lands would revert to the United States if used for an unauthorized purpose.

Title VI would amend various laws to make their provisions conform with other titles in the proposed bill. These amendments would broaden the liability for surface damage and limit provisions of the present law permitting free use of timber on public land. It also continues the provisions of existing law excluding "common varieties" of sand, stone, gravel, et cetera, from the operation of the act, broadening the definition, however, to include all such materials as are "primarily valuable as construction materials." This will eliminate the principal source of disputes under the existing definition; all materials primarily valuable as construction materials would be excluded from the scope of S. 2542.

Title VII would require that the provisions of the proposed bill be administered in conformity with the Administrative Procedure Act.

We believe that the proposed Mineral Development Act of 1971 provides a comprehensive and workable substitute for the mining law of 1872 which would faithfully carry out congressional policy as set forth in the Mining and Mineral Policy Act of 1970. We believe it is also consistent with and follows closely the findings and recommendations of the Public Land Law Review Commission. We believe that S. 2542 is the best proposal for revision of the mining laws now pending before this committee and urge its approval by the committee. The American Mining Congress stands ready to assist the members of the committee and the staff with respect to any provisions of the proposed bill with respect to which further study is deemed to be required.

Senator BIBLE. Thank you very much, Mr. Barber. Mr. Gray, I want to commend you as the chairman of this most distinguished panel for the unusually fine presentation that they made on the various areas of concern that are before us in these four pending bills. The presentation has been of the highest level. I agree that certainly a revision of the Mining Law is long overdue and it is just too bad that it was not done a number of years ago.

Maybe some of these problems that we are confronted with today would have been forestalled had that been true. But be that as it may, we cannot relive that particular problem. The bill to which you direct your attention, I think, you analyzed very well. It is a definite improvement. I think it is a very fine contribution. Can you give me an idea of how many patented mining claims there are in the United States today? That may be a hard statistic to pick up. I thought it might be interesting information. How many patented mining claims are there in the United States today?

Mr. GRAY. I will try my best to find out.

Senator BIBLE. That is hard to pick out of thin air. Likewise, your best estimate of the unpatented mining claims.

Mr. GRAY. That would be a sheer guess because of the type of records that have been kept in various States.

Senator BIBLE. Certainly that is one area where I think everybody, even the opponents, are in complete agreement that this act is a definite improvement because you have some centralization where you can go to one headquarters and find out what the mining situation is in any particular State. Now, many questions do occur. We have a very fine attendance at this time and I am only going to ask a few here and then defer to other members of the committee so they can question as they want. Tell me this: You constantly mentioned small mining companies and the disservice competitive bidding would be to them if you adopted a leasing policy. How do you define a small mining company? What is that under the definition of the American Mining Congress?

Mr. EDWARDS. I probably should respond to that.

Senator BIBLE. This is directed primarily to your paper.

Mr. EDWARDS. I made the comment in my paper on the recent Navaho lease-sale. A single track in that sale was leased to a small mining company. That particular company happens to be one which has a net profit of about $1 million a year from mining operations.

Senator BIBLE. How large is it?

Mr. EDWARDS. How large is the company?

Senator BIBLE. How do you distinguish between—you constantly say one of the criticisms, your criticism, of the competitive leasing system is that it does a disservice to the small mining company.

Mr. EDWARDS. Every company that leased the 99½ percent of the lands in the Navaho Reservation were companies where their stock was listed on the New York Stock Exchange, with that one exception.

Senator BIBLE. Is that your criteria?

Mr. EDWARDS. That could be one possible criteria.

Senator BIBLE. You have to be listed on the New York Stock Exchange to be considered a big company and if you are not on the exchange, you are a small company? What if you are on the American Stock Exchange?

Mr. BARBER. I would try a different definition.

Senator BIBLE. It is your language. What do you mean by a small mining company? I am not sure I know what a small business is and I am chairman of the Small Business Committee.

(Laughter.)

They have more definitions floating around about a small business and some of these small businesses get mighty big if they want to take advantage of the Small Business Act, so I do not know. Go ahead, try it.

Mr. BARBER. This is personal, not a statement for the American Mining Congress. In this area, what we call the individual prospector and the small operator historically has been extraordinarily productive in terms of finding resources. Thereafter, the major companies, which those of us speaking this morning represent, provide the capital and know-how to develop these resources. I would think the major mining companies, to answer the other question first, are those which year in and year out devote anywhere from $1 million to $10 million per year in exploration looking for this needle in the hay stack.

Senator BIBLE. $1 million to what?

Mr. BARBER. $1 million up.

Senator BIBLE. $1 million plus?

Mr. BARBER. I suppose in order to do this year in and year out, you must have a cash flow and an earnings base from which you take this 5 or 10 percent or whatever it is which you use for exploration.

Mr. MacGregor pointed out how extraordinary the odds are in terms of finding a property suitable for development——

Senator BIBLE. I realize the odds. Just be responsive to the question or we will never get done.

Mr. BARBER. The large companies are those that year in and year out are devoting this amount of their resources to exploration. Small operators and everyone else, including the grub stake that may develop a one shot $1 million program.

Senator BIBLE. Is the American Mining Congress composed of both big mining companies and small?

Mr. BARBER. Yes.

Senator BIBLE. How many of each do you have within the American Mining Congress? How do you determine what is a big company and what is a small company?

Mr. BARBER. Mr. Overton, the executive vice president, is here and maybe he has an answer to that.

Senator BIBLE. You must have some criteria to charge the Anaconda the same amount as the XYZ Copper Exploration Co. of Pioche, Nev. I do not know, I am just asking for information.

Mr. MACGREGOR. The dues structure of the American Mining Congress is based upon the production of minerals by the different companies..

Senator BIBLE. It is based on production of minerals by the various companies?

Mr. MACGREGOR. Yes.

Senator BIBLE. What is that criteria? If I produced 1 pound, I am a small company and if I produced 1 million pounds, I am a big company. Is that it?

Mr. MACGREGOR. I would suggest Mr. Barber was touching on the dividing line fairly well. Companies that spend less than $1 million regularly on exploration might be classified as small mining companies.

Senator BIBLE. For the record, I would like to know how many big companies are members of American Mining Congress number-wise and dollar-wise and how many small mining companies are members of American Mining Congress?

Mr. GRAY. We will furnish you that information.

Mr. MACGREGOR. We will give you an analysis of the membership in the American Mining Congress and try to categorize them.

The membership of the American Mining Congress includes 233 companies that produce the bulk of the Nation's ferrous and nonferrous metals, coal, cement, and agricultural minerals (sulfur, phosphate, and potash). Membership is open to all mining companies regardless of size. Dues are not based on number of employees but on production at rates generally equivalent to $133 per $1 million of gross sales of the first commercial product.

For 1970. 32 members paid between, $100 and $200; 40 members paid between, $201 and $500; 51 members paid between, $501 and $1,000; 110 members paid between more than, $1,000.

Senator BIBLE. I do not want it exactly. I just want a broad picture of what the scope of this problem is, because Mr. Edwards did say one of the great objections to the leasing system was that it was discriminatory against the small mining company. I want to know who it is discriminating against. You will furnish me that definition. One of our other objections—I will just hit a few of the highlights—is that the small miner cannot compete with the big company. I think that is self serving. I think it is evident. I do not know where a small business could compete with big business in almost anything in America today, but isn't it possible to work something into some type of a law where you have a specific percentage set aside for the small operator, the small prospector and the little guy who is trying to develop the way you mentioned Charlie Steen who was injured a week ago. He is in bad shape. He is in the hospital unfortunately. He is a citizen of my State. You mentioned Mr. Pick and Mr. Schwartzwalder.

Three fine examples. It can be elaborated. There are many such examples.

Mr. MACGREGOR. Possibly the point could be emphasized by saying that most small mining companies eventuate from the work of one individual prospector. I think that is the point which has been made. Any mining law should not preclude the opportunities for an individual, with his own skills and knowledge, to develop a prospect from which he in turn can develop a mining operation.

Senator BIBLE. Then, in other words, in your opinion any type of a legislative set-aside for the use and benefit of the little guy would not meet your problem because it might set aside the wrong area.

Mr. MACGREGOR. That is correct. He should be given equal opportunity. The mining law should provide equal opportunity for anyone, such as your friend Mr. Steen and others——

Senator BIBLE. Of course, the very laws of life I suppose kind of run against that because the big businessman has a very definite edge in competing with the little guy, isn't that true?

Mr. MACGREGOR. Oddly enough, I think Mr. Edwards pointed out that his company today is constituted from a series of small enterprises started by individuals.

Senator BIBLE. I think that is true but my experience in mining has been that the costs of mining and the risks that you mentioned correctly so, and the terrific expenditures you have to make, are so big that the little guy cannot get it financed. He has to sell to a bigger company. I think that could be documented. That was also my experience. I am not just saying things he is saying.

Mr. MACGREGOR. I submit that the opportunity should exist for the individual to do just this: that the prospector, the fellow with the idea, may be not the most sophisticated geologist in the world but with conviction, persistence, and ideas will try to develop what he feels is a mineral prospect. He should not be precluded——

Senator BIBLE. I am a great supporter of the small miner. I always will be. My dad was a small miner. It is a good thing he had a grocery store to support his mine. My mother's own wedding ring was hammered out of gold my own father dug out of the ground. I have a deep and abiding faith. I have a few mining claims I would be glad to auction off here this afternoon.

[Laughter.]

The love of mining goes very deeply and for a long, long time.

Just moving quickly along, what are the other attacks you make on the leasing provision? Is it that it does not have tenure? I understand you have to know the life of what you are doing and how much time you have to get your investment back. Couldn't you build that into a law saying that it should be as was true in the Geothermal Steam Bill which I am rather proud of—I am the author of it—where we averaged 10 years for prospecting and developing and then a firm 40 years, the first time up, so that once you have proven the geothermal steam—it is a different resource but it is a resource—then you shall have a reasonable time to amortize and get your money back out. Can't you solve that tenure problem, Mr. Edwards?

Mr. EDWARDS. That would be a great improvement over the mineral leasing policies that we have in the Federal system today. It would go a long way towards solving that problem of tenure. If the law had statutory guidelines that required that long of a term without any alteration of terms and conditions——

Senator BIBLE. If you could improve that and if you could nail down how much you had to pay, then what would be your objections?

Mr. EDWARDS. I think probably the principal objection after we solved those kinds of problems——

Senator BIBLE. I am saying you could try to solve them.

Mr. EDWARDS. Assuming we could, it would be access to the land for exploration without the necessity for requiring a permit or a competitive lease.

Senator BIBLE. In other words, you could roam over the country without coming to bureaucracy to get approval to do it. Isn't that basically what you are trying to say?

Mr. EDWARDS. The bill that has been introduced as 2542 would preserve that right and after discovery was made a lost of the aspects of the tenure, of the miner, would be close to a lease. He would be required to pay royalties. He would be required to abide by the many terms and conditions.

In the initiation of his rights, he would still have the opportunity to go on all vacant public land and explore for minerals. That is an important principle.

Senator BIBLE. Other questions occur to me. I do not want to monopolize the time. It is running close to the noon hour. It is my intention to recess shortly after noon, to come in at 2 today rather than 2:30. We still have a long group of witnesses and I doubt if we can finish anybody except this panel by noon. Maybe we cannot even finish them by noon. But we will proceed.

Senator Allott?

Senator ALLOTT. My questions will be few. Both Mr. Munroe and Mr. Edwards commented on the rates to be paid. I will refer to Mr. Munroe's statement on page 6 at the top of it. He discussed the payments that have to be made. My question is: Do you think, while we have the rate set in here in a solid way, whether or not there might be—it might be possible to put in the legislation—not leave up to the Secretary but to put into the legislation principles of adjustments of payments of royalties, rentals, based upon productiveness or something of that sort which would have one very great advantage and that would be to encourage the complete use of what Mr. Barber has

referred to as the halo-type things. Maybe I am fumbling, but I think you know what I am talking about.

Mr. MUNROE. Yes, I think the type of provision which has been included in S. 2542 attempts to meet that point by providing for a flat royalty rate of 2 percent of the gross value of the mined product, limited, however, by a maximum of 5 percent of the net value so that as you get down to the point where the costs and the price realized are coming more and more equal, the 5 percent limit would come into play. So, I think to a large extent, the type of provision which is in S. 2542 does go a long way toward meeting the point that you have in mind.

Senator ALLOTT. Well, I presume that it does. I just wondered if any of you had any other thoughts with respect to this particular matter. We are all aware, of course, of how much oil they leave in the ground. We in Colorado are very much interested, of course, in shale development. Of all the various methods of retarding mining, et cetera, I think, with such a resource, where you are talking about 800 billion barrels of oil, one has to be very genuinely concerned, in the United States, about how much oil, how much copper, how much molybdenum, how much anything we leave in the ground to be perpetually and perhaps forever wasted.

Mr. MUNROE. I think this is a very good point and one with which all of us on the panel completely agree. Basically, I think most of us—certainly I feel that the best way of dealing with this is not to have a royalty provision based on gross income unrelated to net income and let the Government realize its financial return through the operation of the income tax laws, through taking its share of any income which may be generated. As Mr. Barber indicated—we supported the inclusion of a royalty provision simply because it was recommended by the Public Land Law Review Commission and we wanted to accommodate, as far as we could, to the recommendations of the Commission. But I think, to promote maximum recovery, the best way to do it would be not to have a royalty provision but to allow the Government to participate in profitable recovery of resources.

Senator ALLOTT. Well, we will give this matter some thought. This is, of course, argued and debated and to say "vigorously" would be putting about the most modest adverb I could put on it in the Public Land Law Review Commission, as you know.

Getting to Mr. MacGregor, I would like to say one thing, I appreciate your pointing out today, in a way which I had never realized before, the real difference between the principles which are applicable to mining such as coal and in the hard minerals industry. I think you did that very explicitly, and while I suppose we shall hear that you gentlemen have not dwelt very heavily on the conservation aspects, you were not asked to do this. You were dwelling upon the economics of mining. I do want to say that I am acquainted with the project which he mentioned, the Henderson Mine, and for the sake of the record, to show the extent to which the environmental aspects have been worked about in there. I would like to say this, the mine is on the eastern portion of the Continental Divide.

In order to meet the environmental aspects which would have desecrated a rather limited area for spoil, et cetera, they have gone down—what is it, 2,000 feet—or will go down 2,000 feet——

Mr. MUNROE. Yes, sir.

Senator ALLOTT. On the east side of the mountain, with a 10-mile tunnel to where they have, on the west side, acquired land and property for mill sites and tailings and so forth. They encouraging thing about this is that they have not, over a period of 2 weeks or 2 years, but rather over a period of 5 or 6 years, at least, worked hand in hand with the environmentalists in Colorado to realizing that this available property could not be developed, as a matter of fact. So it is a great example in my opinion of how this is developing.

Thirdly, I would like to say this, I am happy to see the support for this recording device. I attempted to obtain interest and I obtained objections from some of the oil companies. Some of the oil companies were very opposed to it. But I have tried in the past, and have not had time recently, to get interest in applying the same principles to the Oil and Gas Leasing Act and if we can push this forward, I think it will be a very valuable asset to the bill. I would say one thing. There is—we could all spend the whole day on the economics of this and I could go through each statement and there are 100 questions suggested to me. I think we understand them and I want to express my personal appreciation to all of you for your statements this morning and the fact that you have personally taken the time here to testify.

Senator BIBLE. The Senator from Arizona.

Senator FANNIN. Thank you, Mr. Chairman. I certainly commend you gentlemen for a very impressive presentation. I certainly agree about the benefits that would accrue if we could have a bill, 2542, approved by the Congress. I am just wondering about the present status as far as individuals are concerned. You said individuals should be encouraged, not merely permitted, Mr. MacGregor. In Arizona we have a great number of our people that go hunting. Some hunt game and at the same time go out and try to explore for minerals. We have many who come to Arizona—there is an item of great interest to them—but along with my desire to see that continue, I know the problems that have been caused by the tremendous number of mining claims that have been made and, of course, the person sometimes is very hard to locate when we are trying to clear the land. We had many instances where the sales have been held up because we could not find the individual, and in many other instances they have gone ahead and made the claim without any idea of developing it. Do you feel with 2542, this would correct that problem—and—I just want a double-edged statement here—and would this result in an examination by the larger mining interests as to whether or not they should investigate many of those claims to see if they are prospective enough to develop?

Mr. MACGREGOR. I think without question, 2542 would clearly put the structure of mining claims into such form that there would be greater opportunity for those interested in developing valid claims to do something with them, or alternatively, if the claims were not valid, they are disposed of quickly because of the labor requirements which insures that something is done to try to bring the property to development. You mentioned with reference—my company has been a stockholder known as the Roan Antelope Mining Co. in Africa. It was discovered by a hunter who shot an antelope and at the spot where it fell, he found an outcrop of copper.

Senator FANNIN. I have been concerned because I know we in Arizona had considerable difficulty in this regard and I felt from the explanation this would be accomplished. Certainly there is great need. The statements made about the dynamic elements of the Mining Law of 1872, as you know, have been attacked and being from the State of Arizona, I received perhaps not the brunt of it but a great deal of the criticism. The items that are referred to—I won't go into detail—but would they be encouraging exploration and full development provided for the environmental protection—these elements—of course, the provision for environmental protection is one that would be added that perhaps would satisfy many people that now are very much opposed to the Mining Law of 1872. What other benefits—when we are defining the Mining Law of 1872, what can we say if we feel it should be defended?

Senator BIBLE. Is the question clear to the panel? I do not know that they have the question clearly in mind.

Senator FANNIN. I probably should restate it. We have continuous attacks on the Mining Law of 1872. Some of them are highly justified, we know. You spoke of the dynamic elements of the Mining Law of 1872. I was wondering to what provisions you referred. I am not sure.

Senator BIBLE. Who wants to handle that?

Mr. BARBER. I will respond. Maybe I should respond to the question you put first and then to the dynamic elements of the Mining Law of 1872. In terms of protection of the environment, which is a subject of such wide public interest, we think that this bill plus the support of the more general bills which have been referred to as surface mining bills, goes all the way. I would call attention to the provisions of this bill which deal directly with that concept. The bill adopts the philosophy set forth by the Public Land Law Review Commission where it is stated that unless a public land area is closed to all mineral activities by withdrawal, the lands should be open without charge for nonexclusive exploration which does not require significant surface disturbance. This is the very nub of the dynamic quality which we think should be preserved. It is the right of the man with an idea to explore the public lands on foot and with his pick, which are not otherwise withdrawn for the purpose of finding that indication which indicates that money and effort should be spent in exploration. That phase of the activity, which I would refer to as the nub of this dynamic element, is not a phase which produces, to use the words of the Public Land Law Review Commission, significant surface disturbance. Rights under the law are perfected by putting in a single post at the northwest corner of a claim where it is on surveyed land or four posts where it is on unsurveyed land.

I come now to the terms of the bill to answer your second question. If you look at title III section 2, you will see that the exercise of rights under a mining claim—and that means exploration activity, it means drilling—are conditioned upon maintaining in effect a good and sufficient bond to secure the payment of damages to surface resources. Now, maintaining a bond under regulation to be published by the Secretary of the Interior is a very important protection, and it secures the payment of any damages which might be caused by the exercise of rights under the claim, which means exploration, drilling, or any other compensible damage. If you look at title III section 7, you will see

that in order to go to patent under the provision which we believe will be the one most commonly used, one of the requirements stated in the bill is that the plan for development shall state the manner in which compliance with Federal, State, and local laws and regulations relating to protection of the environment will be effectuated Now, this is an explicit item, like an environmental statement which would have to be included in a plan for development. The approval of this plan is a condition of getting a patent under these provisions of the bill. Finally, to assure that nothing is overlooked, title III section 12 states, "nothing in this act shall be deemed to exempt the owner of the mining claim from Federal, State, and local laws relating to the protection of the environment." As I mentioned in my statement, the Federal agencies with jurisdiction over land are currently in the process of developing regulations which apply generally to the public land which will cover such things as access, road building and other activities which have been used by miners and other users of the public lands to gain access to the use to which their activities are devoted.

Also, there are pending general laws which provide for the development of Federal guidelines for State laws to control explicitly activities affecting the environment on all public and private lands. I think with this, that the problem to which you refer is pretty well surrounded.

Senator FANNIN. Thank you very much. I understood that much of what was involved—I just was trying to get as much information as I could. In answering my mail, it sometimes is a problem to properly cover exactly what is intended.

I thank you for the explanation.

Senator BIBLE. Any further questions?

Senator Hansen?

Senator HANSEN. Thank you, Mr. Chairman. I would like to ask first for permission—I ask unanimous consent that there may be inserted at this point in the record a letter I have from the State geologist and executive director for the geological survey of the State of Wyoming, Mr. Dan N. Miller, Jr.

Senator BIBLE. What is the date?

Senator HANSEN. July 28, 1971.

Senator BIBLE. Very well.

Senator HANSEN. It bears correctly upon the hearings and underscores some of the points that have been brought out by the members of this very excellent panel. I do not have any questions. I just want to make one or two observations. I would hope that the people of America, properly concerned as they are with the protection and improvement of our environment, will heed and listen to the sound advice that I think has been offered here this morning by this very excellent panel that you gathered together, Mr. Gray. You people know what you are talking about. You know the problems. You know something of the contribution that your efforts make to the strength of this country. You are aware of the important role that you play in seeing that we stay in the No. 1 position. I think that one does not have to look very far to realize that we have so much more to lose than we have to gain if we should fail to take a comprehensive view of the development of our natural resources. I agree completely and suspect none of you would argue a bit with the objectives that have

been stated very ably by a number of groups interested and concerned with our environment. But at the same time, I think that underscoring the whole thrust of our concern is the ability of this country to produce and to deliver. I cannot think that people generally will subscribe to any policy which would relegate the value and the prosperity of the average individual to a lower economic tail than we now have.

Unless we can come up with a system that will achieve the twin objectives of continued prosperity, continued material well-being on the one hand, coupled with an increase for concern for our environment on the other, it would not sell. It is one thing to talk about what we want to do and some people in this day and age are inclined to take a narrow view and say, or think that anything that has a deleterious effect at all on the water or air or environment ought to be shut down. They take a short-sighted view because they do not perceive clearly that there are a lot of people in this country of some 206 million Americans, who still need jobs to have to eat every day, who have to get from where they live to where they work, and these are all things towards which you make a significant contribution. I want to compliment you on the fine job you have done. I hope these papers will be read by a great many Americans who share our interest in trying to make this world an even better place to live. I am convinced that with the imagination and the common desire that everyone has, these are not unachievable goals. I think you made a great contribution in stating very ably and clearly and succinctly what the problems are, what faced you as miners in trying to supply various, often times, scarce and needed materials.

I know we had pictures yesterday about the uranium assessment work in Wyoming. I pointed out that that had been changed. We made progress. I am sure we could make greater progress. Thank you very much.

Senator BIBLE. Mr. Gray, thank you very much for your presentation. I still have a couple more questions that occurred to me. I am not quite clear, and I guess this is directed to you, Mr. Barber, because you seemed to undertake the burden of testifying as to the provisions of the bill before us, S. 2542, one of the four bills but particularly the bill that provides for locations. What is the economic basis upon which a royalty rate is figured?

Mr. BARBER. Two percent of what is what you are asking.

Senator BIBLE. Two percent of the minerals mined but not more than 5 percent of the net income before income taxes allocable to the minerals for which the said royalty is payable. I realize that you take a dim view of the suggestions of the Public Land Law Review Commission but aside from your objection to it and your reluctant acceptance, what is the economic basis of getting it from 2 to 5? Why isn't it 5 to 10? 10 to 15?

Mr. BARBER. Whatever figure you supply, of course, is arbitrary at the margin. These figures are at a level which is substantial as applied to the existing mining operations, and yet not so substantial as to cut off the development and production of minerals which ought otherwise to be mined. You say, what is the relation between the 2 percent and the 5 percent? Maybe I can throw a little light on that by saying that we tested these provisions against the operating mines operated by my company on the basis of 1970 results. In the case of

our copper properties in Arizona, the 2 percent—the mined value of the minerals would have been controlling. In the case of a lead, zinc, or silver operation in New Mexico, the 5 percent of net would have been controlling because the 2 percent of the gross value would have been higher.

Obviously, in suggesting a figure, our purpose is to meet what one might call the public requirement for some sort of regular payment in consideration of the economic activity going forward on the public lands. We would rather think of the contribution of the mining industry in terms of the expenditures for exploration, the vast majority of which in terms of either dollars or time turn out to be nonproductive. Now, we think that that is our industry's contribution to the development of mineral resources. It is very different in kind from any other use of the public land, because if one is interested in grazing or timber or recreation uses, one sees what one is doing and the payment relates to a return which is immediately available. In mining, the return is highly speculative in the first place and even when you are successful, it extends over a long period of time between the development of the property and the realization of any return. To sum up, the royalty provisions meet a public requirement. They are high enough to be substantial in terms of the economic activity which goes forward and low enough so as not to discourage activity which ought otherwise to go forward. Beyond that, you can move the figures up and down. The choice is a political one.

Senator BIBLE. Those that would cast you in the role of the badman in this movie script say that one of the reasons that you are the badman is that you are coming on public domain lands, the title to which is in the U.S. Government. You do not own it. You go in. You are a trespasser. You do not pay anything for the use of the land. This is said repeatedly. It was said by one or two witnesses yesterday that you are raping the Treasury of the United States. You are raping the public land. You do not pay anything. How do you respond to that type of charge?

Mr. MACGREGOR. If I may——

Senator BIBLE. I mean as of now.

Mr. MACGREGOR. As of now, I think the answer is simple. We receive no immediate economic benefit. We tried to outline today the long period of gestation between the concept of a mineral deposit possibly occurring in an area and its development.

Suppose I was in the agricultural field and moved my cows on to Federal land. I would expect to pay something because I draw the milk that night. If I do not, the cows will complain.

Senator BIBLE. They claim in the meantime that you are ruining the public domain. You are digging it up. We saw picture after picture. You dig mining shafts and do not repair them. You cause all kinds of harm. Then you find a dud of a mine and you do not have a producer and you do not do anything about it. Yet, you have been on that public domain during this period, whatever it is, and you do not pay anything to the U.S. Government for the privilege of going on that land.

Mr. MACGREGOR. If I may say so——

Senator BIBLE. Say anything you want to. This is one of the things you are charged with. I just want the answer.

Mr. MacGregor. This is probably true of the past. I think we are looking to the future with S. 2542 and the recognition of the fact that unless the mining industry knows how to cope with the problems of the demands on the environment by others, it is not going to have the permission to do anything. Our general approach is exemplified by what Senator Allott referred to. The case in point is the project in Colorado. Mining management people are no different than the rest of the community. Maybe I am wrong. Perhaps they are different because mines are generally located out in remote places. Therefore, they are by nature, men who are accustomed to living in the environment and living in tune with the environment. Therefore, it is not difficult, if you will, for the old dog to learn new tricks.

In Colorado, the development that the Senator referred to was not something that just happened because of our particular ideas. It was the thought that in dealing with the environment we should consult with others. As a result, the project was designed by the joint efforts of the environmentalists in that area. They were consulted. Their advice was taken as to how the project should be explored for and developed. I think that the same ideas are now beginning to permeate all of the work being done by the major companies and the lesser companies in the United States. I think S. 2542 gives us a change to set up a procedure for the future which will enable a degree of harmony to occur between the urgent necessity for developing minerals, if as Senator Hansen pointed out the people of the United States are going to not be prepared to reduce their standard of living, which I do not think they should, and the question of meeting the demands for the use of the public lands for other purposes than mining. I believe that the dual use of multiple use of these lands can surely be handled within the frameworok of the legislation which is proposed.

Senator Bible. Well, as I said at the start, I commend you for coming forward with a bill that brings you into the 20th century and corrects a lot of the defects and abuses and possibly meets some of the criticisms of the current as well as the past, so I certainly commend you for that.

I have only one further question before we recess. How do I know under your provision, Mr. Barber—again I think this is directed to you since you spoke about the act—how do I know where my mining claim is when I locate it? How do I evidence it? Do I put up a monument? Do I mark the corners and the side lines the way I used to do it? How do I do that?

Mr. Barber. S. 2542 is quite explicit on this. Where the land is located on surveyed land, then it is described by metes and bounds and evidenced in the field by a post not less than 3 feet in height or a mound of stones not less than 2 feet in height on the northwest corner.

Senator Bible. I only put one post on the——

Mr. Barber. On surveyed land, one post is sufficient. Then a notice is——

Senator Bible. Do I do any discovery work? Did I scratch around and dig a hole or a trench? What do I do?

Mr. Barber. Your exclusive rights to explore the claim described in the notice of location begins when that post is put on the northwest corner provided a notice of the location is filed both in the

office for the filing of real estate records, usually the county office in the locality, and in the local land office of the Bureau of Land Management.

Senator BIBLE. Go over those steps again.

Mr. BARBER. The first step is to locate a claim by placing a post or monument on the northwest corner.

Senator BIBLE. How can I find that corner? I am a poor prospector. I do not have the slightest idea where it is. How can I find that without getting a surveyor?

Mr. BARBER. Well, in the notice of—you will have to tie it to a survey monument.

Senator BIBLE. How can I do that? I have never taken mining engineering. I am not a civil engineer. How do I know how to tie that?

Mr. BARBER. Maybe I better refer this question to one of our engineer surveyors who is here.

Senator BIBLE. He will probably give it to a locater. Howard Gray used to locate a lot of claims.

Mr. GRAY. As I understand the location of the claim depends upon two things. The first thing to determine: Are you on surveyed land or unsurveyed land?

Senator BIBLE. We are taking surveyed land.

Mr. GRAY. The claim is supposed to be located according to the survey that has been made by the Government surveyors.

Senator BIBLE. I understand. He says I put it on the northwest corner. How do I find that without a surveyor?

Mr. GRAY. I think it costs $1.50 to get a USGS map.

Senator BIBLE. I get the map but how do I know where it is on the ground? I can get the map. I can locate it on the map. How can I locate it on the ground?

Mr. GRAY. By taking the map out and checking with points that are on the map.

Senator BIBLE. How can I do that? I do not know a thing about surveying.

Mr. GRAY. You do not have to. You sure can see where two roads come together. You can see the crossroads. You can see mountain peaks. You can see springs. You can see other——

Senator BIBLE. I can see all these mountain peaks and everything but it does not show me the northwest corner.

Mr. GRAY. It shows the lines. Then the northwest corner is simple to find.

Senator BIBLE. I am not trying to confuse anybody but I am a poor prospector that cannot read too well and I have to find the northwest corner.

Mr. EDWARDS. I am not an engineer, but I found a lot of corners in public domain and most of the miners in the West are able to do this. There are very few that cannot. There are a number of different ways. One has been suggested as using a USGS topographic map which would have the grid of public land survey system shown on it. If you cannot find it on that basis, you go to the land office and look up the survey field notes. With the field notes, you can usually find it. The only cases you cannot is where the marker has been obliterated for one reason or another. Most cases you come very close to it.

As a practical problem, it is not very serious. Almost all people who are prospectors, even the individuals, are able to do this in one way or another.

Senator BIBLE. You do not think this presents any complications.

Mr. EDWARDS. No complications.

Senator BIBLE. All right.

Senator FANNIN. I will say the weekend prospectors in my State are equipped maybe with a compass or very simple devices but they have very little trouble—they have their maps and those fellows are in a position where, in a very short time, they can establish the location.

Senator BIBLE. I just wanted to get it for the record.

Senator HANSEN. I just wanted to make one more statement. That is that having in mind the slides we saw yesterday of the Gas Hills area, the validating of claims by working bulldozers earlier and then the huge excavations that have been made there. I suspect that some of those who were on the panel yesterday were deploring what happened but I would remind everyone, though I am sure I need not, that that activity out there in Wyoming coupled with some in New Mexico, made President John Kennedy a pretty creditable apponent for Mr. Khrushchev when we taught him to get missiles out of Cuba. That is what we ought to try to keep in mind when we make an overall evaluation of what is important.

Senator BIBLE. I only have one further question. No. 4 you say the new mining claim would not have extra lateral rights. You go straight down, is that how——

Mr. BARBER. Yes, sir.

Senator BIBLE. How deep do I go down?

Mr. GRAY. Center of the earth.

Senator BIBLE. If I could keep it on a right angle, I would own everything down to the center of the earth.

Mr. BARBER. That is not a practical problem beyond a few thousand feet.

Senator BIBLE. I understand that but I remember the old extra lateral rights. Many good law suits and prosperous lawyers made fortunes on following a vein all through somebody else's claim so you can eliminate all that.

Gentlemen, you made very fine presentations. I appreciate it. So we are clear on the afternoon program, we will come back at 2.

Mr. Gutermuth could not be here yesterday afternoon. I told him I would put him on at the end of the morning session. We obviously cannot put him on in the morning session because everybody is getting hungry. He lives here in Washington, D.C. I have nine witnesses from Colorado, Utah, and California, so it will probably be in the 4 to 4:30 range. If we do not finish today, there are a lot of days in the year and we will come back again. We would not finish these hearings today. We must have a departmental position on title II. I know that is what is worrying me. This is a hard part of the Jackson bill. The administration bill has no title to it but that is the rough part of 921, and we do not have a position of the administration on that and we are going to set another hearing in 30 days on this business, and simply demand and insist that they come up and say whether they are for 921 or are against it or what their criticisms are.

We cannot proceed without knowing the administration's policy. We will get that to the best of our ability. I have been given to understand that they will probably have a position on it within 3 or 4 weeks, but I have heard those types of statements before. We are going to set a definite date and we are going to absolutely demand that they give us their position, whatever it is, on 921 as well as 2542.

Gentlemen, I have nothing further. Thank you very much.

(Recess at 12:25 p.m.)

AFTERNOON SESSION

Senator BIBLE. The hearing will resume. The next witness on our list is Mr. D. G. Couvillon, chairman of the Public Lands Committee of the Western Oil and Gas Association. You may proceed.

STATEMENT OF DUDLEY G. COUVILLON, CHAIRMAN, PUBLIC LANDS COMMITTEE, WESTERN OIL & GAS ASSOCIATION

Mr. COUVILLON. Mr. Chairman and members of the committee, my name is Dudley Couvillon and I appear here today on behalf of the Western Oil and Gas Association, of which I am chairman of the Public Lands Committee. Beside me is Henry Wright, manager of the water and land section of this organization. The Western Oil and Gas Association is a petroleum trade association whose members are engaged in production, refining, and marketing of petroleum and petroleum products in the six far western States, California, Arizona, Nevada, Oregon, Washington, and Alaska. Its members account for 85 percent of the production and 90 percent of the refining and marketing in those States.

Senator BIBLE. Where do you headquarter?

Mr. COUVILLON. Los Angeles.

Senator BIBLE. All right. Very good. You may proceed.

Mr. COUVILLON. A detailed statement has been filed on behalf of our association with this committee covering S. 921, S. 921 as amended, S. 2450, and S. 2401. In the interest of time, we have prepared a digest which will set forth the points we wish to make to this committee and which we think will serve the purpose of you gentlemen.

Senator BIBLE. In addition to that—I realize you probably have not had the benefit of S. 2542. Would you likewise study that and, within a reasonable time, submit your comments on that. You probably are not prepared to do it today but I would like your comments on that as well.

Mr. COUVILLON. Yes, sir. With your permission, I will proceed with the digest.

Senator BIBLE. Fine. Proceed with the digest. Your fine statement will be incorporated in full in the record as given.

Mr. COUVILLON. The Public Land Law Review Commission in its exhaustive and comprehensive report gave clear indication of the need for improving the administration of public lands to a chief maximum benefit for the people of our country. The bills which we have mentioned and which are being considered by you gentlemen today generally constitute a fine effort to attain some of the objectives recommended by the Public Land Law Review Commission. We are particularly gratified that these bills would establish standards and

guidelines for limiting withdrawals and dispositions and retaining the maximum amount of public land for use and benefit of all the people.

Also we believe the authors of these bills are to be highly commended for requiring that all pertinent factors, economic, environmental, ecological, national security, and so forth be given full and appropriate consideration in the public land use decisions. We believe a strong and affirmative effort should be made to avoid giving undue weight to any one factor.

In representing a large segment of the oil industry, we are, of course, interested in reasonable access to the Nation's public lands. In the increasingly difficult search for new sources of energy, we feel certain that you gentlemen are fully aware of the very real and immediate crisis as to our energy supply. The bills before you may play a significant role in relieving this crisis.

As to the relative merit of the bills now being considered, we would think that S. 2450 with some improvement as to the implementation provisions, as I will mention shortly, is to be preferred over S. 921 and S. 2401 to accomplish the desired objectives.

The definition of goals and objectives in S. 2450 seem to be more comprehensive than those in the other bills, and also more explicit. S. 2450 is appropriately made applicable to all public lands, whereas S. 921 and S. 2401 affect only the public lands administered by the Secretary of the Interior through the Bureau of Land Management. It would appear to us that all public lands should be included in this type of legislation. We believe, however, that S. 2450 is subject to improvement in one very significant respect. Sections 7 and 8 of the bill establish national advisory boards and interstate land use coordinating commissions to advise the government departments in discharging their responsibilities under the bill. While we agree with this effort to encourage broad participation in such important decisions, it appears to us that these boards and commissions constitute such a ponderous administrative machinery that the decisionmaking process would be impeded to a dangerous degree, possibly to the extent of defeating the basic purposes of the bill. We feel it would be appropriate to eliminate at least one set of these advisory groups or simply make it mandatory that the Federal departments concerned consult all necessary and appropriate sources in discharging their responsibilities. The latter approach is used in S. 921 wherein the Secretary of the Interior is required only to establish such advisory groups as he deems necessary in order to secure full advice and information. We are, of course, highly pleased with the proposed amendment to title 2 of S. 921 which leaves the Mineral Leasing Act of 1920 as amended fully intact. This act has proven to be satisfactory through the years and we strongly recommend that none of the various public land proposals will not repeal this act. We do not intend to suggest, of course, that desirable amendments may not be appropriate from time to time. We note that title 2 of S. 921 as amended does not affect oil and gas matters but deals only with hardrock mineral rights on public lands. We presume and have noted today that the hardrock mining interest will provide the required information for use by you gentlemen in your deliberations and, therefore, we have refrained from commenting on this title.

Thank you very much for the opportunity to present our views.

Senator BIBLE. I appreciate your statement. I have no questions. Senator from Colorado?

Senator ALLOTT. I have no questions, Mr. Chairman.

Senator BIBLE. The Senator from Wyoming?

Senator HANSEN. No questions.

Senator BIBLE. Thank you very much for your appearance here today. You will make a comment on the other bill as I suggested?

Mr. COUVILLON. We shall.

Senator BIBLE. Fine.

(The prepared statement of Mr. Couvillon follows:)

STATEMENT OF DUDLEY G. COUVILLON, CHAIRMAN, PUBLIC LANDS COMMITTEE, WESTERN OIL & GAS ASSOCIATION

Mr. Chairman and members of the Committee, my name is Dudley Couvillon and I appear here today on behalf of the Western Oil and Gas Association, of which I am Chairman of the Public Lands Committee. The Western Oil and Gas Association is a petroleum trade association whose members are engaged in production, refining and marketing of petroleum and petroleum products in the six far western states, California, Arizona, Nevada, Oregon, Washington and Alaska. Its members account for 85% of the production and 90% of the refining and marketing in those states.

We appreciate this opportunity to submit our comments on S. 921, as amended, "The Public Domain Lands Organic Act of 1971", S. 2450, "The Public Lands Policy Act of 1971", and S. 2401, "The National Resources Land Management Act of 1971".

On June 20, 1970 the Chairman of the Public Land Law Review Commission submitted to the President the Commission's report. This report was compiled following years of work by a highly competent, professional staff, working under the direction of 19 highly qualified Commission members, including the honorable Chairman of this Committee, Senator Jackson. In his letter to the President, the Chairman of the PLLRC stated that the Commission's recommendations "represent a broad consensus of both basic underlying principles and recommendations to carry them out." The letter concluded, "The Commission's recommendations will support early implementation of Executive and Legislative action to assure equitable treatment of our citizens and make the public land laws of the United States and their administration simpler, more effective . . .".

S. 2450

The Association strongly supports the intent and principles of S. 2450. We also recognize the need for comprehensive planning for the proper use of the public lands. We realize that the multitude of pressures on these lands, from user groups such as ourselves, and from those advocating other equally important activities, such as recreation and wildlife preservation, makes it essential that the Congress take a close look at their administration and consider the establishment of effective land use planning.

We also note that the definition of multiple use in subsection (k) is nearly identical to that found in the Classification and Multiple Use Act of 1964 (43 USC 1415). It is a good definition and will provide a continued flexibility for federal land management, a quality which is becoming even more important as the list of public lands users grows in length.

Section 5(g) provides that "incentives be furnished for the discovery and development of additional domestic sources of mineral supply including offshore sources;". All of us should remember that our land is our energy base. All sources of our energy tie back to the land and we would hope that as this nation's energy policy evolves this fact would not be overlooked. Therefore, we believe it is essential that the energy potential of our public lands by fully assessed. For this reason we believe section 5(g) of S. 2450 is extremely important.

The definition of "public lands" found in section 4(a) makes it clear that S. 2450 applies to "any land owned by the United States. . . . without regard to how the United States acquired ownership. . . . without regard to the agency

having responsibility for management thereof". In short, the bill applies to all federally controlled lands and this is one of its strengths. Only planning which embraces all of the public lands can be meaningful and helpful.

Sections 7 and 8 of the bill call for the establishment of national advisory boards ((7)(a)) and interstate land use coordinating commissions (section 8). While we approve of this attempt to broaden participation in the development of land management policies, we are concerned that the large number of advisory boards and interstate commissions might impede the development of mineral resources on the public lands by slowing the decision-making process. While we hesitate to suggest detailed amendments to this important phase of the legislation, we make the following general suggestions for your consideration. The basic informational and coordinating requirements of the legislation can very likely be established by combining the functions of the advisory boards and interstate commissions and establishing four regional advisory commissions each with federal, state, local and public representation. The counsel of these commissions would be available to all land management agencies.

Section 12 deals with public land use planning. We agree with the provisions of this section. It is essential that this nation have for its public lands a systematic program of land use planning. In this planning, however, we do urge your consideration of the need for keeping much of the federal lands open to oil and gas exploration. In view of the present energy crisis it would appear desirable that the burden of proving incompatibility should be on those objecting to activities heretofore regarded as beneficial uses of the public lands. Minerals, by their nature, are usually hidden and the value of the land for mineral purposes can be established only by comprehensive exploration and development. Only a small portion of our national land resources has been so studied.

S. 921

We recognize that S. 921 seeks to implement some of the recommendations set forth in the Public Land Law Review Commission report. As originally introduced, we have one major objection to the legislation which is discussed below. We have noted and are very pleased at the recently filed amendment which amends Title II of this bill to leave the Mineral Leasing Act intact. If S. 921 is enacted, we sincerely trust that this amendment will also be adopted.

We believe that Title II of the original bill runs counter to the recommendations of the Public Land Law Review Commission which gave tacit approval to retaining the Mineral Leasing Act and recognized the need for its continued improvement. The Congress, the Commission believed, should maintain a more active interest in the administration of our public land laws which are incompatible with the proposal to cancel the Mineral Leasing Act and delegate complete discretion to the Secretary to promulgate an entirely new set of regulations.

We do not believe that the Mineral Leasing Act should be repealed. Since its adoption in 1920 the Act has not been static, but has been amended many times, as have regulations stemming from the Act, to meet changing needs. Of equal importance is the large body of case law and departmental decisions over a 51 year period which would be rendered useless in administering new regulations. Obviously, cancelling this Act and voiding its substantial volume of interpretive decisions would create an intolerable situation. Considerable time would be required by the Secretary to promulgate substitute regulations and guidelines. Oil and gas operations on federal lands would be maintained in a state of suspense during this period of delay with no basis for planning by the oil industry for future moves and future investments. Without Congressional standards and guidelines the regulations ultimately developed may result in radical and undesirable changes. We submit that it is vastly preferable to maintain this highly commendable Act and consider only worthy amendments as they are presented from time to time in the future.

Title II of S. 921 repeals all but two sections of the Mineral Leasing Act of 1920. In its place, section 203 authorizes the Secretary to issue mineral leases and licenses covering prospecting and mining under "terms and conditions. . . . the Secretary finds consistent with goals and objectives set forth. . . .". Section 207 provides that "the Secretary may dispose of federal mineral interests by mineral lease and license under this title *in any manner which in his judgment* will meet the goals, objectives and other provisions of this title. (Underlining supplied.) As indicated above, Congressional guidelines are essential, particularly as to such matters as maximum royalties, acreage limitations, lease terms, development obligations, etc.

S. 921, section 211 (b) provides that existing mining claims, oil and gas leases, contracts, etc. in force at the time at which S. 921 becomes law, "shall not be affected. . . . but shall remain subject to the provisions of the law under which such rights were derived".

This would result in a dual system of administration of federal oil and gas leases, possibly for a substantial period of time, and delay indefinitely new federal oil and gas leasing while the Secretary develops new regulations. In addition, procedures found in the bill calling for public participation, hearings and notice, would, if construed by the Secretary in the broad sense, result in long delays in issuing oil and gas leases.

This delay could contribute to the current energy crisis. The objective should be to expedite and not impede oil and gas exploration. Conservative forecasts of future U.S. fuel, mineral supply and demand projected to 1985 indicate that in 1975 the United States will have a demand of 18.5 million barrels daily for petroleum liquids. Of this 11.2 million b/d will be provided by domestic sources, 7.3 million b/d from foreign sources and of this latter figure more than half will be supplied from the eastern hemisphere. Ten years later demand will be 26.4 million barrels, but even under the present Act only 11.6 million barrels will be supplied from domestic sources, while 14.8 million b/d will come from foreign imports of which 10.95 milion b/d will be from the eastern hemisphere

Inasmuch as Title I deals with matters of less significance to the oil and gas industry than those dealt with in Title II, we will make only brief comment thereon. It appears to be subject to the same frailties as above indicated as to Title II, i.e., there is a sweeping repeal of existing laws which have served long and well and we submit that a preferred and safer approach would be the consideration of appropriate amendments to existing laws as they may be proposed in the future. This title indicates the intention to implement the general objectives enunciated by the Public Land Law Review Commission and we have no quarrel with these objectives. We offer only one comment as to the language of Title I, i.e., section 102(1) appears to limit the scope of the Act to federal lands administered by the Bureau of Land Management. It would seem that all types of federal lands should be included.

If Congress elects to proceed with this proposal, we would like to offer for your consideration some specific comments:

Section 102(2) defines multiple use. The definition is nearly identical to that found in the Classification and Multiple Use Act of 1964 (43 USC 1415). It is a good definition but it is weakened by addition of a reference to "ecological relationships when considering value for various resources". This addition does not appear to add any substance to this definition. We suggest that it be eliminated or clarified.

Section 106 is in effect a new wilderness act. Provisions of this section would provide for creation of wilderness areas on BLM controlled lands. The existing Wilderness Act (78 Stat. 890) applies to areas of our national forests. We believe, with commenting on the need for additional wilderness areas, that section 106 should be the basis for separate legislation.

Section 203(1) calls for an adequate supply of minerals "at reasonable market prices in a timely fashion". Subsection (9) calls for "Maintenance of a competitive environment in the allocation and development of public resources". Subsection (10) calls for "prevention of undue concentration of ownership of rights to federal mineral interests". Subsection (11) calls for "encouragement of efficiency in prospecting and production of minerals and in protection and rehabilitation of the environment". All of these provisions require amplification and clarification.

Section 204(b) may curtail federal oil and gas leasing. It requires that the Secretary consult with the surface landowner before federally owned minerals may be leased and developed. As a matter of practical experience, since the landowner would not share in any royalties accruing to the federal government, such consultation can only cause delay. It would appear adequate to require only notification to the surface landowner.

Section 204 says that the Secretary "must consult with federal, state and local governments, advisory boards, committees and the general public to the extent he deems necessary to secure full public participation in decisions related to the disposal of federal mineral interests". While we do not object to public discussion among interested parties, the procedures set forth in this section, if not properly limited and clarified, could, if carried to the ultimate, result in month sand years of discussion before issuance of an oil and gas lease by the Secretary.

Section 209 says that the Secretary "must incorporate terms and provisions in federal oil and gas leases which he deems desirable 'to promote good business practices' and 'to preserve and enhance the environment' ". For practical use, these terms should be further defined. Particularly, we suggest substituting the word "protect" for the word "enhance" in the above provision.

S. 2401

As above indicated, we support the general principles of S. 2401; however it does not appear to require a comprehensive and balanced consideration of all pertinent factors in regulating public lands to the same extent as is done in S. 2450 and, for this reason, it would appear to be less desirable than the latter bill. Also, it is deficient in that it is limited to public lands administered by the Bureau of Land Management. This type of legislation should cover all public lands.

We thank you for your consideration of our views.

Senator ALLOTT. Mr. Chairman, by request of Senator Jordan who is absent in another committee meeting, I would like to ask unanimous consent a statement prepared by A. J. Teskey, secretary of the Idaho Mining Association on S. 921 be placed in the record.

Senator BIBLE. Without objection, that will be the order.

(The statement referred to follows:)

STATEMENT OF A. J. TESKE, SECRETARY, IDAHO MINING ASSOCIATION

The Idaho Mining Association, representing virtually all producing mining companies and most of the exploration firms currently active in Idaho, has considered in depth the expressed intent and broad implications of the proposed Public Domain Land Organic Act of 1971. We have concluded that it represents a serious threat to the maintenance of an economically sound and stable domestic mining industry.

Less than a year ago it was established as national policy by Congress and the President that it is in the national interest to foster and encourage *private enterprise* in the development of an economically sound and stable domestic mining industry, and in the orderly and economic development of domestic mineral resources.

Only a few months earlier the Public Land Law Review Commission had concluded, after several years of intensive study, that the federal government generally should rely on the *private sector* for mineral exploration, development and production by maintaining a continuing invitation to explore for and develop minerals in the public lands.

It is our sincere conviction that S. 921 would nullify the national minerals policy by greatly reducing, if not entirely eliminating, the traditional incentive which induces the prospector and exploration team to undertake the long and tedious efforts and the high-risk costs of locating new "hard rock" mineral deposits of economic value.

Under this proposal a federal administrator (the Director of the Bureau of Land Management) would have unlimited authority to establish and enforce management policies and to control uses and activities on all public lands and federal mineral interests. His judgment apparently would be final since there seem to be no provisions for appeal or judicial review.

He would be required to establish criteria for determining and classifying the lands to be disposed of, and presumably this would include disposal of federal mineral interests under lease. He would have to do this, however, without the benefit of knowledge about the presence or absence of hidden "hard rock" mineral deposits unless the federal government is prepared to undertake the tremendous expense of determining which lands contain mineral deposits of greater importance and public benefit (present and future) than other resource values contained thereon, including recreation potential, and such intangibles as scenic, historic and cultural values and ecological balance.

We respectfully submit that the federal government does not now possess, nor is it likely to possess for many years to come, if ever, the information about location and extent of "hard rock" minerals that is absolutely essential for any meaningful comparison of "the relative values of the various resources in particular areas", as required under Sec. 104(a).

We in the mining industry are convinced that a classification procedure would invariably ignore or minimize the subsurface mineral estate in any comparison with visible resource values, whether tangible or intangible.

It has been gratifying to us to learn that the sponsor of S. 921, who is also chairman of this committee, has proposed an amendment which retains in full effect the Mineral Leasing Act of 1920 because he is satisfied it has been operating reasonably well for 50 years.

We submit that the basic concept of the mining law of 1872 should be retained for the same reason. It has operated reasonably well for 100 years. During that time and under that law the domestic mining industry has consistently supplied a substantial proportion of the mineral raw material requirements of a mushrooming national economy which has demanded a nine-fold increase in such requirements. The accomplishment of this remarkable feat has disturbed less than two-tenths of one percent of the nation's total land area and much of this was private land. The "hard rock" mining industry has utilized an even smaller percentage of the western public lands—less than five-one hundredths of one percent.

Under the mining law of 1872, the mining industry has enjoyed some preference in public land use, and, admittedly there have been some abuses. We submit, however, that a system that has served the nation and the people so effectively should not be discarded lightly or in haste. Certainly that was the considered conclusion of the Public Land Law Review Commission. Its report to the President in June, 1970, said in part:

"Present knowledge indicates a strong probabilty that the public land areas of the West generally hold greater promise for future mineral discoveries than any other region.

"Consequently, we have concluded that it is in the public interest to acknowledge and recognize the importance of mineral exploration and development in public land legislation. Also, a decision to exclude mineral activity from any public land area should never be made casually or without adequate information concerning the mineral potential.

"*Mineral exploration and development should have a preference over some or all other uses on much of our public lands.* As a land use, mineral production has several distinctive characteristics. Mineral deposits of economic value are relatively rare, and therefore, there is little opportunity to choose between available sites for mineral production, as there often is in allocating land for other types of use. Also, development of a productive mineral deposit is ordinarily the highest economic use of land.

"While mineral exploration activities are conducted over substantial areas of land, experience has demonstrated that mineral production requires less surface area than most other land uses. *Therefore, a use preference is warranted by nature's sparse and random distribution of valuable mineral deposits and the vital relationship between our national welfare and assured supplies of minerals.* Furthermore, a worthwhile mineral deposit is usually concealed and becomes available to meet our national needs only as the result of an expensive, long-term and high-risk search effort."

In these few paragraphs the Public Land Law Review Commission has enunciated a clear and cogent rationle for our unalterable opposition to the establishment of a leasing system for "hard rock" minerals.

Under a leasing system the federal administrator would determine where, when, how and for what specific "hard-rock minerals exploration would be permitted. In effect his individual judgment would be substituted for the traditional function of the market place.

If a prospector or exploration company with the competence to conceive a new geologic theory and/or the foresight to anticipate new market conditions were to apply for a permit to prospect, it could not be considered, under this legislation, without full public participation and, presumably, full public disclosure of the reasons for the application, because the granting of a permit to prospect is without question "a decision related to" disposal of a federal mineral interest (Sec. 205).

Any proposal to dispose of federal mineral interests would have to be publicized, including full disclosure of terms and conditions (Sec. 206), thus virtually assuring competitive interest and requiring competitive bidding.

This process might serve the interests of large, established mining companies but it would inevitably eliminate the individual citizen who, as an independent prospector and miner, has over the years made most of the discoveries which led to the development of large mines and major mineral districts.

There are few, if any, prospectors and exploration companies which would undertake the hard work, high risk and high cost of mineral exploration, if confronted with the additional uncertainties and costs of a leasing system.

We firmly believe that the historic and basic incentive of the rights of discovery must be retained if private enterprise is to play its expected role in sustaining a sound and stable domestic mining industry. Deficiencies in the present law can be corrected. The rodents in the 1872 structure can be exterminated without burning it down.

We do not concede that the lack of a requirement of royalty charges—or the payment of fair market value for mineral resources—is a deficiency in present law, although this seems to be a popular conception.

Unlike a tree or a meadow of forage, a mineral deposit has no value to anyone as long as its existence remains unknown. Only discovery gives it value and that value should, in equity, inure to the discoverer because it is a value created by his efforts alone—a value which could not otherwise be shared by everyone who benefits from its discovery. One of the chief beneficiaries, in terms of total compensation, is the federal government, because it skims off in taxes a proportion of the value added at every stage in the utilization of new mineral discoveries, from extraction of the raw ore to final sale of the consumer product.

The imposition of a royalty serves no purpose but to add an arbitrary and fixed cost of operation which raises the grade of ore that can be economically extracted and thus converts to waste lower grade material which could otherwise be extracted and put to beneficial use. We regard this as the antithesis of good conservation practice.

About a week ago there was introduced in the House of Representatives a bill that would, if enacted, amend the mining law extensively without destroying the basic incentive of the rights of discovery. It is our understanding that similar legislation will soon be presented to the Senate—if it has not already been introduced.

This legislation is designed to correct the deficiencies of present mining laws which have permitted abuses and still provide the prerogative essential to continuing participation by the private sector in the discovery, development and production of the mineral resources upon which the economic security and political independence of our nation depend.

We can support and endorse most of the provisions of this new proposal. It does include, however, a royalty provision which we regard as unnecessary and undesirable for the reasons stated previously.

In any event, it is a far more practical answer to the problems of environmental disturbance by mining than S. 921 which would, in effect, solve the problem by eliminating or banning the activities which unavoidably cause that disturbance.

We are grateful for the opportunity to present this statement and respectfully request that it be included in the hearing record.

Senator BIBLE. Our next witness is Burns Errebo, representing the Rocky Mountain Oil and Gas Association. Mr. Errebo?

STATEMENT OF BURNS ERREBO, ON BEHALF OF ROCKY MOUNTAIN OIL & GAS ASSOCIATION

Mr. ERREBO. Mr. Chairman and members of the committee, my name is Burns Errebo. I am an attorney from Denver, Colo. I appear today on behalf of the Rocky Mountain Oil & Gas Association as chairman of its legislative committee. Joining me on my left is Robert Laughlin, executive vice president of our association. The Rocky Mountain Oil & Gas Association is an association of substantially all of those engaged in the discovery, development, production, transportation, and refining of oil and gas in the seven-State area comprising Colorado, Idaho, Nebraska, Montana, South Dakota, Utah, and Wyoming. Its membership includes major and independent companies and individuals.

Our association is and has been in past years especially concerned with oil and gas development on onshore Federal lands, since they

comprise 54 percent of the lands of five of the States in the area covered by the association. We have had a major interest in S. 921 because as introduced, we believe it went too far by permitting far-reaching changes in Federal oil and gas leasing policies and laws previously enacted by Congress and interpreted by the courts. It would have repealed the laws governing the leasing and development of Federal lands for oil and gas, and turned over to the Secretary of the Interior the job of rewriting them.

When the chairman introduced amendment No. 417, amending title II of this bill by eliminating repeal of the Mineral Leasing Act, he stated that the Mineral Leasing Act has been operating reasonably well for 50 years. We share his views. Also, regarding title II as originally introduced, we question whether Congress should relinquish to an executive department so much of its powers over the vast oil and gas deposits in the public lands, which, since the passage of these laws, have returned approximately $2 billion to the Federal Treasury (excluding income from offshore leases).

As an oil and gas association, we have no comment on title II as now proposed for amendment by the chairman, because it applies only to hardrock minerals.

At this time, Mr. Chairman, I have before me here a memorandum detailing our objections to S. 921 as introduced with respect to title II. In as much as we understand that S. 921 as introduced is still before the Senate and still before this committee, we would like to introduce it and offer it for the record.

Senator BIBLE. I have no objections in doing that. As you correctly point out, the amendment 417 I think took care of most of the objections you might have had.

Mr. ERREBO. It does.

Senator BIBLE. It can be filed, without objection.

(The memorandum referred to follows:)

MEMORANDUM OF ROCKY MOUNTAIN OIL AND GAS ASSOCIATION ON TITLE II OF S. 921 AS ORIGINALLY INTRODUCED

The Association has a major interest in Title II of S. 921 as originally introduced because we believe it permits far-reaching changes in federal oil and gas leasing policies and laws previously enacted by Congress and interpreted by the courts. We believe it goes too far. It repeals the laws governing the leasing and development of federal lands for oil and gas, and turns over to the Secretary of the Interior the job of re-writing them. Section 209 includes a list of 26 subjects to be provided for in federal leases, such as bonds, rentals and royalties, renewals and extensions, payments in kind, etc., but fails to set forth specific Congressional guidelines to replace those laws repealed under which oil and gas has been developed in past years. We fail to see how a mere enumeration of the matters to be considered by the Secretary gives him sufficient guidelines as to what he should do.

We question the *need* to repeal the existing law, and even if there should be a need, we also question whether Congress should relinquish to an Executive department so much of its powers over the vast oil and gas deposits in the public lands, which since the passage of these laws have returned approximately $2 billion to the Federal Treasury (excluding income from offshore leases.)

During the 51 years since the passage of the Mineral Leasing Act, Congress has been responsive to the need for its continuing revision, and has passed 23 substantive amendments. Likewise, the Department of the Interior has from time to time revised its regulations. This has resulted not in an awkward or unwieldy patchwork of laws and regulations which must now be totally dismantled and built anew, but rather these amendments have preserved a system whose vitality and workability has been maintained and improved over the

years, so that today federal oil and gas leasing laws and practices, while perhaps needing some further revision, are workable. They yield a fair return to the United States through royalties, rentals, and bonuses, while affording sufficient incentive and direction to those who desire to develop federal lands for oil and gas. Thus in 1969 income to the federal government from these sources amounted to a total of more than $200 million (excluding income from offshore leases).

The Chairman and other distinguished members of this Committee served as members of the Public Land Law Review Commission, which last year submitted its report to the President and the Congress. The Report contained 342 pages, only six of which were directly concerned with federal oil and gas leasing. The Report repeatedly emphasized the need for Congress to reassert its control over the public lands, and while suggesting several changes in the oil and gas leasing laws, did not recommend repeal of the Mineral Leasing Act. On the contrary, we believe it reasonable to conclude that the Commission, in effect, approved the present federal leasing system, since the changes which it recommended were relatively few. We are not aware of any major criticism of the Mineral Leasing Act as presently administered which in any way warrants its repeal, nor are we aware of anyone who has advocated it.

We believe that on the whole the Mineral Leasing Act, as amended, is a workable law. Although we do not agree with some recommendations in the Report, we feel that in any such revision, the Report and its recommendations should be used as the basis or point of departure for any revision of the federal oil and gas leasing laws.

The other basic question raised by this bill is whether the oil and gas laws of the United States should be revised by Congress or by the Department of the Interior. The title of the Public Land Law Review Commission Report, which is "One Third of the Nation's Land" points up the fact that in considering this bill, this Committee is dealing with almost 700 million acres of federally-owned lands. This demonstrates the need for Congress to be directly concerned with this vast and valuable resource and not exclude itself from the writing of the laws under which federal lands are explored and developed for oil and gas by delegating too much authority to the Secretary of the Interior.

Yet, under Title II, Congress would in effect abdicate its power over the disposition of oil, gas, and other minerals on federal lands, and turn it over to the Executive branch. It repeals and authorizes the Secretary of the Interior to rewrite the laws governing leasing for oil and gas on federal lands, under guidelines which are so general as to afford him little or no direction. Section 207 simply authorizes the Secretary to "dispose of Federal mineral interests by mineral lease and license under this title *in any manner which in his judgment will meet the goals, objectives, and other provisions of this title.*" (emphasis added) We are convinced that repeal of existing laws, and with them nullification of court decisions which establish the rights and obligations of those exploring for and producing oil and gas from federal lands, would bring about an undesirable instability because reliance would necessarily have to be placed on administrative regulations which would be more easily subject to change. It is our belief that there must be some certainty in the law or regulations to bring about investor confidence in the petroleum industry where capital requirements continue to increase. For example, wells are now being drilled to greater depths, at costs which are proportionately much greater than the increase in depth.

We believe that the use of the word "dispose" in several places in the bill may have unintended results because it appears to be used in some sections to mean "lease" and other sections to mean "sell." Section 207(a) authorizes the Secretary to "dispose" of Federal mineral interests by mineral lease and license. On the other hand, Section 204(b) provides that the Secretary may "dispose" of Federal mineral interests only after he has given the non-Federal landowner opportunity to review and comment on the terms of the proposed disposal; Section 205 deals with public participation in decisions related to "disposals" of Federal mineral interests; and Section 206 requires publication of notice of proposals to "dispose" of Federal mineral interests. We doubt that it is the intent of the authors of the bill to require such unnecessary, unreasonable, and impractical encumbrances on the leasing of Federal oil and gas lands. We therefore suggest that these sections be amended to eliminate this confusion.

In closing, we would like to again urge in the interest of maintaining and encouraging exploration and production of oil and gas on Federal lands to fill our present and future energy needs, that the Mineral Leasing Act not be repealed, but rather amended only to the extent that there is a demonstrated need.

ATTACHMENT TO STATEMENT OF ROCKY MOUNTAIN OIL AND GAS ASSOCIATION ON S. 921, S. 2401, S. 2450

REFERENCES TO S. 2450

Sec. 2(a)(9), Page 3, Line 14 (Findings And Purposes)—"that public lands would be used so as to at least maintain if not enhance the environment"

Sec. 5(d), Page 12, Line 8 (Goals And Objectives—This section finds that public lands must be utilized and "managed so as not to endanger the quality of the environment and, where feasible, to enhance the quality of the environment"

Sec. 13(c), Page 34, Line 20 (Withdrawals And Reservations)—This section requires that a withdrawal order contain conditions "that will maintain if not enhance the environment"

Mr. ERREBO. Turning to title I of the bill, we note that sections 101 and 102 refer to lands administered by the Secretary of the Interior through the Bureau of Land Management, calling them "public lands" and "national resources lands," but do not extend to other lands, such as the forest lands administered by the Department of Agriculture. We believe there should be a broader definition so that there would be uniform administration of all lands where there is Federal ownership, as set forth in section 202, where Federal lands are defined as all federally owned lands (except two classes of Indian land, lands within the National Park system, and Outer Continental Shelf land).

Section 118 provides for the Director of the Bureau of Land Management to be appointed by the President from the Civil Service, and to be subject to confirmation by the Senate. We are aware of no need for Congress, considering the press of other business, to go this far down the administrative ladder in requiring confirmation by the Senate of administrators within the Department of the Interior. It would appear that Congress, having once confirmed the Secretary of the Interior and his principal assistants, should then leave to the Secretary the appointment of the Director of the Bureau of Land Management, as it is now done. We believe that the most workable way for Congress to assert its control over the public lands is for it to enact laws clearly and specifically establishing the rights and obligations of those exploring for and producing minerals on the public lands, leaving the administration of those laws, with adequate guidelines, to the Department of the Interior. This, it seems to us, is in the spirit and the intent of the recommendations of the Public Land Law Review Commission, that Congress reassert its authority over the public lands and provide workable guidelines for the administrative departments.

Sections 112 and 113 strengthen the power of the Secretary to manage and protect the public lands by providing penalties and authorizing enforcement of the laws and regulations by personnel in the Bureau of Land Management. Presently the Secretary, we think, is without adequate power to enforce the laws and regulations and protect the public lands from trespass, except as to those having leases or contracts with the United States for use of the public lands. This, we believe, is a desirable provision.

The Chairman and other distinguished members of this committee served as members of the Public Land Law Review Commission, which last year submitted its report to the President and to the Congress. We believe that the study by the Commission and the report is one of the most significant events affecting public lands which has occurred in recent years.

While we do not agree with all of its recommendations, we believe that the Commission did an excellent job, and that the report provides the foundation for the Congress to consider review and revision of the public land laws where needed.

The report sets forth numerous recommendations dealing with public land policy and administration. Likewise title I of S. 921, S. 2401, and S. 2450 also deal with public land policy and administration. Although S. 921 and S. 2401 have their good points, our association prefers S. 2450 because, as among these bills, we believe that it follows most closely the basic recommendations of the Public Land Law Review Commission concerning public land policy and guidelines for the administration; and that S. 2450 provides a first step in the right direction for review and revision of the public land laws where such are needed.

Our association recognizes the need for comprehensive planning for proper use of the public lands, and the need for careful consideration in developing the maximum number of compatible uses. We, therefore, support the basic philosophy and purpose of S. 2450, although we have the following specific comments and suggestions as to several sections of the bill.

We particularly endorse sections 5 (f) and (g) which recognize the part the public lands of the United States must play in meeting the increased demand by the American people for various uses such as recreation and the production of commodities, including minerals; and that incentives must be furnished for the discovery and development of domestic mineral supplies to meet the continuing and increasing energy demands of our Nation.

We further endorse section 13 which would bring about needed reforms with respect to withdrawals and reservations by clarifying the authority of the executive which it has long needed in its management of the public lands.

We are concerned, however, about the following matters:

"Enhancement" of the environment is called for in several places in the bill. Webster defines enhancement as "to make greater (as in value, desirability or attractiveness.)" We thus assume that a land user might be required to leave the land in better environmental condition than he found it. But we doubt that it is the intent of the bill that a user be required to attempt to improve upon nature. We note that Federal Water Pollution Control Act and the Air Quality Act of 1967 both include among their purposes the enhancement of the quality of the resource involved. It is one thing to clean up the air or the streams but another to require improvement of the natural state in which the land is found to exist. The bill contains no guidelines for the administrator as to how far such "enhancement" must be carried both on and off the public lands to carry out congressional intent. Therefore, we believe that a requirement for "enhancement" of the environment would be extremely difficult, and in some instances impossible to administer. Accordingly, we recommend that the references to enhancement be deleted from the bill. As thus amended, the bill would more nearly express what appears to be its intent, which is to prohibit unreasonable or unnecessary impairment of the environment, and still would so structure public land programs as to avoid adverse environmental effects.

Section 14 provides for judicial review of administrative decisions, including rulemaking. This provides for appeals to the courts from rulemaking procedures, whereas court review of administrative actions has been traditionally limited to correcting errors made by the Secretary in rendering decisions while acting in his quasi-judicial capacity. We do not believe that the bill should authorize the courts to interfere in the rulemaking functions of administrative agencies unless it is limited to determination by the court as to whether the procedural and hearing requirements for rulemaking, as set forth in the bill, are satisfied.

We also note that judicial review shall be initiated within 60 days after announcement by the agency of a land classification plan, classification of lands, or the issuance of a final order of withdrawal or rejection, or recision of withdrawal. This, the 60-day appeal period, begins with the "announcement by the agency" of such action. We believe that there may be difficulty in determining the 60-day period, since the bill is unclear as to what type of "announcement" would qualify to commence the running of the 60-day period. We believe that this question should be clarified. More importantly, paragraph (b) of section 14, in which the time limit for initiation of judicial review is incorporated, does not by its terms apply to rulemaking, to whatever extent judicial review of rulemaking may be authorized, or to other administrative actions. We urge that the time limit be made applicable in such instances.

We appreciate the opportunity of appearing before you today to express the views of the Rocky Mountain Oil and Gas Association.

Senator BIBLE. I certainly appreciate the appearance of each of you today. This is a fine statement and I am happy to have it given to us as you have today. I would likewise ask you if you desire to make any comments about 2542. I do not know whether that touches you or not. If it does not, you do not need to say anything. If it does, make such comments as you might want to.

Mr. ERREBO. We have not seen this bill. If it does deal with oil and gas or land use planning, we would like to submit to this commitment.

Senator BIBLE. Why don't you procure copies of the bill, analyze it and make your comments. I won't put any particular time limit on it. I would say within 30 days. That should give you adequate time to study it and analyze it.

Mr. ERREBO. All right.

Senator BIBLE. No questions. Senator Allott?

Senator ALLOTT. I want to welcome Mr. Errebo and Mr. Laughlin here again. We are happy to have you. I think it can truthfully be said here, Mr. Chairman, that over the years he has assumed in all these questions a very responsible attitude not only in representing the people who are members of the association, but also in their responsibility to this committee. This has been very true over the years.

Two short questions. You were referring to 921 relative to the approval of the appointment of the Director of BLM by the Congress, and I must say that I agree with your statement. I really can see no reason why this committee should have to concern itself down to third or fourth level of confirmation. But on page 13 of that bill, which you may not have—you do not need the bill for this—at the top of the page, it says "The Director shall, one, have a broad background and experi-

ence in public land and natural resource management. Two, be selected from the Federal Civil Service. And three, be subject to removal only for cause or disability."

Now, I do not want to commit myself about the selection only from Federal civil service. I think that can be desirable depending upon the situation at the time, but paragraph 3, subparagraph 3, as I read it, gives the appointee a lifetime tenure. You would not agree with that, would you?

Mr. ERREBO. No; I would not, Senator Allott.

Senator ALLOTT. As I read that particular subsection, the only way you could ever get rid of him would be for cause or disability, and that is extremely hard to prove under any civil service rules and I do not think a man ought to be appointed until he went up that natural course of events, which may be 95 years. Do you agree with that?

Mr. ERREBO. Yes; I do.

Senator ALLOTT. One other thing which you have commented on in page 4 in the last full paragraph. You say section 14 provides for judicial review of administrative decisions including rulemaking. This provides for appeals to the courts from rulemaking procedures. And you go on to point out that a judicial review has only been applied generally to a review of whether or not the procedures have exceeded their quasi-judicial capacity. However, what would you do in this instance—this is not unknown to us—where Congress passes a law which is—in which we think the legislative intent is clear and sometimes we go to some considerable length to make the legislative intent clear upon the floor of the Senate, and in the reports, and then find subsequently that regulations are promulgated which in essence subvert the purpose of Congress. Do you think it would be wrong to have a legislative review at that time to stop such subverting?

Mr. ERREBO. A judicial review?

Senator ALLOTT. Yes. Not a judicial review——

Mr. ERREBO. I think there should be a judicial review under those circumstances. I think that one of the additional points that we were making in the bill as written is that it does provide, I believe, for injunctions and for other delays in the implementation of the administration rules which, we think might be unnecessary in most instances.

Senator ALLOTT. Well, it does cause a great serious situation when you have worked for months or maybe years on a bill and you find that the legislation has been implemented by regulations which subvert your purpose. Once it is published in the Federal Region Center, it is a regulation and then we begin the battle all over and really, unless you can persuade the Secretary that it is entirely wrong, you may be just wasting your time there and the only recourse is to pass a new law and go through both houses of Congress, which is a more lengthy procedure usually than going through the judicial process.

Mr. ERREBO. I believe that such judicial review is not only desirable but is also under these circumstances available under the laws that exist today.

Senator ALLOTT. Thank you very much.

Senator BIBLE. The Senator from Montana.

Senator METCALF. I regret very much that I was unable to be here, Mr. Chairman. I do want to point out, because I listened to the interrogation from the Senator from Colorado, we do require several of

the people to be confirmed by the Congress such as head of the Bureau of Mines, which is largely a research agency. I certainly want to concur that I would not want to make a permanent appointment of the Bureau of Land Management analogous of that we make to the U.S. Supreme Court, and I think we can correct that, Senator Allott, by the proper language. But some of these people do make policy and they make substantial policy, and certainly we should have a right to have them up here before the Congress to find out how they have administered some of these agencies in accordance with the understanding of the legislative intent that the Senator from Colorado was talking about. I think that that is what we are trying to work on.

Believe me, I do not want to be involved in confirmation hearings for a dozen or two or third or fourth ground levels in the administration, but certainly some of these men make more substantial policy than even the area in which we are requiring confirmation today.

Maybe all of us, Senator, should sit down and look at what we are doing now and change some of that. I just want you to know that your suggestions are helpful and have raised some questions that are going to be helpful to all of us.

Mr. ERREBO. Thank you. Could I state in response to that, that one of the bases for our suggestion with respect to confirmation by the Senate was that it is my understanding at the present time this confirmation is not required of the Director of the Bureau of Land Management, and we have not been aware of a demonstrated need that this procedure should be changed. Perhaps there have been things that came up that we are not aware of that calls for a change in the procedures which are now in effect.

Senator METCALF. Well, the present Director of Bureau of Land Management, of course, just got into office but prior to that, Mr. Rasmussen, who was formerly from the Forest Service out in region 1 in Montana and then moved over to the Bureau of Land Management and served in two administrations. He only left because he was promoted. I think that everybody thinks that Mr. Rasmussen did an outstanding job for conservationists and grazing operators and the people who were using the public domain. So I am not thinking of any specific individual. I am just thinking of general good policy. General good policy would be not to confirm too many people but at the same time the men in Government that make policy should have to come up and justify their policy before congressional committees.

Senator BIBLE. Thank you, Senator Metcalf.

Senator Fannin?

Senator FANNIN. Thank you, Mr. Chairman. I am sorry I did not hear the full testimony. I, too, was not here, but I have observed your statement and heard part of it and I commend you for what I think is a very fair and equitable handling of the problems involved in the legislation that is before us. I share your concern about the word "enhancement". Although I think the intent is what we are all talking about in some of the other bills, it is referred to as "protection of the environment." I think you would agree this is something that we should, or to the greatest extent possible, protect the environment. There are times, aren't there, when the environment would be enhanced? I am thinking of some developments where the very nature of it is beneficial. Leveling and preparing for future utilization,

for example. Does this just come about from a natural development, or do we need to have it in the legislation? I feel this way about it. I am sure you do—provisions that would protect the environment to the greatest extent possible. Would you agree with that?

Mr. ERREBO. Senator Fannin, I would agree with this. I think that as a general proposition, the user of the public lands, when he does significantly disturb the public lands from the condition in which he found them, does have an obligation for restoration.

Senator FANNIN. The testimony this morning brought that out in many instances. Mining concerns have gone to considerable expense to protect the environment. Certainly we want to be sure the legislation does provide for that protection. As I say, even in some of the contractual agreements between mining companies and the Federal Government, there have been times when they have provided for the enhancement of the environment. I just referred to the Navaho Reservation—of course, this was a contract with the Navaho Indian Tribe but it does provide for enhancement of the environment because it provides for water, leveling, so the end result we hope will be that it enhances the environment. But I am sure this was not the intent when the legislation was formulated. I do feel it is very necessary and I do agree it is very necessary for provision for the protection of the environment.

Mr. ERREBO. We do agree with the necessity for provisions for protection of the environment, for restoration. We do question this—I do not think this is a critical matter. We did think it was worthy of bringing to the attention of the committee. We wonder how far beyond restoration a user of the public land——

Senator FANNIN. I agree with you. Many times property could not be developed, so it would be a false economy and also it would not be of benefit to the area involved if we had this restriction if it was interpreted as you interpret it. I am not questioning your interruption that you used Webster's dictionary to find out what "enhancement" means.

Thank you.

Senator BIBLE. Senator Hansen?

Senator HANSEN. On page 2 of your statement right at the top of the page, first full sentence, you say we believe there should be a broad definition so that there would be uniform administration of all lands where there is Federal ownership as set forth in section 202 where Federal lands are defined as all federally owned lands except two classes of Indian land, lands within the national park system and our Continental Shelf land.

My question is: In considering the Alaska native claims bill now before the Congress, contained in that piece of legislation as reported by the Interior Committee, I believe, is a provision that other law notwithstanding—these are not the words—other law notwithstanding, all oil and gas leases within the State of Alaska shall be issued only on the basis of competitive bidding. Am I right?

Senator BIBLE. I do not know whether it says "shall" or "may" but the act can speak for itself.

Senator HANSEN. I would ask you: Is it your feeling that we should have that sort of provision applicable only to the State of Alaska and

the other 49 States should be controlled insofar as the issuance of oil and gas leases on public lands go under another law?

Mr. ERREBO. With respect to—do I understand you to ask what our Association position is on this question? Our Association at the present time is on record as being opposed to any extension of the present system of leasing from Federal lands to include additional lands under competitive bidding. This is a policy which was adopted several years ago. This specific question was not raised by the bill as written and we have not had occasion to review this policy.

Senator HANSEN. As you know, presently I think contained in the laws dealing with the issuance of oil and gas leases is the provision that in the case of a known geologic structure then the Secretary can, or his representatives can, call for competitive bids but as I understand the thrust of the Alaska bill would provide——

Senator BIBLE. We will determine that. Staff is now looking at it.

Senator HANSEN. Is it your contention that the present leasing provisions with which you are familiar adequately protect the public interest?

Mr. ERREBO. For the Federal land in general throughout the United States?

Senator HANSEN. Yes.

Mr. ERREBO. We think, Senator Hansen, that the Mineral Leasing Act as written is a good act, that it has worked well, and we support it with minor modifications.

As far as change in competitive leasing and noncompetitive leasing, these are things which will have to be worked out later. Some changes may be required. By and large as the chairman of this committee, we think the act worked well for 50 years and we have no major change to recommend at this time.

Senator HANSEN. Your association includes independents and major, so called, does it?

Mr. ERREBO. It does, Senator Hansen. We have a large number of independents and majors who we think work well under the same roof.

Senator HANSEN. From your observation of the activities of your members, would you say that the licensing—whereby leasing can be accomplished without competitive bidding in areas where there are no known geologic structures, would you say that it has encouraged the leasing and has resulted in the development programs quicker than might otherwise have been brought about?

Mr. ERREBO. I think unquestionably there are instances in which this is true and that the system of noncompetitive leasing has in some instances worked quite well to accomplish this purpose.

Senator HANSEN. Is it true that a rather significant majority of the discoveries in new fields have been made by independents operating under this policy?

Mr. ERREBO. I believe that this is true; yes, sir.

Senator HANSEN. I have no further questions.

Senator BIBLE. Further questions?

In response to the point raised by the Senator from Wyoming, section 1, insofar as it deals with the last Canadian land claim, would seem to make it permissive.

Senator HANSEN. Thank you very much.

Senator BIBLE. The Senator from Colorado is recognized. He had some observations to make.

Senator ALLOTT. I will first make an observation about the comments just made by the chairman. Within the parameters of the language used by him, the competitive or other interests may be a generated interest. It may be a false interest.

Therefore, I would say that the word "may" in that particular language still bothers me but we can carry on this discussion at another place.

I would like to say I have been handed a note by minority counsel that we now confirm the Secretary, the Under Secretary, the Solicitor, six Assistant Secretaries, Commissioner BIA, Director Geological Survey, Director Bureau of Mines, High Commissioner Trust Territories, and two boards of the Council on Environmental Quality.

Senator METCALF. Will the Senator yield? Under the present law, we have a provision that there should be a head of the Bureau of Land Management, or Director, who shall be appointed by the Secretary of the Interior under the classified Civil Service. We do not confirm that very important office, although, as I recall—this was the act of—the reorganization plan of 1946. In my investigation of reorganization I remember he replaced two people who were presidential appointees and were not confirmed. Perhaps the Senator has brought up a very important subject or maybe we are confirming some people that we should not be bothered about and failing to get the policymakers before the committee of whom should be asking questions.

Senator BIBLE. We will ask the staff to check that out. I hope we are not confirming people we do not have to confirm. We have enough to do without that. Thank you very much, gentlemen. I have no other questions of you.

Our next witness is John L. Ross, senior vice president for natural resources Standard Oil Co. of Ohio. Mr. Ross?

STATEMENT OF JOHN L. ROSS, SENIOR VICE PRESIDENT FOR NATURAL RESOURCES, THE STANDARD OIL CO. (OHIO)

Mr. Ross. Mr. Chairman and members of the committee: I am John L. Ross, senior vice president. I am in charge of the natural resources department of my company. I am testifying here today on behalf of the American Petroleum Institute. In the interest of time, I may omit certain sentences and paragraphs that are in the statement that are in your hands and if you have any questions as you read the statement, I would appreciate——

Senator BIBLE. We will incorporate in full the statement as if it were given in full and each of us has a copy of the full statement here. When you go from pages 1 to 5 or whatever, just call our attention that "I am going to the third paragraph," for example.

Mr. Ross. Our national well-being requires extraordinary care in the use of public lands and their resources. These public lands are one of our most valuable national assets. We cannot estimate their worth in terms of recreational facilities, open spaces, wildlife conservation, and economic development.

We agree with this committee that the time has come to reexamine existing laws affecting management of the public lands and mineral

estate. We fully share your concern that this precious national resource be administered in a way that will make a maximum contribution to present and future generations of Americans.

Our special concern in these lands lies in their importance to the development of the energy the Nation must have to supply its growing needs. Energy comes from the land. Over 95 percent of the energy used in the United States comes from fuels which must be extracted from land. Consequently, policies affecting land use affect energy.

Our colleagues from the public land states, the Western Oil & Gas Association and the Rocky Mountain Oil & Gas Association, have already reviewed in detail the measures now pending before you. We wish to join with them in their expressed sentiments, and would like to take a few minutes to discuss with you the important role of sound public land management in relation to our national energy needs.

Our Nation is not yet faced with a major energy "crisis"—and we hope it never will be. But, as we look to the future, we are faced with what we prefer to call an energy "gap", with growing energy demands outracing available domestic supplies.

Historically, our Nation's progress has depended on increasing energy use. Petroleum has grown with the economy to become the major source of this energy. At the outset of the twentieth century, petroleum supplied 6 percent of our energy needs. Demand for petroleum was easily satisfied by tapping known and accessible reserves on private lands. As demands for oil and natural gas soared, oilmen aggressively searched for and found new supplies. Throughout the first half of this century, energy was cheap and abundant and reserves were plentiful.

Today, the United States is the number one consumer of energy in the world, and over 75 percent of U.S. energy is supplied by oil and natural gas. The United States also has the highest standard of living in the world. Over the past century, U.S. consumption of energy has increased nearly 20-fold, and per capita real income has mirrored that advance.

Looking ahead to the energy required to fulfill growth needs over the remainder of this century, the challenge is staggering. Conservative forecasts by both private and governmental experts indicate our energy needs will nearly double by 1985, and will triple by the year 2000. Although other energy sources, including nuclear power, will supply an increasing portion of these needs, petroleum, if available, will continue to be the major source of energy. This nation is expected to consume more than twice as much oil between now and the year 2000 as it has since oil was first discovered in 1859.

There are two ways to meet this huge increase in demand for petroleum. We must either develop adequate domestic sources, or vastly increase our imports. The latter course would lead to a further deterioration in the U.S. balance of trade which would run counter to national policies designed to bring the U.S. payments position into balance. Even more serious in the long run, the United States would be forced to rely upon the goodwill of developing nations whose goals and objectives may not coincide with our own. These nations are in unsettled regions of the world. Supplies of petroleum from the oil-rich Middle East and North Africa, for example, have been curtailed at least ten times since World War II by wars, revolutions, or delib-

erate actions by individual governments. If there is continued strife in this region, supplies are likely to remain uncertain and prices unstable. Once the United States became excessively dependent upon imports, producing nations might be tempted to manipulate supplies and prices in order to influence U.S. foreign policy. The United States should not be reduced to helpless dependence upon foreign nations for a commodity so vital to its economic health and national security.

How well are we meeting the challenge of developing oil and gas from domestic resources? Frankly, the picture is not encouraging. We have drawn heavily upon our Nation's petroleum resources during the last 25 years.

We have drawn on them to provide our people with higher and higher standards of living.

We have drawn upon them to fight three major wars.

We have drawn upon them to supply our less-fortunate allies, who lack adequate domestic reserves of petroleum, when they have been cut off from their usual supply sources.

Until the mid-1950's heavy demand for petroleum posed no threat to our Nation. We were finding enough new oil and gas each year to offset higher production levels. However, recent years have seen steadily increasing production and smaller and smaller additions to proven reserves. In 1957, we had a 12-year supply of crude oil based on then-existing production rates. Today, we have less than a 9-year supply. This excludes the petroleum reserves on the north slope of Alaska where transportation facilities are not yet available. In 1957, we had more than 21-year supply of proven natural gas reserves. We now have only a 12-year supply. Exploratory drilling is at the lowest level in 23 years. As a result, our spare crude oil capacity—the difference between the maximum amount of oil that could be produced in a relatively brief period and actual production—has steadily dropped. If present trends continue, spare capacity will be gone by 1974 according to estimates by the U.S. Department of the Interior. This "cushion" permitted us to meet the demands of World War II and the Korean war, and to assist friendly nations when supplies of oil from the Middle East and Africa were cut off. The Nation's ability to cope with such emergencies is fast disappearing. The United States has become an oil-deficit Nation.

In the case of natural gas, there is no spare capacity today. In some parts of the Nation we cannot meet current demands.

Despite the low level of exploratory drilling, we are not running out of petroleum. Estimates by the National Petroleum Council indicate that potential but still undiscovered U.S. reserves are four times all past production of oil and three and a half times all past production of natural gas.

Although many complex factors have contributed to the shrinkage in proven petroleum reserves, high on the list of difficulties has been the maze of ineffective and conflicting Government policies affecting our energy fuels. A recent study by the National Petroleum Council indicates that U.S. options in the energy field are stringently curtailed by these existing domestic policies. Unless new policies are adopted, and adopted promptly, those forecasts indicate that our Nation's dependence on foreign crude oil will rise from less than one-fourth of our total supply to well over one-half by 1985, and our

dependence upon natural gas imports will rise from 4 percent to 28 percent of domestic needs during this same period. Even if these crystal balls are slightly clouded, the estimates indicate that we are faced with a serious energy situation.

This committee is undertaking a comprehensive energy study which will play a vital role in the formulation of a sound national energy policy. One of the most fundamental building blocks of such a policy is under consideration today. For a sound national energy policy cannot be developed without realistic land use policies affecting both public and private lands.

As an indication of the importance of public land use and management to an adequate energy supply, 28 percent of all estimated reserves of onshore petroleum liquids lie beneath the public lands, as does a similar share of onshore natural gas reserves. An estimated three-fourths of the known deposits of oil shale are also found in the publicly owned domain.

It is clear that the petroleum industry cannot meet the demands that are being thrust upon it if subjected to unnecessarily stringent restrictions affecting the use of public lands. There is a danger today that overly protective attitudes with respect to a single objective could frustrate the Nation's efforts to achieve other critical goals. Therefore, we would like to submit for your consideration the following recommendations which we believe will protect our public lands without rendering them hopelessly unproductive.

First, we recommend that the Congress adopt a balanced approach to land use, planning and management designed to achieve our various national goals. We think you will agree that these include environmental considerations, pressing economic and social needs and national security requirements. We strongly urge that the concept of balanced objectives be maintained as the watchword of any measure related to land use, planning and management, whether in the public or the private domain. Any public land bill should be consistent with Public Law 91–631 which states: "It is in the national interest to foster and encourage private enterprise in the orderly and economic development of domestic mineral resources (and) reserves."

Second, a guiding principle of sound land management policy should be a recognition that multiple use of land is a desirable and feasible goal. Resource development, conservation and environmental protection need not be mutually exclusive aims. This has been demonstrated over and over again.

Throughout the Nation, oil operations are found in areas which also contain bird sanctuaries, zoological gardens, salt mines, farming operations, and cattle production. We could cite many examples to indicate that multiple use of land is practicable and feasible.

Third, a sound land-use policy must provide for flexibility. It is impossible to predict with any accuracy our Nation's needs in 25 or 50 years. For this reason, there must be provision for periodic review of any system of land classification.

In the case of energy resources, there is a special problem. While an accurate assessment of agricultural and timber resources can be made by ground surveys, energy resources often lie hidden thousands of feet below the surface and no accurate survey can be made. Access must not be blocked to vital resources which have not yet been discovered, or cannot be recovered until new technology is developed.

It is not our intention to analyze in detail the public land bills now before the committee. These bills incorporate many of the excellent recommendations of the Public Land Law Review Commission report, "One Third of Our Nation's Land."

Like our colleagues from the Western States, we are fully in accord with the balanced approach to public land management provided by S. 2450. We especially approve of the definition of "multiple use" of land as set forth in the bill, and believe that implementation of this concept would permit our public lands to be used for the benefit of the many and not just the few. In light of the need for a rapid stepup in exploration and development in order to replenish our reserves, we agree with the language of section 5(g) which urges that "incentives be furnished for the discovery and development of additional sources of mineral supply, including sources offshore." In addition, we believe, as do the sponsors of this bill, that all public lands should be subject to the same laws regardless of agency jurisdiction. We believe that the passage of S. 2450 would be an important step toward the implementation of the recommendations of the Public Land Law Review Commission. It would establish a sound foundation upon which realistic, effective, and farsighted land use practices can be built.

S. 921 is also balanced in its approach to public land management, and we were very pleased to learn of the amendment to title II which would continue, in force, the Mineral Leasing Act of 1920. However, we do not believe it to be as effective as S. 2450 in carrying out the recommendations of the Public Land Law Review Commission. Another deficiency is the limitation of its provisions to public lands administered by the Bureau of Land Management.

We find S. 2401 less balanced and flexible in its approach. In our judgment, it fails to carry out the intent of Public Law 91–631. In section 3(b), it tends to regard preservation of the environment as the only goal of public land management.

Thank you for this opportunity to present our views.

Senator BIBLE. Thank you. I have no questions.

Senator ALLOTT. No questions either. Thank you very much.

Senator METCALF. No questions.

Senator FANNIN. I have no questions. I certainly commend you for an excellent statement.

Senator HANSEN. Would your organization that you represent, Mr. Ross, be willing to make comments on S. 2542 as others have been requested to do?

Mr. Ross. Senator, our organization is involved in oil and gas. We are not involved in hard metals whatsoever. Therefore, we have not and do not wish to make a statement on that particular bill. It is really not our business, although many of our companies are in various hard metal businesses but the American Petroleum Institute is not.

Senator HANSEN. If you were to believe everything you read in some portions of the presentations, I think you might have a greater interest than you presently declare. I mean your company. I heard charges made that the oil companies are getting all of the coal companies in the United States and they have a stranglehold on them as a matter of fact. If the American Petroleum Institute should, at a later date, feel it has a greater interest than you feel it now has, I for one would be pleased to have——

Mr. Ross. We will give it consideration.

Senator BIBLE. You are invited to make your views known if you desire. Further questions? Thank you very much.

(The prepared statement of Mr. Ross follows:)

STATEMENT OF JOHN L. ROSS, SENIOR VICE PRESIDENT FOR NATURAL RESOURCES, THE STANDARD OIL CO. (OHIO)

Mr. Chairman, members of the committee: I am John L. Ross, Senior Vice President for Natural Resources of The Standard Oil Company (Ohio). I am testifying here today on behalf of the American Petroleum Institute.

Our national well-being requires extraordinary care in the use of public lands and their resources. These public lands are one of our most valuable national assets. We cannot estimate their worth in terms of recreational facilities, open spaces, wildlife conservation, and economic development.

We agree with this Committee that the time has come to reexamine existing laws affecting management of the public lands and mineral estate. We fully share your concern that this precious national resource be administered in a way that will make a maximum contribution to present and future generations of Americans.

Our special concern in these lands lies in their importance to the development of the energy the nation must have to supply its growing needs. Energy comes from the land. Over 95 percent of the energy used in the United States comes from fuels which must be extracted from land. Consequently, policies affecting land use affect energy.

Our colleagues from the public land states, the Western Oil and Gas Association and the Rocky Mountain Oil and Gas Association, have already reviewed in detail the measures now pending before you. We wish to join with them in their expressed sentiments, and would like to take a few minutes to discuss with you the important role of sound public land management in relation to our national energy needs.

Despite some scare newspaper headlines, our nation is not yet faced with a major energy "crisis"—and we hope it never will be. But, as we look to the future, we are faced with what we prefer to call an energy "gap", with growing energy demands outracing available domestic supplies.

Historically, our nation's progress has depended on increasing energy use. Petroleum has grown with the economy to become the major source of this energy. At the outset of the twentieth century, petroleum supplied six percent of our energy needs. Demand for petroleum was easily satisfied by tapping known and accessible reserves on private lands. As demands for oil and natural gas soared, oilmen aggressively searched for and found new supplies. Throughout the first half of this century, energy was cheap and abundant and reserves were plentiful.

Today, the United States is the number one consumer of energy in the world, and over 75 percent of U.S. energy is supplied by oil and natural gas. The United States also has the highest standard of living in the world. Over the past century, U.S. consumption of energy has increased nearly twenty fold, and per capita real income has mirrored that advance. Throughout the world this same close correlation exists between energy consumption and living standards. High energy consumption goes with high standards of living, and low energy consumption with low living standards.

Looking ahead to the energy required to fulfill growth needs over the remainder of this century, the challenge is staggering. Conservative forecasts by both private and governmental experts indicate our energy needs will nearly double by 1985, and will triple by the year 2000. Although other energy sources, including nuclear power, will supply an increasing portion of these needs, petroleum will continue to be the major source of energy. This nation is expected to consume more than twice as much oil between now and the year 2000 as it has since oil was first discovered in 1859.

There are two ways to meet this huge increase in demand for petroleum. We must either develop adequate domestic sources, or vastly increase our imports. The latter course would lead to a further deterioration in the U.S. balance of trade which would run counter to national policies designed to bring the U.S. payments position into balance. Even more serious in the long run, the U.S. would be forced to rely upon the goodwill of developing nations whose goals and

objectives may not coincide with our own. These nations are in unsettled regions of the world. Supplies of petroleum from the oil-rich Middle East and North Africa, for example, have been curtailed at least ten times since World War II by wars, revolutions, or deliberate actions by individual governments. If there is continued strife in this region, supplies are likely to remain uncertain and prices unstable. Once the U.S. became excessively dependent upon imports, producing nations might be tempted to manipulate supplies and prices in order to influence U.S. foreign policy. The U.S. should not be reduced to helpless dependence upon foreign nations for a commodity so vital to its economic health and national security.

How well are we meeting the challenge of developing oil and gas from domestic resources? Frankly, the picture is not encouraging. We have drawn heavily upon our nation's petroleum resources during the last 25 years.

We have drawn on them, as we have seen, to provide our people with higher and higher standards of living.

We have drawn upon them to fight three major wars.

We have drawn upon them to supply our less-fortunate allies, who lack adequate domestic reserves of petroleum, when they have been cut off from their usual supply sources.

There is an analogy between our petroleum reserves and a bank account. If we consider new oil and gas found through exploration and drilling to be the "deposits", and each year's production as "withdrawals", it is evident that we must make deposits not only to cover withdrawals but to provide a safety margin, a "buffer" against emergency requirements.

Until the mid-1950's, heavy demand for petroleum posed no threat to our nation. We were finding enough new oil and gas each year to offset higher production levels. However, recent years have seen steadily increasing production and smaller and smaller additions to proven reserves. In 1957, we had a 12-year supply of crude oil based on then-existing production rates. Today, we have less than a nine-year supply. In 1957, we had more than a 21-year supply of proven natural gas reserves. We now have only a 12-year supply. Exploratory drilling is at the lowest level in 23 years. As a result, our spare crude oil capacity—the difference between the maximum amount of oil that could be produced in a relatively brief period and actual production—has steadily dropped. If present trends continue, spare capacity will be gone by 1974 according to estimates by the U.S. Department of the Interior. This "cushion" permitted us to meet the demands of World War II and the Korean War, and to assist friendly nations when supplies of oil from the Middle East and Africa were cut off. The nation's ability to cope with such emergencies is fast disappearing. The U.S. has become an oil deficit nation.

In the case of natural gas, there is no spare capacity. In some parts of the nation we cannot meet current demands.

Despite the low level of exploratory drilling, we are not running out of petroleum. Conservative estimates by the National Petroleum Council indicate that potential but still undiscovered U.S. reserves are four times all past production of oil and three and a half times all past production of natural gas.

Although many complex factors have contributed to the shrinkage in proven petroleum reserves, high on the list of difficulties has been the maze of ineffective and conflicting government policies affecting our energy fuels. A recent study by the the National Petroleum Council indicates that U.S. options in the energy field are stringently curtailed by these existing domestic policies. Unless new policies are adopted, and adopted promptly, those forecasts indicate that our nation's dependence on foreign crude oil will rise from less than one-fourth of our total supply to well over one-half by 1985, and our dependence upon natural gas imports will rise from 4 percent to 28 percent of domestic needs during this same period. Even if these crystal balls are slightly clouded, the estimates indicate that we are faced with a serious energy situation.

This Committee is undertaking a comprehensive energy study which will play a vital role in the formulation of a sound national energy policy. One of the most fundamental building blocks of such a policy is under consideration today. For a sound national energy policy cannot be developed without realistic land use policies affecting both public and private lands.

As an indication of the importance of public land use and management to an adequate energy supply, 28 percent of all estimated reserves of onshore petroleum liquids lie beneath the public lands, as does a similar share of onshore natural gas reserves. An estimated three-fourths of the known deposits of oil shale are also found in the publicly-owned domain.

It is clear that the petroleum industry cannot meet the demands that are being thrust upon it if subjected to unnecessarily stringent restrictions affecting the use of public lands. There is a danger today that overly protective attitudes with respect to a single objective could frustrate the nation's efforts to achieve other critical goals. Therefore, we would like to submit for your consideration the following recommendations which we believe will protect our public lands without rendering them hopelessly unproductive.

First, we recommend that the Congress adopt a balanced approach to land use planning and management designed to achieve our various national goals. We think you will agree that these include environmental considerations, pressing economic and social needs and national security requirements. We strongly urge that the concept of balanced objectives be maintained as the watchword of any measure related to land use planning and management, whether in the public or the private domain. Any public land bill should be consistent with Public Law 91–631 which states: "It is in the national interest to foster and encourage private enterprise in the orderly and economic development of domestic mineral resources (and) reserves."

Second, a guiding principle of sound land management policy sould be a recognition that multiple use of land is a desirable and feasible goal. Resource development, conservation and environmental protection need not be mutually exclusive aims. This has been demonstrated over and over again.

Throughout the nation, oil operations are found in areas which also contain bird sanctuaries, zoological gardens, salt mines, farming operations, and cattle production. We could cite many examples to indicate that multiple use of land is practicable.

Third, a sound land use policy must provide for flexibility. It is impossible to predict with any accuracy our nation's needs in 25 or 50 years. For this reason, there must be provision for periodic review of any system of land classification. This is essential to insure a dynamic approach to land use planning and management unobstructed by static restrictions.

In the case of energy resources, there is a special problem. While an accurate assessment of agricultural and timber resources can be made by ground surveys, energy resources often lie hidden thousands of feet below the surface and no accurate survey can be made. Access must not be blocked to vital resources which have not yet been discovered, or cannot be recovered until new technology is developed. It is also likely that mineral resources not now economically usable, such as oil shale, could become of critical importance in future years.

It is not our intention to analyze in detail the public land bills now before the Committee. These bills incorporate many of the excellent recommendations of the Public Land Law Review Commission report, "One Third of Our Nation's Land".

Like our colleagues from the western states, we are fully in accord with the balanced approach to public land management provided by S. 2450. We especially approve of the definition of "multiple use" of land as set forth in the bill, and believe that implementation of this concept would permit our public lands to be used for the benefit of the many and not just the few. In light of the need for a rapid step-up in exploration and development in order to replenish our reserves, we agree with the language of Section 5(g) which urges that "incentives be furnished for the discovery and development of additional sources of mineral supply, including sources offshore". In addition, we believe as to the sponsors of this bill that the public lands should be subject to the same laws regardless of agency jurisdiction. We believe that the passage of S. 2450 would be an important step toward the implementation of the recommendations of the Public Land Law Review Commission. It would establish a sound foundation upon which realistic, effective, and farsighted land use practices can be built.

S. 921 is also balanced in this approach to public land management, and we were pleased to learn of the amendment to Title II which would continue in force the Mineral Leasing Act of 1920. However, we do not believe it to be as effective as S. 2450 in carrying out the recommendations of the Public Land Law Review Commission. Another deficiency is the limitation of its provisions to public lands administered by the Bureau of Land Management.

We find S. 2401 less balanced and flexible in its approach. In our judgment, it fails to carry out the intent of Public Law 91–631. In Section 3(b), it tends to regard preservation of the environment as the only goal of public land management. This approach fails to take account of a fundamental point which was made by the Secretary of Housing and Urban Development, George Romney, in his testimony before this Committee on Senate bills 632 and 992. As the

Secretary noted, "Failure to remove unnecessary constraints and to improve the efficiency with which land is made available for development has . . . adverse consequences. For if an adequate supply of suitably prepared land cannot be made available, there are human needs that will be filled only at much higher cost, or filled not at all with consequences that may indeed be incalculable."

Thank you for this opportunity to present our views.

Senator BIBLE. Our next witness is Edward H. Peplow, Jr., executive secretary, Arizona Mining Association.

STATEMENT OF EDWARD H. PEPLOW, JR., EXECUTIVE SECRETARY, ARIZONA MINING ASSOCIATION

Mr. PEPLOW. Thank you, Mr. Chairman. I am Edward H. Peplow, Jr., executive secretary of the Arizona Mining Association. I appear here today to voice certain observations on Senate bill 921. Before I present my written statement, Mr. Chairman, I would like to state for the record that we endorse the testimony presented this morning by the American Mining Congress and we support Senate bill 2542. Gentlemen, the association I represent has a membership of only 13 companies. Those companies, however, produce from their Arizona properties more copper each year than is produced by all the other 49 States combined.

We speak, therefore, with some knowledge of the convictions in the matters before us of a significant portion of the nonferrous mining industry of the United States. I will addres my remarks today to the broad aspect of S. 921; however, with the Chair's permission, we will, before the deadline, submit for the committee's consideration a more detailed statement of the specifics.

Senator BIBLE. You will have 30 days to do that.

(The statement referred to was not received in time for inclusion in the record.)

Mr. PEPLOW. Thank you.

Broadly, then, we object to S. 921. We are astounded that this measure provides, in effect, for the almost total surrender by the Congress to a single individual of its prerogatives to enact laws governing so important an industry as mining.

As we read S. 921, the Secretary of the Interior would be invested with the farthest reaching authority to set and enforce the rules dictating how, where, when, and whether mining might be conducted and by whom. We find it difficult to believe the Congress ever will so completely abdicate its constitutional powers and obligations. Certainly in its wisdom the Congress will realize that no individual should be granted such embracive power to enact de facto legislation, nor should an administrative agency be assigned the authority which properly is assigned the legislative branch by the Constitution.

We are very well aware of the deficiencies and shortcomings of the morass of laws on the books today dealing with the subject of the public lands. Probably more than most segments of the public are we anxious that those faults be corrected, for daily we must work within this uncertain framework in which there are so many conflicts.

In witness of our concern, we cooperated with fully and supported the work of Public Land Law Review Commission of which the chairman and others were so valuable. That Commission performed a monumental work in reviewing laws, studying needs, receiving testimony,

and bringing together the best available expertise in the fields involved. And the result of its 7 years of work was a monumental report.

It is our conviction that it was clearly the intent of Congress in establishing that Commission that revision of the public land laws of the country would at least be made with some regard to the recommendations of the Commission.

Yet we find S. 921 in almost every particular inconsistent with and contrary to the PLLRC's recommendations. Consistently throughout the Commission's report is the exhortation that Congress should make the laws, Congress should establish public land policies, Congress should set the guidelines, Congress should give clear direction to the executive agencies administering the public lands.

Yet repeatedly throughout S. 921 there is delegation of these responsibilities to the Secretary of the Interior. Under title 1, section 103, "The Secretary is authorized * * * under such terms and conditions as the Secretary finds consistent with the principles" and so on.

There follows a series of 12 goals and objectives—all of which have a fine ring of idealism. But only the Secretary is invested with the power to judge what is consistent as terms and conditions to meet these goals.

In section 104(a) the Secretary shall develop and promulgate the regulations containing the criteria by which he will make determinations and classifications. He is thus imbued with the wisdom and integrity to police himself. And gentlemen, there are very few men that wise and that trustworthy.

Section 114 specifically reiterates that the Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the provisions of this title.

Title II, as amended September 9, 1971, continues the litany of de facto legislative powers given the Secretary. Section 203, for example, vests the Secretary with unprecedented authority to issue permits and/or leases for prospecting, exploration, development and production which he finds consistent with attainment of 11 very general goals and objectives. Much of the language in setting forth those goals and objectives is so vague and open to such breadth of definition that, coupled with the plenary power invested in the Secretary, the Secretary would be given virtual czarship over the entire mining industry.

Time prohibits further recitation of the recurrent investiture of the Secretary with complete discretionary powers. Title II is replete with such language as "the Secretary shall, to the extent he deems feasible * * *" "* * * the Secretary shall * * * to the extent he deems necessary * * *" "* * * the Secretary shall * * * by those means he deems necessary * * *".

Gentlemen, what has become of the time honored, proven, and constitutionally required system of checks and balances which has been a bulwark of the American system of government? The Congress must never abdicate its constitutional authority and obligations to the executive branch in such a manner.

Your own Public Land Law Review Commission stated and urged and implored repeatedly that Congress determine the solutions to the many public land law problems that have beset the country for so long by giving the land-administering agencies clear, concise, and specific statutory direction. Repeatedly it pointed out that:

In the absence of legislative statements of policy objectives and appropriate priority rankings, the land management agencies have formulated their own goals. This has occurred not only when policy objectives have not been provided by Congress, but also when the objectives have been stated in very general terms.

Gentlemen, as we read the Commission's report and as we read S. 921, we cannot but feel the bill in question shirks the challenge handed the Congress by the Public Land Law Review Commission. We grant that challenge to provide for the administrative agencies the maximum in guidance is tremendous. But we have every confidence that this Congress, like its illustrious predecessors, will rise to the occasion and preserve the system of checks and balances under which this country has risen to its present position of greatness.

The industry I represent stands ready to render any assistance we can in helping the Congress to meet this tremendous challenge.

Thank you for this opportunity to speak.

In closing, please let me reiterate for the record our endorsement of the American Mining Congress' testimony today and our support of Senate bill 2542. Thank you very much.

Senator BIBLE. Thank you.

Senator from Colorado.

Senator ALLOTT. There is no doubt about where you are.

Mr. PEPLOW. Thank you, sir.

Senator ALLOTT. That is refreshing and I must say that I agree with the general philosophy as well as the statements you made here. I appreciate your statement. Thank you.

Senator BIBLE. The Senator from Montana.

Senator METCALF. Are you a lawyer?

Mr. PEPLOW. No, sir.

Senator METCALF. Let me welcome you to the trade association because I am a lawyer and you have given a very lawyer-like argument against the bill. I have before me section 103 and it sounds like a pretty good section. Yet, if I was attacking it in a law suit, I would attack it in the same way you do, to try to, with a general statement, throw scorn and try to deprecate it. So, as I say, I think you should be an associate member of the bar.

Mr. PEPLOW. Thank you.

Senator METCALF. I really mean that as a manner of praise.

Mr. PEPLOW. Thank you.

Senator METCALF. Actually as I read section 103 which you felt is a derogation of the powers of Congress, we have rather thoroughly outlined some of the provisions that we would like to require. I think it is better than the inadequate law we have at the present time. I want to say it may be a bigamist marriage because we have four bills before us; but I think that is a result of your rather strong objections and some, I thought, very able presentations from the American Mining Congress this morning, especially Mr. Barbar's analysis of his bill. I think some very worthwhile legislation is going to emanate from this committee as a result of these hearings and I do not think all is bad about S. 921 or all is good about S. 2542 but, as I say, I think there is going to be a marriage of some of the proposals suggested. The reason I say it is bigamist is because there are four bills suggested rather than just two, but at least strong fourth-rate objections are just as helpful as concurrence or agreement at this time.

Mr. PEPLOW. Thank you, sir.

Senator BIBLE. Thank you very much.

Senator Fannin?

Senator FANNIN. Thank you, Mr. Chairman. Mr. Peplow, it is good to have you back with us again. You previously made some very persuasive arguments for some of the previous legislation we had under consideration and I certainly thank you for the presentation you made today. It is an impressive statement, as has already been mentioned by my associates. The great problem, as I see it, you fear, is that if you do not have assurance as to what rules and regulations you would be working under, what status of the law you would be working under, these tremendous investments that are involved in modern-day mining just could not be made.

Mr. PEPLOW. Yes.

Senator FANNIN. You agree with the statements made this morning by representatives of some of the mining companies in Arizona and in other States in support of the legislation, S. 2542.

Mr. PEPLOW. Yes, sir, strongly.

Senator FANNIN. We are all concerned about the economy of this Nation, by our ability to continue to compete with the other countries of the world. We realize that copper is a very important product, very important commodity. Perhaps in the electronic industry, in which we are very much involved in Arizona, it is perhaps the most important metal. Do you feel that the companies would continue their investments to the extent they have in the past if we adopted a bill such as S. 921?

Mr. PEPLOW. Senator Fannin, I think it would discourage investment. Name any one of the mines we have. The gentleman from Anaconda this morning said their investment at Twin Buttes represents more than $200 million. You have to have assure tenure. You have to know that you are going to be able to keep on mining that property so long as you can keep your technology ahead of the inexhorable decline of the grade of ore. Whether this takes a hundred years, as it has done at Morenzi or whether it takes 40 years or whatever, you have to know that you are going to be able to get your money back and make a fair return to your shareholders.

Senator FANNIN. And your investments will be made in areas where that can be done. In Arizona we hope to have a very low-grade ore so we are in competition to other countries where they have high-grade ore, but we must offset that with other factors that could be involved in the production of copper specifically in this country. We have been very successful in the State of Arizona. Would you want to just relate to the committee some of the work done on environmental activities? I know of what was done below Tucson where they did the work of replanting and watering——

Mr. PEPLOW. There is replanting restoration reclamation activity at every one of our properties in Arizona. At Twin Buttes they had to remove 250 million tons of aluvium before they got to the first pound of ore. The disposal of this aluvium of course, was a problem. From the beginning, they engineered it to build out of that tremendous volume, 11 miles of earthen dikes behind which they are now impounding their tailings. These dikes are terraced at considerable expense and fertilized and planted so that they blend in now with the surrounding desert and they are not very visible. At the same time our State land commissioner is making plans today for the use of those

tailings, which will be several hundred acres in extent when they are full. Then they will simply bulldoze more of their aluvium out on the surface of them and use them for—it's State land—for ideal sites for subdivisions and industrial buildings and so on.

So, we are thinking ahead 50 years for the use of the land and the restoration of it and reclamation. We are very proud of the job we have accomplished so far and we think we are far ahead of the rest of the Nation in devising means to solve our own problems.

Senator FANNIN. Do you know whether or not any of those tailings will be used in flood control in that area? They do have a problem along the Santa Cruz.

Mr. PEPLOW. They are engineered so that they——

Senator FANNIN. I realize that those particular units would not, but I was wondering if the material could be used or will be used or is contemplated to be used in any flood control programs.

Mr. PEPLOW. I have not heard of any, no, sir.

Senator FANNIN. Thank you very much.

Senator BIBLE. Senator Hansen?

Senator HANSEN. No questions.

Senator BIBLE. Thank you very much, Mr. Peplow.

We next have our Colorado Mining Association panel. Would they please come forward. Would you please identify yourself for the record?

Mr. COLE. Yes, Mr. Chairman, I am David R. Cole, secretary and manager of the Colorado Mining Association. I have here with me two bona fide small operators. On my left, Mr. Harrison Cobb and Mr. Lark Washburn. Our testimony is presented on an individual basis. We did not collaborate in preparing our testimony so it might be best to question each witness as they finish.

Senator BIBLE. All right. That will be fine. Do you have individually prepared statements?

Mr. COLE. Yes.

Senator BIBLE. We will leadoff with any one of the three of you.

STATEMENT OF DAVID R. COLE, MANAGER, COLORADO MINING ASSOCIATION

Mr. COLE. I will start, Mr. Chairman. Mr. Chairman, members of the committee, my name is David R. Cole. I am secretary and manager of the Colorado Mining Association. The Colorado Mining Association is a trade association, founded in 1876 and incorporated in 1897. Its membership is composed of: (a) Both large and small mining enterprises that produce metals, coal, and industrial materials; (b) companies that manufacture and distribute mining and mineral processing equipment and supplies; (c) commercial banks and other institutions serving the mining industry; and (d) individuals engaged in these various phases of the mineral industry. In 1970 there were over 600 active mineral operations in the State of Colorado employing in excess of 11,500 persons.

The purpose of my appearance today is to represent and speak for the hundreds of prospectors, miners, and small operators in Colorado who will be vitally affected by the legislation under consideration, but lack the time and money to appear personally. I find it very appropriate that I am speaking for this particular group, having partici-

pated in all of these capacities myself. The position of the great natural resource corporations will be adequately presented by the representatives of the American Mining Congress and we, in general, endorse the AMC position.

The prospector, miner, and small operator have been able to prosper and to be a viable force in the minerals industry because the present system provides them the incentive to explore, the freedom to enter upon the public lands, and a security of tenure upon discovery of valuable minerals. These essentials must be retained in any system which encourages private initiative in the development of the public's mineral resources. Unfortunately, we feel S. 921 provides none of these.

If you are curious about the place of the prospector, miner and small operator in the production of our Nation's wealth, I would like to point out that many of today's productive mines, both large and small, were discovered by the prospector. Further, these "little people" of the minerals industry are the developers and producers of the smaller deposits generally considered inappropriate for investment by the larger mining companies. This is a distinct contribution to conservation and utilization of all our mineral resources.

Now, let me explain why S. 921 will squeeze these "little people" out of mining.

S. 921 places unfettered discretion in the Secretary of the Interior to allow or disallow, as he may see fit, entry on public lands for purposes of exploration. The "little person" stands small chance when competing for this access when the Secretary's favors invite political considerations. Even if he is fortunate enough to be granted a prospecting permit, he has no assurance that he will be allowed the right to lease and develop the favorable property he discovers. These built-in uncertainties in S. 921 destroy all incentive to prospect for the person with limited finances. This incentive-destroying process of S. 921 cannot be salvaged by amendment, because noncompetitive leasing which would help the "little people" would then fail to achieve the stated purpose of the act to maximize the yield to the Government from the public lands. The explanation of how competitive leasing would preclude the prospector, miner, and small operators is self-evident.

In addition to the foregoing, we believe S. 921 is inappropriate as a matter of national policy.

First, it will not achieve the aims of the National Mineral Policy Act approved by this committee, and passed by Congress only last year.

Second, this is an anticonservation measure because the increase in mining costs which inevitably will result if this act is passed will raise the cut-off grade (the minimum mineral content which permits economic mining), and low-grade reserves which otherwise would have been mined will be left in the ground and wasted because it is not economic to remove them.

Third, S. 921, will only add fuel to the fires of inflation and result in even greater deficit in the country's balance of trade and payments. Royalty payments under the lease can do nothing less than increase the cost of production which will, in the long run, be passed on the

consuming public. The minerals not produced because they became uneconomic will have to be replaced from foreign sources.

Fourth, S. 921 would relinquish legislative powers to the executive branch of the Government. This is an area of concern about which many Members of this Congress have addressed themselves.

We believe the Mineral Development Act of 1971, on the other hand, offers a far superior and preferable alternative to S. 921. The Mineral Development Act follows, for the most part, the recommendations made by the Public Land Law Review Commission. It seems almost incredible that this committee, in two days of hearings, could supplant the research, efforts, judgment, and recommendations of that report, which took almost 6 years to complete on the basis of many detailed studies and hundreds of hearings throughout the Nation.

The Mineral Development Act of 1971 preserves those three factors absolutely essential to the preservation of the prospector, miner, and small operator, namely: Incentive to explore, freedom to enter upon the public lands to explore for minerals, and security of tenure. At the same time, it eliminates abuses of the general mining laws by nonmining interests and revises and updates those laws in light of present circumstances.

We must, however, take exception to two provisions of the Mineral Development Act of 1971 as introduced. First, the royalty provision, as we believe, is subject to the same counterproductive economic effects described earlier. Second, the provision for payments in lieu of assessment work should provide that such payments be made to the county in which the claim is located. The performance of assessment work is intended to encourage development of the mineral in the claim and to evidence the good faith and mining intent of the locator, not to develop a source of revenue for the Federal Government. Since payment in lieu of performance of labor will deprive the local economy of local purchases, employment and increased property tax base, we believe the proper beneficiary of such a provision should be the local government, which, in most cases, is sorely short of revenue sources.

I want to thank you for the opportunity of presenting our views before the committee.

Senator BIBLE. Thank you very much, Mr. Cole. I appreciate your appearance here today. I do not know whether you had the opportunity of reading the amendment which was offered on September 9, 1971 to Senate bill 921. Have you examined that?

Mr. COLE. I have just recently, yes.

Senator BIBLE. I do not know whether that alters any of your comments or not. It has been suggested that there is in section 208 a very clear statement that it does give a preferential right to the small prospector to get a prospecting permit. You may examine that again. I do not expect you to come up with an immediate answer unless you care to observe it now.

Mr. COLE. We have some questions in that regard. If the prospector is offered a preferential lease will he be able to meet the terms of the lease, and just what is a qualified applicant for a prospecting permit? It also says the Secretary is authorized to issue them but that he is not required to issue them.

Senator BIBLE. I think this is undoubtedly patterned after the Oil and Gas Leasing Act. They have certain standards there and I suppose he would follow roughly the same rules and regulations. I wanted to be sure that you did have before you the amendment to S. 921 and took that into consideration at the time you made your comments.

Senator Allott?

Senator ALLOTT. I want to thank you very much, Mr. Cole, for this fine statement. I have been very concerned with S. 921, since I sat on the Public Land Law Review Commission for 5 years. In fact, three members of the Interior Committee who are present here were members of that commission and all of the questions that you have suggested were fought out on that particular matter. With respect to competitive leasing on across-the-board scale, I have steadily taken a position that this can do nothing but raise a lot of questionable practices along the line and the small miner, whether he is a prospector or whether he turns into a developer, is going to be left out in the cold. In looking at S. 921, I must say that I feel your position with respect to that is well taken.

Now, you raised one question here which was not raised today and I am happy you did it because the Public Land Law Review Commission spent a great deal of time on the payments in lieu of taxes to States, counties, and local municipalities, because of the added burden that great amounts of public land place on them in the western States particularly. You suggest that this should be paid to the county.

Mr. COLE. That is right.

Senator ALLOTT. This has merit. Do you think some provision could be worked out, will it be acceptable to you in your thinking, where we could apply to it the same principles that have been applied to revenues from oil and gas and from national forests in the division of those revenues?

Mr. COLE. This could be possible, yes.

Senator ALLOTT. You would not oppose such a provision provided some of the return did actually come to the local governmental entity.

Mr. COLE. Yes, we believe that a majority of it should be at the local level since, by this payment in lieu of the work, the local level is the one that is losing the money that would have been spent in improvements in their local economy.

Senator ALLOTT. Well, I do not quite follow that argument. You do not base your situation, your opinion, then, upon the in-lieu theory. The fact that the Federal land exists there calls for so many services from the local government—policemen, firemen, health, et cetera—and the theory of the in-lieu matter that we discussed in the Public Land Law Review Commission was that this money should go to the local entities because of the governmental functions they had to provide. You do not put it on that. You put it on the basis of the money that would otherwise go into the local economy. But it seems to me, if I may say so, that you have no proof that that money would otherwise go into the local economy. It might go somewhere else.

Mr. COLE. Well, this is possible, but I think—actually it would

be based on both the in-lieu proposition and the money going into the local economy.

Senator ALLOTT. Well, let me make my point clear to you. Mr. Jones is a prospector. He goes out on public lands and prospects and finds some kind of mineral which he thinks is worth developing. There is no proof, if he develops it and develops income, it seems to me that he might well have gone elsewhere. There is no proof or no assumption that Mr. Jones, whether in Grand Junction or Castle Rock or Glenwood Spring or Durango or any other particular town, I really think your strongest case is based upon the payment in lieu of taxes.

Mr. COLE. This may be.

Senator ALLOTT. I appreciate your remarks, but this is a particular point which nobody else has covered. I am very glad you brought it to our attention.

Senator BIBLE. Senator Fannin?

Senator FANNIN. I have no questions. I agree with the statement as far as the points that have been discussed. I certainly know in the Public Land Law Review Commission, those were the decisions that were recommended.

Senator BIBLE. Thank you very much, Mr. Cole.

Now, did you want to call on Mr. Cobb next?

STATEMENT OF HARRISON S. COBB, BOULDER, COLO., SMALL MINES OPERATOR

Mr. COBB. Mr. Chairman, members of the committee: My name is Harrison Cobb. I live in Boulder, Colo., and am in the business of supplying building materials. I would like to briefly extend the early part of my prepared statement and refrain from reading other parts that have been thoroughly covered so far.

Senator BIBLE. I have no objections to anybody briefing it, so long as the brief is shorter than the statement. Your full statement will be incorporated in the record.

Mr. COBB. Yes. During the last 15 years, I've made possibly the largest individual production of ores in the history of Boulder County mining. As an illustration of a small mining operation, this has been done from one man to a maximum of a nine-man crew. I had thought that Senator Hansen might have been interested in the fact that I mined the entire deposit of jade on Ted Grahem's ranch up on the Sweet Water. This is the jade that has appeared on the jewelry counters for the last 20 years. We are told that sales from this batch of jade ore have now passed the $12 million mark. If we were starting this operation from scratch under S. 921, the small outcrop which was first visible would probably be declared a common variety, leasable and under no discovery because it lacked present marketability.

Senator BIBLE. Did you locate jade on a—I did not know you could locate jade: Is it a locatable mineral?

Mr. COBB. It was at that time.

Senator BIBLE. Well, you learn something every day.

Mr. COBB. I do not know the legality of that——

Senator BIBLE. I am not questioning that. I was just curious. I never knew jade was locatable.

Mr. COBB. During yesterday's hearing, I became more and more

mystified as to why people think of the mining law as of 1872. Our general mining law is not of 1872. I will concede it is not yet the Mining Law of 1972 but S. 2542 would make it so.

Today, because of all its accumulated experience and precedence, it is the Mining Law of 1970, not of 1872.

Senator Metcalf asked a question that has not been clearly answered. This is strange because it seems to me the answer is simple. The question was, I believe: Why does not the mining industry pay a fee for the use of public land as others do? Let me try to answer. The mining industry already pays more than other users. The timber cutter pays stumpage so that the Forest Service can plant, cultivate, and grow more timber for the next cutting. The rancher pays a grazing fee so that the Forest Service can plant, cultivate, and grow more grass for the next grazing period. The picnicker pays a use fee to replace the overturned tables and crushed garbage cans he leaves so the next picnicker can do the same.

The fisherman buys a license so the Fish and Game Commission can restock the streams and lakes for the next fisherman. As I understand it, none of these fully pay their way. But if a mining fee or royalty were charged by the same process of reasoning, the governmental agencies should then do the prospecting and make the ore available. However, the industry bears the complete burden of this expense, in effect paying a larger amount than do the other users. I want to express appreciation for the interesting slides that were shown to us yesterday. Several of these slides perfectly illustrate my constant assertion that in many instances, the old mines and the mine workings are the only attributes that add character and interest to an otherwise insipid and faceless landscape. Some of these interesting slides displayed the confluence——

Senator BIBLE. I think some were very interesting but I would not want to step into a shaft and end up 2,000 feet below the surface. That was one of the points made. I like to see some of these old mining remnants on that sort of thing. Certainly you are not arguing that some of these uncovered shafts should not be taken care of.

Mr. COBB. No. That is a detail. I am thinking about a mine dump showing up in the trees, which is often complained about. I think that is a very interesting situation.

Senator BIBLE. I do not have any problem with that one. Okay.

Mr. COBB. Some of these interesting slides displayed the confluence of red muddy water with clear water because of placer mining. This mixture occurs in a multitude of places far from the scene of any mining operation. Those of you who have driven up the Powder River into the hole-in-the-wall country—Butch Cassidy's hole-in-the-wall country—know that the Red Fork goes into the Clear Fork of the Powder with exactly the same effect and there isn't a single mining operation in the area. I ask you that you forget my mention of hole in the wall. This is one of the beautiful interesting areas that people do not know about. We would prefer that the thundering herd trample the designated wilderness areas rather than find this one.

I appreciate the opportunity to serve on the public lands committee of the Colorado Mining Association, and especially being given the responsibility of presenting the viewpoint of the prospectors and the small-mine operators.

But please understand that my interest in this subject is overwhelmingly from the standpoint of the private citizen, the taxpayer, the user of natural resource products.

At least in Boulder County, mining people are wondering if there is not a carefully laid plan to abolish the free-enterprise approach to mining, and to lead it into nationalization. This is a very simple road to follow, and requires only five steps:

(1) Place the entire power of decision for the industry in the hands of a political administrator;

(2) Get rid of the small miner and prospector;

(3) Create such difficulty for the industry that production fails;

(4) Accuse the industry of failure to meet national needs;

(5) Nationalize the mines.

Any proposal similar to S. 921 will quickly accomplish the first two steps. If all five steps should be accomplished, so that mineral production were under governmental direction, we would then experience wonderful shortages, and astronomical costs for most items made of metal.

The United States of America has adopted a National Minerals Policy, one of the most important actions taken by any governmental body, and an action taken none too soon. We express our utmost appreciation to Senator Allott for crystallizing our thinking along this line. The Congress must see to it that no governmental agency or administrator evades or circumvents this national minerals policy, as some of them have evaded or circumvented the mining laws in recent years.

Substitution of a leasing system in place of the mining law will definitely circumvent this policy. Such action will:

1. Increase the growth of monopoly.—This has been covered. Please let me point out that the small operator generally has no fear of competition. He can almost always outperform the large companies and the corporations, because he is forced to be efficient, and he rids himself of much of the incubus of overhead. On the other hand, competing with, or contesting the government is an entirely different matter. Here efficiency is illegal and of no use. Here he must be protected by congressional action. Please listen to——

Senator BIBLE. I would not interrupt you but you said you wanted to brief your statement. Now, you briefed it and gave me the statement in full.

Mr. COBB. I am just picking out certain parts. If you are content with reading it and if every member of the committee will read it, I will——

Senator BIBLE. Why don't you just highlight it. That is why I made that original observation. My experience in hearing hundreds of witnesses over the past 15 years is that I always lead with my chin when I say I will let you brief it because the brief is 10 times longer than the prepared statement. Why don't you just highlight the bold face? I do not think you need to develop all of that.

Mr. COBB. All right. I wish the people could listen to these instances. This instance with the Forest Service that I just began to read—may I read that?

Senator BIBLE. Sure.

Mr. COBB. Recently I bought 30 tons of rock from the Forest Service. It required almost 3 weeks of intensive and detailed effort to close

this big deal, and to pay the Forest Service $15. This deal would have been consummated with a private owner in 2 minutes. S. 921 proposes to foster and promote this sort of thing?

The paragraph below, as to the royalty on mines, personal experience with at least three so-called fortunes earned from the mines proves conclusively that the government, which, of course is the people, now has not 2 percent, but 100 percent or every single dollar of all of those "fortunes". The one who made those fortunes has no part of them left. What then is the moral logic of placing an extra burden on an already difficult production, by demanding any part of it in advance, as royalty or bonus?

Mr. Chairman, I believe the rest of it I will leave in your hands to read if you wish and we will save that much time.

Senator BIBLE. I appreciate your experience here today. You obviously know what you are talking about and you have come to grips with this problem many, many times. Do you still run your jade mine?

Mr. COBB. That is all over. All mined out. I think it is all in the hands of the public.

Senator BIBLE. If it is all mined out, whether it is in the hands of the public or not, would not do much good for the future mining of jade. You are saying you mined out the jade?

Mr. COBB. Yes.

Senator ALLOTT. One thing, Mr. Cobb. Are you engaged in mining rock now?

Mr. COBB. Well, I call it mining. It is gathering the rock which goes on many of the buildings in the Denver area.

Senator ALLOTT. What I guess I should have asked you specifically: You are not engaged in any portion of getting out the lime and sandstone formations?

Mr. COBB. No. I operated in that area but it is not lime and sandstone. This is mostly field stone. So-called moss rock.

Senator ALLOTT. We have all read your statement with very great interest and we appreciate it very much. While you were talking, we were also reading. When you sit here year after year, you get in the habit of doing that. You get in the habit of reading ahead. I appreciate your remarks very much.

Senator BIBLE. It was a fine statement.

Senator Fannin?

Senator FANNIN. Thank you. You were very frank. When you say there are no competent governmental administrations, 30 years of experience with bureaucratic procedures proves this beyond a doubt—I hope you are wrong but I can understand your feelings at times. I do appreciate your frankness.

No questions.

Senator BIBLE. Thank you, Mr. Cobb.

(The prepared statement of Mr. Cobb follows:)

STATEMENT OF HARRISON S. COBB, BOULDER, COLO., SMALL MINES OPERATOR

My name is Harrison Cobb. I live in Boulder, Colorado, and am in the business of supplying building materials. During the last 35 years, I've made possibly the largest individual production of ores in the history of Boulder County mining.

I appreciate the opportunity to serve on the Public Lands committee of the Colorado Mining Association, and especially being given the responsibility of presenting the viewpoint of the prospectors and the small-mine operators.

But please understand that my interest in this subject is overwhelmingly from the standpoint of the private citizen, the taxpayer, the user of natural resource products. From this standpoint, these observations are not offered as obsequious requests for favorable consideration, but imply non-debatable demands that the appropriate governmental agencies and administrators stand and deliver these results that are so essential to the well being of our citizenry.

At least in Boulder County, mining people are wondering if there is not a carefully laid plan to abolish the free-enterprise approach to mining, and to lead it into nationalization. This is a very simple road to follow, and requires only five steps:

1. Place the entire power of decision for the industry in the hands of a political administrator;
2. Get rid of the small miner and prospector;
3. Create such difficulty for the industry that production fails;
4. Accuse the industry of failure to meet national needs:
5. Nationalize the mines.

Any proposal similar to S. 921 will quickly accomplish the first two steps. If all five steps should be accomplished, so that mineral production were under governmental direction, we would then experience wonderful shortages, and astronomical costs for most items made of metal.

The United States of America has adopted a National Minerals Policy, one of the most important actions taken by any governmental body, and an action taken none too soon. THE CONGRESS MUST SEE TO IT THAT NO GOVERNMENTAL AGENCY OR ADMINISTRATOR EVADES OR CIRCUMVENTS THIS NATIONAL MINERALS POLICY, AS SOME OF THEM HAVE EVADED OR CIRCUMVENTED THE MINING LAWS IN RECENT YEARS.

Substitution of a leasing system in place of the mining law will definitely circumvent this policy. Such action will:

1. Increase the growth of monopoly. Through competitive bidding the agencies would arrange to evade the Sherman Anti-Trust Act. Leases would be awarded to large corporations only (I term them monopolies) which would simply lie in wait for discoveries to be made, then overbid the discoveror.

Please let me point out that the small operator generally has no fear of competition. He can almost always out-perform the large companies and the corporations, because he is forced to be efficient, and he rids himself of much of the incubus of overhead. On the other hand, competing with, or contesting the government is an entirely different matter. Here efficiency is illegal and of no use. Here he must be protected by congressional action.

Recently I bought 30 tons of rock from the Forest Service. It required almost three weeks of intensive and detailed effort to close this big deal, and to pay the Forest Service $15.00. This deal would have been consummated with a private owner in two minutes. S. 921 proposes to foster and promote this sort of thing?

2. Make mineral products more costly. These front-end bids will, of course, have to be added to the cost of production, making the products more expensive, the cost to be borne by no one but "you and me".

3. Decrease the government's tax-take by some multiple of the royalty-bonus payments. These bonus payments, and any production royalty paid, will be deducted from taxable income.

Personal experience with at least three so-called "fortunes" earned from the mines proves conclusively that the government, which of course is the people, now has not 2%, but 100%, or every single dollar of all of those "fortunes". The one who made those fortunes has no part of them left. What then is the moral logic of placing an extra burden on an already difficult production, by demanding any part of it in advance, as royalty or bonus?

4. Bring decisions and control into the hands of incompetent personnel. The Sierra Club has recommended changes . . . "under which the major control and crucial choices are firmly vested in competent administrators . . .". Gentlemen, there are no competent governmental administrators. Thirty years of experience with bureaucratic decisions and procedures prove this beyond doubt. If the decisions upon research and initiative necessary to finding and producing mineral resources are limited to governmental agencies, or even to government-blessed monopolies, we face disaster in mineral self-sufficiency.

5. Entail the actual loss of mineral value. All of the previously indicated added costs and inefficiencies simply result in ore that will have a higher cut-off level, so that more will have to be left in the ground, lost to future use.

Problems have been cited relative to operating under the general mining law. Gentlemen, the cures to these difficulties are so simple that they can constitute problems only for governmental employees.

Mr. Chairman, our primary point is that incorporation of the hard minerals into a leasing system, mainly so that a few power-hungry people can gain control over it, will have regressive, costly, and unsuccessful results. Most of the points outlined in S. 921 are in opposition to our National Minerals Policy. On the other hand, the continuation of the general mining law, with a comparatively small amount of polishing and streamlining, will be as successful for the nation in the future as it has been in the past.

As a plane-train-automobile rider; as a watch-watcher; as an electric-shaver, and as a sometimes nail-driver, the mechanisms for which come only from mines, we recommend and advise that you reject all consideration of hard minerals leasing, and that you retain and strengthen the general mining law.

Senator BIBLE. Our next witness is Lark L. Washburn.

STATEMENT OF LARK L. WASHBURN, GRAND JUNCTION, COLO.

Mr. WASHBURN. Senator Bible, members of the committee, I am Lark L. Washburn from Grand Junction, Colo. I graduated from high school more than 30 years ago, and even before graduating, I was pulling a wheelbarrow and shoveling ore in a uranium-vanadium mine. I have been a miner ever since.

I first staked a uranium claim in 1949, and have staked claims at various intervals ever since that time; up to and including last month.

I represent myself, as well as a small corporation that I have an interest in; also two men who are partners with me on two small uranium ventures. I also represent many small uranium producers of southwest Colorado and southeast Utah, some of whom have contributed to my expenses for being here.

I am here today because I oppose portions of Senate bill 921 that would eliminate my right to stake an unpatented mining claim, would most likely take away a number of the claims that I now have, and, of most importance, would—I believe—in a matter of a few years, eliminate me entirely as a miner and prospector. Most certainly, it would preclude the possibility of any of my four sons being an independent miner and prospector as I am.

On the surface it may appear attractive to authorize the Secretary to issue a propecting permit. However, the provisions of section 208B appear to limit the issuance of a prospecting permit to nonmineral lands only, since lands containing valuable deposits are subject to competitive lease and not subject to a prospecting permit. It can be argued that the western half of Colorado contains valuable mineral deposits, this would leave the prospector with little or no area with mineral potential. A known valuable deposit, would in all likelihood, be competitively leased unless it has been withdrawn, That would eliminate many prospectors from the scene.

I cannot conceive of the possibility of an independent miner or prospector, like myself, having a competitive position with one of the major corporations engaged in mining and exploration activities if the Secretary utilizes competitive leasing as a means of disposing of mineral wealth as is suggested if competitive interest exists. Let me assure you that independent producers such as myself are competitively interested, but surely not able to compete on a cash bonus-in-advance basis.

May I further indicate how critical the competitive lease provision is to the individual miner. When I first started mining I could go with a Navajo Indian, get a prospecting permit free, go anywhere on the reservation, find minerals automatically have a lease by having the Indian as a partner holding a small royalty and paying an additional small royalty to the tribe. Contrast this with the effects of the present day competitive bids on the recent Navajo uranium lease sale No. 5.

In a paper presented by Mr. Howard L. Edward at the Rocky Mountain Mineral Law Institute in Vail, Colo., entitled, "Federal Hard Minerals Leasing Practices Under Existing Law," (pages 6 and 7) he stated the following: "Lands that had not formerly been leased near developed ore bodies were offered competitively. Of a total of 198,000 acres subject to the sale, none of the lands are presently known to be valuable for uranium. For the right to prospect and explore individual lease parcels, it was necessary to be the successful bonus bidder. High bids were received totaling $5,482,402. One company bid over $1,600,000. Out of the 198,000 acres, only one tract of 1,280 acres, or one-half of 1 percent of the land area in the sale was acquired by a company that could be called a small mining compny—and that company earns nearly a million a year.

I would like to have testified this morning relative to the position of this small miner. I think that that could best be determined by how much overhead he has, how much mechanics and draftsmen and surveyors and geologists and advisers and how many lawyers he has on retainer.

Senator BIBLE. How many would he have approximately? Would you have any idea?

Mr. WASHBURN. The men that I represent would have maybe one or two mechanics——

Senator BIBLE. This particular company here.

Mr. WASHBURN. This company here, to earn $1 million, I am sure he has several men in the field, geologists and so on.

Senator BIBLE. The total payroll of 100 men? Two hundred men? Fifty men?

Mr. WASHBURN. I have had, in various years, 60 men but——

Senator BIBLE. I am talking about this company.

Mr. WASHBURN. I think this company would have 200 plus men in total.

Senator BIBLE. I just wanted an estimate. Fine.

Mr. WASHBURN. This one company acquired less than one-half of 1 percent of the land area that was available. That company earns $1 million a year. Other tracts were acquired by names familiar to you—all of which are large corporations—mining companies alone acquired 39,000 acres or 20 percent of leased lands. Large oil companies were the high bidders for the remaining 80 percent of the land.

The competitive bidding experience at the Navajo sale leads to several conclusions. First, no individuals or small companies are going to prospect on the Navajo Reservation. Second, the traditional mining companies are well behind the oil companies in acquiring exploration lands on the reservation. Third, if uranium is discovered, it will have to be of a quality and quantity sufficient to offset the large sums paid as front-end charges.

I submit independent Indian miners would fare no better if the Government conducts competitive leasing. The men I represent are presently very much concerned about this very thing relative to the public lands known to have rich mineral deposits that the AEC controls. The uranium ground is now controlled by the AEC. We feel that the individual man who has produced much of the uranium of the past few years will possibly be bypassed if this is let to competitive bidding.

I stated at the beginning that I have staked claims many times. A number of them have been great producers for me. Some that I staked and let go delinquent (for lack of assessment work) produced millions for a new staker. I have lived near and been acquainted with Joe Cooper, who sold the Happy Jack for $30 million, and Charles Steen, who staked and worked the Mi Vida, Utah's largest uranium mine, and I am still staking, and mining, and looking for a similar rich strike.

Gentlemen, I do not wish to belabor my point here. I have no quarrel with ecology. I am certainly in favor of legislation that would require "strip miners," in particular, and all miners, in general, to reclaim the lands that they disturb. I favor starting today to better protect the environment while using—not abusing—the natural resources of our Nation. I will not argue that we should not amend some of the abuses out of the 1872 mining law. Those who stake claims for summer homes and other nonmineral purposes should be prevented from so doing; those who hold tremendous acreages without doing annual assessment work and moving toward production should be prevented from so doing. Nevertheless, it should be remembered that claim staking and mining is an American way of life. Many people have their lifetime's earnings tied up in claims and mineral holdings that, as yet, are not producing and may not conform to patent laws.

I urge you not to enact legislation that would arbitrarily eliminate the individual, independent miner and prospector from the American scene any more than you would decree that all farming and all cattle raising must be on a gigantic corporate basis.

I support the retention of the General Mining Law along the lines of the Mineral Development Act of 1971. This would preserve the integrity of the prospector, miner, and small operator and at the same time curb the abuses of the present law.

Thank you for allowing me the opportunity to present my views and those of the people I represent before this committee.

Senator BIBLE. Thank you very much, Mr. Washburn. That is an unusually fine statement. It is built on hard work and experience that you had. You obviously know what you are talking about. I appreciate having your testimony.

Senator Allott?

Senator ALLOTT. Yes, it was a very unusual statement. Very valuable. What I am concerned about, and I think it gets at one of the rubs that you are talking about—this was discussed at great length in the Public Land Law Review Commission—we talk about competitive interest. Once you filed a location, the filing of it is like broadcasting it over a big TV station, as you well know. Probably better than any of us will ever know. So therefore, you immediately have competitive interests. Once you have competitive interest, the small man is through. This is your point, isn't it?

Mr. WASHBURN. Yes, sir. If it is to be on a competitive bid basis, if it is announced and it is competitively bid, we would be through immediately.

Senator ALLOTT. Once you feel, the competitive interest is bound to appear so, therefore, you have a competitive bid and when you have a competitive bid, the small man is through, isn't he?

Mr. WASHBURN. Yes, sir. It is bid. If it isn't bid, if it is opened for staking, the little man will get his bite while that——

Senator ALLOTT. I take it you have examined 2542. Do you agree in general with the philosophy of that bill?

Mr. WASHBURN. Yes, sir.

Senator ALLOTT. Thank you very much.

Senator BIBLE. Senator Fannin?

Senator FANNIN. Thank you. I do commend you for your statement and the way in which you have referred to the responsibilities of all mining interests, whether large or small. I am just wondering how to interpret your statement where you say, "I do not wish to belabor my point here. I have no quarrel with ecology. I am certainly in favor of legislation that would require strip miners in particular and all miners in general to reclaim the land that they disturb."

How would you classify your statement "reclaim the lands that they disturb?"

Mr. WASHBURN. Well, I think there is a great difference between restoration and reclamation. The ground could be put back sometimes in better condition than when it was found. As you know some of our western lands that aren't too much to brag on in the condition Mother Nature left them. To restore them sometimes would be near impossible if one goes ahead and uses the land.

Senator FANNIN. That is what disturbed me. To reclaim the lands they disturb. Not to use that word so much but the intent I know is proper, I am sure, but the interruption, it would be so loose that it could require doing what perhaps would not be practical.

Mr. WASHBURN. I think surely that open pits and leaving open tunnels and so on, there should be rules that govern this. Even bonds if necessary to see that hazards to children and people in general, that these things are not left over.

Senator FANNIN. Fine. I just wanted your interpretation of what responsibilities you feel you should assume.

Mr. WASHBURN. Thank you.

Senator BIBLE. Thank you, gentlemen. I very much appreciate your oint appearance here. This is another fine panel from the Colorado Mining Association. You are to be commended. Thank you a great deal.

Our next witness is Mr. Oris Mahon.

STATEMENT OF ORIS MAHON, REPRESENTING WESTERN MINING COUNCIL

Mr. MAHON. Thank you, Senator. My name is Oris Mahon. My address is Redding, Calif. I speak as national president of Western Mining Council, Inc., a nonprofit organization with a membership roster in excess of 25,000. The membership of the council is composed

of people; good people, people of like mind who believe in God, gold, and government, and in that order.

Gentlemen, as we study Senate bill S. 921, we find that the bill is well written. A great deal of research and thought have gone into the preparation of this bill. The people who did this work must be commended for their effort and efficient work.

In the course of evaluating this bill, we have asked ourselves many questions, the most important being: What is the purpose of this bill? Will this bill create the opportunity for more jobs? Will this bill add to the economy? Will this bill enhance our environment? Is this bill workable?

Western Mining Council is composed of small miners and prospectors and we speak of these people. May I take a moment and reintroduce the small miner and prospector to those assembled here today.

This man, or woman, first of all is a citizen, or a national of the United States of America. The color of his skin is red, black, white, or yellow. His religion is of his own choosing. His political beliefs and affiliations are his own.

This man is your neighbor, the man down the street, the man across town. This man is found on top of a mountain or in the middle of a desert. He is just Mr. or Mrs. John Q. Public.

This man is an independent thinker, he is also an industrious entrepreneur. He works hard at his trade and studies continuously. His capabilities seem to be endless as he works with what is available to him in his process of locating and extracting valuable minerals from the lands. He produces the minerals that are in demand for this Nation and the society as we know it today.

With improved technology and mobility, this man is keeping up with the problems of the environment and the ecology. He is doing his bit to improve these conditions. He is a true conservationist. He removes from Mother Earth only those minerals that are in demand.

With all of the latest developments in technology, instrumentation and extractive processing, the small miner and prospector remains in demand. He remains the trailblazer for the mining industry. Digging into the nooks and crannies of Mother Earth, his work exposes the road signs that point the way to larger mineral deposits. Examination of the record reveals that the large deposits of minerals being worked today were first located through this man's efforts.

The small miner is a producer as he works the smaller deposits of valuable minerals that the large companies and corporations can not handle. Even socialistic Russia recognized the importance of the small miner in the total productive process of their mineral needs.

The small miner is a consumer. He requires goods and services from all facets of our society to effect his extraction processes.

The importance of the mining industry is unquestioned by all here today. In order to review this matter, I am introducing as part of these remarks, a statement made by Mr. Lee Rowland, mining engineer from Mariposa, Calif., entitled: "All Activities of Mankind are Dependent upon the Mining Industry."

Senator BIBLE. Without objection, that will be made part of the record.

(The article referred to is in the appendix.)

Mr. MAHON. Thank you.

This Nation is demanding more and more raw minerals to supply the needs of an ever-increasing population with their technological advancements. This was clearly stated by Mr. Hollis Dole of the U.S. Bureau of Mines.

The nationalization of American mining investments abroad is requiring that we get our house in order and produce domestic minerals.

Our lack of productive exercise in domestic minerals has made this Nation dependent upon foreign supplies of strategic minerals and has added to our balance-of-payments problems.

The folly of the Rhodesian trade sanctions, as dictated to us by the United Nations, has created a deplorable condition where we now buy the mineral chromite of Rhodesian grade at a much higher price; at the same time, we must buy equal tonnage of low-grade Russian chromite from the same source.

The record shows that we have sufficient domestic chromite minerals of equal grades to supply our needs for many years to come.

The record further shows that less than 10 percent of our valuable minerals have been extracted from the domestic resources. This 10 percent figure applies to the mineral gold also.

The Public Land Law Review Commission, in their report to the Congress, states on page 125 of that report, "The public interest requires that individuals be encouraged, not merely permitted—to look for minerals on the public lands. The traditional right to self-initiation of a claim to a deposit of valuable minerals must be preserved."

With the passage of S. 921, the traditional role of the small miner and prospector will be replaced by bureaucratic red tape with the added burden of a fee (another form of taxes). This unwieldy, uncontrollable bureaucratic institution will eliminate the small miner from a competitive position in our society.

This matter has been clearly demonstrated in the recent case of Mr. Weatherly, Helena, Calif. The State of California established the Water Quality Control Board. In the legislation, the power of fee setting was put into the hands of the board, rather than remaining with the legislative branch of the State government.

Mr. Weatherly, being a law abiding citizen of the United States, applied for a permit to discharge natural sediments from the river through his sluice box, back into the same river. A nonreturnable fee of $250 was required with the application. Mr. Weatherly's application was rejected. There were no safeguards written into the legislation to protect this honest citizen from bureaucratic bungling and unjust practice of bureau regulations.

The State of California, through the Water Quality Control Board, was instrumental in putting Mr. Weatherly out of business, thus removing one more small miner from the public lands. The abuse list of bureau policy regulations goes on and on.

As reported by Mr. Hollis Dole of the Bureau of Mines, this Nation has a shortage of qualified mining engineers and geologists to meet the needs of industry and the Government. He further states that too few men are being trained in this field to fill the vacuum. Who then shall administer such a law as S. 921?

In summation, we find S. 921 a bill for the purpose of repealing existing statute laws related to mining and land use, replacing them

with an uncontrollable leasing system to be administered by people who know little or nothing of mining or the mining industry.

We find that S. 921 will create new jobs within the Bureau of Land Management. But this increase of jobs will be offset by an overwhelming decrease in job opportunities in the private sector. The overall picture is one of fewer job opportunities.

Fewer job opportunities at the production end of the scale will mean less production of domestic minerals. With fewer domestic minerals being produced to meet this Nation's needs, a depressing effect will be felt in the domestic economy. The added fees obtained from leasing will be consumed by the administrating agency and if history repeats itself, additional funds will have to be appropriated to support the program. Thus adding additional tax burdens to the general public.

No advantage to the enhancement of our environment is recognized with the passage of S. 921.

With the small miner and prospector, S. 921 is an impossible situation and will in effect, remove the small miner and prospector from the public lands, forcing these people into more densely populated areas where welfare, unemployment, and crime is a way of life.

Let it be known to all, Western Mining Council, Inc., the small miner and prospector, cannot live with a leasing system such as Senate bill S. 921 would create.

The Statute Mining Laws of 1872 have served this Nation well. These statute laws have stood the test of time and in the public interest and must be retained.

Senator BIBLE. That is a very fine statement, Mr. Mahan. I appreciate you coming from Redding to give it to us. You say you are a nonprofit organization. The roster says 25,000 people. These people come from where?

Mr. MAHAN. California, Oregon, Nevada, Arizona, Illinois, Ohio——

Senator BIBLE. Those are typical. Is it a dues-paying organization?

Mr. MAHAN. A dues paying, yes.

Senator BIBLE. If I belong to Western Mining Council, how much do I have to pay a year to keep my membership good standing?

Mr. MAHAN. $2 a year for an active member.

Senator BIBLE. And you have 25,000 dues-paying people belonging to your organization.

Mr. MAHAN. If you read my wording, I said our roster was 25,000. That is the card that is being issued. These are not all dues paying. We do have a classification of membership money as lifetime membership, which was prior to—cards issued prior to 1962.

Senator BIBLE. Let me just ask the question differently: How many of your total membership do pay dues?

Mr. MAHAN. I do not have that figure at my——

Senator BIBLE. A thousand? Five hundred? Two hundred?

Mr. MAHAN. At least a thousand.

Senator BIBLE. That is all the questions I have. I think it is a good statement.

Senator Fannin?

Senator FANNIN. Thank you, Mr. Chairman. I was very interested in what you had to say. I would like to note the justification for some

of your statements. How many of your people are active miners or active in the mining business? Would you say half of them?

Mr. MAHAN. Three-quarters of them anyhow.

Senator FANNIN. Well, you make a statement here the record shows we have sufficient domestic chromite minerals of equal grade to supply our need for many years to come. What record are you referring to?

Mr. MAHAN. The Bureau of Mines. The State—the California Division of Mines. Oregon Division of Mines. Those records. And the Federal Bureau of Mines.

Senator FANNIN. We have been involved in legislation regarding the obtaining of chrome. I just never heard that figure used. In fact I just cannot understand it. If we have this chromite mineral, why would we be buying our chrome from Russia? I understand the sanctions and we even have legislation to try to do away with the sanctions as far as chrome is concerned, but I am vitally interested in the statement. If this is true, it should be thoroughly investigated to determine whether or not we can get chrome from local sources, a source within the United States.

Senator BIBLE. The witness might want to supplement what he said. I would suggest rather than take the time now at this late hour, we only have one more witness and we have a vote in a few minutes—I wish you would develop that and furnish the committee. The record will be kept open for at least 30 days. That would be allowed for this purpose. If you want to develop that further, give us the benefit of your views and submit it to this committee. Would you mind doing that?

Mr. MAHAN. I will work at it, yes, sir.

Senator BIBLE. Just do the best you can.

Senator FANNIN. Thank you. I think that is a spendid recommendation. I have no further questions.

Senator BIBLE. Thank you very much, Mr. Mahan.

The last witness on my list today is Mr. Richard Hatch of California. Mr. Hatch.

STATEMENT OF RICHARD HATCH, CALIFORNIA

Mr. HATCH. Mr. Chairman and members of the committee: I am Richard K. Hatch of California and Nevada. I am a small businessman and miner. I have been very impressed and encouraged with this hearing. Congress is now drafting bills in order to affect new mining laws, laws to replace old tried and true mining laws which have stood the test of time. The issue, however, seems to be not simply to create new legislation to protect the public domain but perhaps an issue to create a "people for the government" condition in the public domain West while the rest of our Nation enjoys a competitive free enterprise system of government. Congress is proposing a Berlin Wall, enclosing the public domain West that not only would deprive the descendants of the early pioneers and settlers of their heritage but will discourage new growth and honest investment in one-third of our Nation's land.

I am a small businessman and I operate a stone quarry in Nevada on public domain land.

Senator BIBLE. Where is that quarry?

Mr. HATCH. Eastern Nevada, about 30 miles north of Caves.

Do you know where that is?

Senator BIBLE. Yes, I know that very well.

Mr. HATCH. I plan to continue to prospect for additional quarry sites in the West. The stone from my quarries is used by myself and other contractors in job-cast concrete, tilt-up stone walls for industrial and commercial buildings in California.

The proposed bill S. 921 will be a disaster to me and to thousands of other small businessmen like myself in the West. In one stroke of the pen, Congress will wipe out my lifesavings and nullify over 20 years of hard work. This bill will make it impossible for me and others like myself to obtain a patent on our mining claims. It is proposed that the Government would now own our claims which we discovered and developed, and we would have to lease the claim from the Government in order to continue to operate.

In the past, the small businessman and miner generally borrowed the capital to develop and improve his mining claim. Under present mining law his claim was considered real property and he used this as collateral. Now under a leasing program, he will simply be renting property and in no way will it be possible for him to borrow the necessary development and operating capital. The economics and regulations of a leasing program will close out our business of quarry operations.

This "land no one knew" has remained God's country the past 100 plus years because it was settled and developed by God-fearing people.

Most of the general area still in public domain today was settled by Mormon pioneers and others who followed soon after. The descendants of these early settlers now trying to earn an honest living in the vast and arid West are seldom heard. We who are heard should honor their birthright. A leasing law cannot do honor to these people; it is foreign and contradictory to existing rights.

Gold, silver, copper, and 20 or more other minerals have played an important part in the history of the West as has cattle ranching and farming. Most of the Nation's mineral wealth is still hidden in the public domain West. After more than 100 years the land in the public domain remains virtually untouched. In the mining State of Utah only two-hundredths of 1 percent of the State's entire surface has ever been disturbed by mining. Yet mining is a major industry in Utah; and I might add, a major tourist attraction. And most all mining occurs in areas which would not normally be visited by the public.

The pioneers, miners, small businessmen have become part of this Western scene. We have not been greedy, most of the West still remains in public domain; we have not used more of nature's wealth than we needed to survive. If new laws are needed, such laws should protect this domain and those of us who make an honest living from the land against selfish and special interest groups seeking radical changes of our American way of life.

In good faith, I and other small prospectors and miners truly believed ours was a nation of free enterprise. Traditionally, private enterprise has developed and met our national mineral needs. Under the mining law of 1872 and other proven legislation this Nation has grown to world prominence in industrial development. Now Congress

is considering ways to force private enterprise out of existence in the public domain areas and all under the demands to keep the public lands out of the hands of profit-making individuals and industry. I wonder how this Nation would have grown if such legislation had been considered 50 to 100 years ago?

From the June 1970 report to the President and to the Congress by the Public Land Law Review Commission I quote: "Public land mineral policy should encourage exploration, development and production of minerals on the public lands." That same Review Commission invited the University of California Political Science Department at the Berkeley campus to sponsor hearings to gather information regarding the need for new laws regulating the use of our public domain. At the close of the hearings I asked Dr. Lee who heads the Berkeley Political Science Department and was chairman for the hearings, why they had not included mining in their agenda. He answered that neither he nor the board had thought of mining as part of the public domain picture and then asked me if there was any mining in the public domain area. I informed him that there was and he said he would have to find out about that.

We need a responsible public land information committee to tell the truth and inform the public on public domain matters. Such a committee would very simply put a stop to the widespread misinformation being published and disseminated every day to the unsuspecting public. The small miner and businessman working in the public domain West needs this committee, not mineral leasing laws to put him out of business; out of work. He welcomes the truth on these Western States issues.

Several years ago the mining industry was asked to help in drafting new legislation in order to stop widespread misuse of the existing mining laws. The 1955 Common Varieties Act resulted from this effort. We were told at that time that there were many abuses of the mining laws by people who were not interested in mining but in using the building stone loophole in the mining law to gain entry and title to public domain land. Many articles were published to inform the public that millions of acres would be lost if something was not done to stop these abuses.

Since 1955 I have made an honest effort to investigate the building stone quarry industry in the public domain West. I found only a handful of claims patented before 1955 and even fewer after 1955. There were no abuses of the mining laws which could not easily be stopped simply by enforcing the 1872 mining laws. The only abuses I found were abuses seemingly permitted by the departments purely for propaganda purposes.

The building stone industry is an important industry in the Eastern States where most land is privately owned. This industry hardly exists in the West; no building stone quarries have ever been patented in the mining State of Nevada, only a few in California, none in recent years. Not enough building stone land has gone to patent, ever, in the 11 Western States to comprise one good sized quarry. Practically no building stone quarry operations exist on public domain in the West today. Some do operate on a lease but these operations high grade the deposit and move on to another area. It takes private ownership to justify the expenditure of thousands to millions of dollars needed to open up and

properly operate a quarry and establish a market for the new stone product.

I have asked this committee before to please define what is meant by building stone so that I may proceed with a patent on my claim. Since 1955 and the Common Varieties Act, no one in the Congress or the departments have been able to clear up these definitions. Again new laws are unnecesary and unjustified. If deficiencies or violations occur, update the existing laws and give the administrators direction and teeth to act in the best interests of our country. You just cannot decide to change the rules in the middle of the game without causing the game to stop. But this is not a game, it is our life! If this bill goes into effect, it will be the greatest claim jump act in our history.

Senator BIBLE. Thank you very much, Mr. Hatch. That is a very fine contribution to this hearing. You are getting into the building stone area and I know it has some problems. We will carefully examine this. I have no specific questions of you.

Senator Fannin?

Senator FANNIN. No questions. I just share your great concern. Have you examined S. 2542? That is the only question I would ask of you.

Mr. HATCH. I have not examined these too well. I would like to make reference to H.R. 10640. It makes a note of the Common Varieties Act and I would like to have the privilege of appearing in future hearings regarding the solving of this common varieties problem.

Senator BIBLE. Certainly. That will be your privilege. We will ask the staff to notify you when we get on the common varieties problems. They are a rather narrower issue than this big problem we have here. You and I both recognize that.

Anything further? Thank you very much, Mr. Hatch.

That appears to complete our list of witnesses for today. The record will be kept open for 30 days for those that appeared either yesterday or today for the purpose of correcting, amplifying, adding to their statements or making any additional comments. That will apply to everyone that appeared yesterday and today. Thirty days.

I do not know exactly where we go from here. The chairman is not here today so accordingly I will recess the hearing subject to the call of the Chair. We stand in recess.

(The committee was recessed at 4:35 p.m.)

APPENDIX

(Under authority previously granted, the following statements and communications were ordered printed:)

STATEMENT OF LOUIS S. CLAPPER ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I am Louis S. Clapper, Conservation Director of the National Wildlife Federation which has national headquarters at 1412 Sixteenth Street, N.W., here in Washington, D.C.

Ours is a private organization which seeks to attain conservation goals through educational means. The Federation has independent affiliates in all 50 States and the Virgin Islands. These affiliates, in turn, are composed of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation, number an estimated three million persons.

We appreciate the invitation and opportunity to make these observations.

Mr. Chairman, the National Wildlife Federation regards S. 921 and other bills which relate to public lands of the United States as being among the most significant to be considered by the 92nd Congress and we hope and trust that this Subcommittee will give sincere and honest attention to the many implications which these proposals can have upon the lives of all Americans. The scope of influence of these proposals hardly can be overemphasized and we commend the Committee for devoting this time and effort to them. We also are pleased that the Committee is giving prime consideration to a national land use policy, a proposal which ties in directly with the bills under consideration here today.

Our organization long has been concerned about the proper use and management of public lands, including virtually all of those in Federal ownership and not just those in the Western U.S. Throughout the years, our organization has stood for applications of the multiple-use policy and a balanced program for all Federal lands in recognition that these properties can and should be used for the production of timber, minerals, livestock, forage and other commercial pursuits as well as for the production of water, protection of watersheds, outdoor recreation, management of fish and wildlife, and preservation of wildernesses. We think all of these uses have proper places in the overall management of Federal lands, if handled properly, and many, but not all, are compatible and can be accomplished at the same time.

I will make no attempt to list all of the resolutions and positions which our organization has taken over the years with respect to administration of Federal lands other than to say that, earlier in 1971, we listed seven issues which we considered to be among the most critical of the year and two dealt with public lands. In these, we expressed these positions on broad principles:

"*Public Lands:* In accordance with its long-standing policy, the National Wildlife Federation reiterates support for the multiple use policy of land management and expresses opposition to the theory of dominant use recommended by the Public Land Law Review Commission. Laws which allow Federal lands to be taken to patent are not the answer. A better solution would be a mineral leasing system which will permit the proper protection of surface areas. Except for tracts needed for residential expansion or industrial purposes, the bulk of public domain lands should be retained in Federal ownership and managed under multiple use principles which allow a balanced program for the maximum public benefits. Further, the Federal Government should receive full market value for all of its natural resources products, including forage."

"*National Land Use Policy:* This organization is convinced that the time has come when the Nation must develop a coordinated and comprehensive plan for the best use of all of its land resources, private and public. Such a plan, if

coordinated between Federal, State, and local governmental entities, must result in the determination of priorities of land use best suited for the overall public good."

I might also point out that other resolutions adopted this year dealt with other types of interests including those such as management of predators, oil pollution in Alaska, National Land Use Policy, and the California Desert. Copies of the 1971 resolutions relating to national land use policy and the California Desert are attached for the information of the Committee.

We also went on record as expressing the belief and conviction that more efficient government can be achieved if there is a reorganization to bring together into a Department of Natural Resources several Federal activities and functions of agencies responsible for the management of lands and their uses, including the production of timber, forage, minerals, wildlife, and recreation. Also attached, Mr. Chairman, is a list of legislative proposals developed by the Western States Committee on the Public Land Law Review Commission Report, "One-Third of the Nation's Land." These 21 points have been adopted by many of the independent State Affiliates of the National Wildlife Federation and the recommendations generally reflect positions adopted by our organization throughout the years.

And now, Mr. Chairman, I should like to comment specifically about S. 921, the "Public Domain Lands Organic Act of 1971."

As we read it, S. 921 sets out two significant and praiseworthy goals: the establishment of an organic act for the Bureau of Land Management of the U.S. Department of the Interior, and replacement of the Mining Act of 1872 with a mineral leasing system. We also feel that Congressional approval of some provisions of S. 921 will resolve many questions raised by recommendations of the Public Land Law Review Commission.

Specifically, we believe the policy set forth in section 101, Title I–Public Land Administration," lays a firm groundwork for efficient administration of the Bureau of Land Management for all purposes without undue emphasis being directed to any. I might point out that a similar bill in the House, H.R. 9911, covers much the same ground but in slightly differing language and we suggest that the Committee use its good judgment in selecting the best final wordage.

We are in agreement with the definitions set out in section 102. However, we think it might be well to bring the definitions of multiple use and sustained yield into line with the existing classification and Multiple Use Acts.

Section 103 delineates policies and practices applicable to the nonmineral public lands. We particular recommend approval of these principles:

—Application of the multiple use and sustained yield doctrine;
—Development of National, State, and local land use plans;
—Opportunity of the public to participate fully in the conduct of public business;
—Payment of full fair market value for public resources and services; and
—Adequate opportunity for resource users to plan and develop use and operations and to secure a fair return for their risk and investment, but without recognition of any vested lights;

Again, we suggest that the Committee consider and compare the language in section 103(9) with the somewhat differing language in H.R. 9911, believing it may be an improvement.

Section 104 provides for the development and promulgation of regulations containing criteria for the classification of public lands, a procedure with which we are in accord because it provides for equitable consideration of all beneficial uses without undue emphasis being placed on any.

Section 105 provides for review of classifications and section 106 offers a mechanism for adding units of public lands to the National Wilderness Preservation System, a procedure with which we express approval. I might add that we note that H.R. 9911 contains an added proviso to maintain the wilderness character of all areas reviewed until the Congress has acted.

We like the proposal to establish boundaries for National Resource Lands with marking for them (Section 107); the provision for sales of lands classified for disposal (section 108), subject to local plans (section 109); the reservation of mineral title to the U.S. for lands subject to disposal (section 110); and the acquisition of lands through exchange or purchase (section 111).

As indicated earlier in this statement, we think it is essential that the Bureau of Land Management be authorized to make arrests for violations of public land regulations (sections 112 and 113).

We particularly recommend the repeal, in total or in part, of obsolete and archaic land disposal statutes, including the Taylor Grazing Act, Desert Land Act, Homestead, Small Tract Act, as well as the O & C Act.

Title II of S. 921 relates to mining and we noted, with particular interest, the introduction on Sept. 9 of an amendment by the Chairman. This would alter the original Title II to establish the "Federal Hardrock Mineral Leasing Act of 1971," reducing scope of the statute to hardrock minerals rather than all federally-owned minerals, including oil and gas. We are in agreement with this approach, believing that oil and gas resources already are covered adequately by statutes (Mineral Leasing Act) which are working reasonably well, with the Secretary of the Interior having authority and discretion to provide environmental safeguards. In general, the amendment appears to assure that an individual or a small mining concern will continue to have a fair opportunity for access to, and development of, minerals on federal property. However, the most important feature is to eliminate indiscriminate disposal of land through the patenting procedure.

Speaking in specifics, we are in agreement with section 201, citing the Act, and the definitions set out in section 202.

Section 203 authorizes the Secretary of the Interior to issue prospecting permits and exploration, development, and production leases. This section meets our prime concerns: that mining of hardrock minerals be permitted to continue in order to meet the Nation's needs but under terms and conditions which will permit the protection of other values, generally as set out in this section. We particularly think it is important that Federal oil shale deposits not be leased until techniques are developed to prevent damage to watersheds and the environment.

We are in agreement with the principles set out in section 204, relating to concurrence of other agencies when their properties are involved in the disposal of Federal hardrock minerals, although the Committee likely should clarify the reference to compensation for private improvements on the land in subsection (b). We also agree with section 205, calling for consultations on decisions relating to the disposal of hardrock minerals; and with section 206, providing for publications of proposed mineral dispositions.

Sections 207 and 208 protects prospectors through exclusive permits and leases, with other leases on a competitive bidding basis, and we feel these are fair and reasonable provisions. Section 209 sets out terms and conditions which, we believe, protects both those who would mine federal minerals and the natural resources themselves. Section 210 authorizes regulations.

Section 211 repeals the Mining Act of 1872, action conservationists long have sought, but continuing claims which are recorded within one year.

Section 212 provides for the distribution of revenues, allowing the States 37.5 per cent, whereas they receiving nothing under the 1872 Mining Act.

To conclude our comments on S. 921, Mr. Chairman, I should also like to point out that we are attaching a list of 26 major points upon which a number of conservation organizations agreed and presented to the Public Land Law Review Commission.

* * *

We also have read and studied, with great interest, S. 2401, the: "National Resource Land Management Act of 1971." This was introduced, we understand, at the recommendation of the Administration. Frankly, Mr. Chairman, we are disappointed that the Administration witnesses apparently are not planning to appear today on grounds that they are not prepared to comment upon the mineral features in S. 921. We should think that a position would have been resolved since February 23, when S. 921 was introduced.

As we read it, Mr. Chairman, S. 2401, also establishes an organic Act for the Bureau of Land Management. While the bills do not follow the same order and composition, there appear to be no major or irreconcilable differences between S. 2401 and Title I of S. 921. Each has different emphases. Overall, S. 921 seems more orderly and more readily understood and, with minor reservations, probably can accommodate all of the main objectives of S. 2401. With this thought in mind, we are not commenting on S. 2401 on a section-by-section basis.

* * *

S. 2450, the proposed "Public Land Policy Act of 1971", is a slightly modified version of H.R. 7211, a bill with the same title, introduced by the Chairman of the House Committee on Interior and Insular Affairs and others. The conservation movement generally and the Administration in particular recommended

against enactment of H.R. 7211 in hearings held earlier this year by the House Committee. We prepared a section-by-section analysis, with comments, of H.R. 7211 and presented it to the House Interior Committee. We do not wish to take the Committee's time to repeat those remarks but they can be made available, in their entirety, for the record if the Chairman so requests.

* * *

Again, Mr. Chairman, we offer our thanks for the opportunity of making these remarks.

[From California Mining Journal, May 1968]

ALL ACTIVITIES OF MANKIND ARE DEPENDENT UPON THE MINING INDUSTRY

(By Lee I. Rowland)

(Lee Rowland has been a mining engineer for many years. He is one of the best boosters the mining industry has ever had, and an outspoken foe of the many influences which are trying to stifle or destroy legitimate mining activity in the Western States.

(Mr. Rowland is actively engaged in mining at the age of 84. Also, he is the energetic National President of the Western Mining Council this year.)

Abraham Lincoln's message to the miners of the western states, given to Schuyler Colfax who was preparing to leave for the Pacific Coast the day Lincoln was assassinated, was, "I want you to take a message from me to the miners whom you visit. I have very large ideas of the mineral wealth of our nation. I believe it is practically inexhaustible. Tell the miners for me that I shall promote their interests to the utmost of my ability; because their prosperity is the prosperity of the nation, and we shall prove in a very few years that we are indeed the treasury of the world." Lincoln was a thinking person.

As guest speaker at a mining meeting in Sacramento, California, in the early nineteen thirties, Governor Stephens opened his address with the following statement—"There are only two *basic* industries; they are Mining and Agriculture. We might exist without mining but we would return to savagery almost overnight. When these two basic industries are in a healthy condition our economy is in a healthy condition."

Without mining there would not, and could not be either industrial prosperity of any kind or progress of, by or for the human race.

In order to verify the foregoing irrefutable statements it is perhaps necessary to present at least a partial analysis in considerable detail with reference to the various phases of man's activities, but first let it be thoroughly understood that it is the Mining Industry which produces the many and various types of minerals and metals used in all industrial activities of the human race.

TRANSPORTATION

Transportation is one of the most important of our daily needs and activities, yet if it were not for the iron, lead, zinc, copper, aluminum and other minerals produced by mining, there would not, and could not be the hundreds of thousands of automotive vehicles, nor the highways over which they travel. It would be interesting to know the number of persons traveling the highways in an automobile who have ever realized that if it were not for the mining industry they would have neither the automobile nor the highway. There would be no iron for the construction of the body and the manufacture of springs, various gears, engine, drive shaft, wheels and other parts of automotive vehicles; no lead, zinc, copper and aluminum for batteries, wiring, trim, etc., and there would be no bulldozers, graders, compressors, drilling equipment or transportation equipment with which to build and maintain the thousands of miles of highways.

There would be no airborne equipment of any type for transportation of passengers or materials and supplies.

There would be no locomotives, railroad cars or the rails upon which trains travel; there would not and could not be any ocean going vessels such as passenger ships, freight carrying ships, warships or any other type of ship or boat and no bridges over streams or other bodies of water because all are completely dependent upon the removal of various minerals and metals from the earth by the Mining Industry.

COMMUNICATIONS

Communication facilities of all kinds would not and could not exist (as we know them) because there would be no printing presses or paper to use in

connection with the presses; no telephone or telegraph equipment; no radio or television sending stations or receiving equipment and no transportation for the distribution of newspapers and other printed material. There would not be the thousands of Post Offices throughout the nation and no buildings, equipment, material and supplies for processing, handling and delivery of any kind of mail. All are dependent upon the minerals and metals produced by the Mining Industry.

FARMING AND OTHER AGRICULTURAL INDUSTRIES

All agricultural products are very important and necessary in connection with the existence, activities and progress of mankind, yet those products are dependent upon the minerals and metals produced by the Mining Industry and without which there would not be the necessary tools, equipment and facilities to carry on such operations. There would be no farming and other agricultural tools and equipment such as hoes, rakes, plows, harrows, mowing machines, cultivating equipment, tractors, trucks, grain and food processing and packaging equipment; no wire or other materials used for fencing; no gardening or lawn tools or equipment and no saws, axes, sawmills, stackers and other equipment for the production and processing of lumber and other wood products, in fact there would be no lumbering industry as we know it.

FOOD PROCESSING

There would be no fruit or other harvesting equipment, processing, canning or bottling facilities and equipment and no refrigeration equipment for the processing of food—and no transportation or labeling equipment for distribution and labeling.

EDUCATIONAL INSTITUTIONS

There would be no educational institutions, buildings or equipment and facilities such as printed books, writing instruments or materials, typewriters, adding machines and other equipment, even the desks and tables.

HOUSEHOLD APPLIANCES AND EQUIPMENT

There would be no household appliances or equipment of any kind, electrical or otherwise, such as washing machines, wringers, irons, vacuum cleaners, cook stoves, heaters, motors, tableware, crockery, organs, pianos and all other types of musical instruments, television or radio equipment, furniture of any kind or type, clocks, refrigerators, wiring for bringing in electricity for lighting and appliance and equipment operation, or any and all other household items used by mankind.

CLOTHING

There would be no clothing garments including buttons and shoe laces, shoes, hats or other wearing apparel, articles of personal adornment including watches and jewelry of all kinds—all are either manufactured by equipment constructed from or made by the minerals or metals produced and made available by the Mining Industry.

SPORTS AND RECREATION

There would be no stadiums for field or other sporting events such as baseball, football, hockey, tennis and the Olympic Games or other types of sports as we know them including hunting and fishing. No golf balls, baseballs or bats, hockey sticks and pucks or the type of protective clothing worn by the players, and no ice or roller skates. No guns of any kind for hunting or target shooting and no fishing poles, reels, lines or other equipment and again—no transportation to hunting and fishing locations or crossing the ocean or flying to various sports festivals. There would be no equipment or facilities for extinguishing fires in the National Forests or recreational areas.

MINING

Even the Mining Industry itself could not function without the use of picks, shovels, mine cars and rails, drills, pumps and drilling equipment, hoisting equipment, underground mucking machines, ventilating pipe and fans, ore treatment plants, trucks, assaying chemicals, equipment and supplies, explosives and all other types of equipment, appliances, material and supplies used in

connection with mining activities which are purchased throughout the United States—and all of which are dependent upon the Mining Industry. Some of the minerals and metals are being used faster than they are being produced. This applies to gold especially which cannot be mined at a profit at a fixed price of $35.00 per ounce, made mandatory during 1934.

To sum up the foregoing irrefutable facts—there is not a single manufactured article that would be available for our use if it were not for the Mining Industry, therefore, the stability of our national and world economy and all the progress that has been made, or ever will be made by the human race—even the discovery of America—has been and will continue to be completely dependent upon the extraction and processing of the minerals and metals from the mineralized deposits of the earth by the Mining Industry no matter what type of governmental setup—Capitalistic, Republic, Communist, Socialist or whatever.

Has the reader thought about this matter while enjoying the luxuries, comfort, travel, recreational pursuits and the fact that it is not at all impractical so far as time is concerned—to live in San Francisco and work in Los Angeles as compared with ferry boat transportation from Oakland to San Francisco during the early nineteen hundreds?

Is it too much to hope that thinking people may lend their support to those of us who are selflessly endeavoring to protect the rights of legitimate mining claim holders and the Mining Industry from the harassment of government employees of the people and other organizations that have no concern for the importance and necessity of the Mining Industry?

In conclusion let me say that the necessities in our everyday activities made available by mining is of basic importance and the vital concern of every individual, not just to those of us engaged in or connected with mining or other extractive operations.

PETITION TO THE SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Senator JACKSON,
Chairman,
Senate Offices,
Washington, D.C.

The following signatures wishes to oppose the Section 6 of Bill S 921 in regards to Federal Land Mineral Leasing Act.

(This petition was signed by many concerned citizens of Nevada. The signatures were retained in the Committee files.)

THE GEOLOGICAL SURVEY OF WYOMING,
UNIVERSITY OF WYOMING,
Laramie, Wyo., July 28, 1971.

Re: Changes in 1872 Mining Law.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: In the future, when the Senate Interior Committee plans to conduct hearings on changes in the 1872 Mining Law, I urge you to make the following suggestions to your colleagues.

1. Mining is the direct result of prospect development and that in turn is the result of prospecting. Most any reasonably skilled group of people could develop a mine after the location and tenor of the deposit has been thoroughly established. *But,* finding new prospects and paying for costly non-productive exploration is an entirely different problem that *must not* be hampered by further government restrictions.

2. Despite claims by our giant corporations who now control the production of our mines, it is the small companies and independent prospectors who have made the initial discoveries. It is the same small organizations who have responded during national emergencies to shortages for potash (World War I), uranium (World War II), and for other strategic minerals when they were needed. Bidding and leasing on mineral properties could seriously cripple the ability of our small prospectors to participate in exploratory ventures.

3. Any curtailment of prospecting rights on public domain will result in long term deficits in the nation's mineral resource production. This is not something that can be started and stopped at will. Exploration programs take years to develop and the training of competent mining geologists, mining engineers, metallurgists, and ore dressers, takes even longer. Elburt F. Osburn, Director U.S. Bureau of Mines, is making every effort to overcome the technical deficiencies that exist now because of declining interest in mining.

4. Wyoming, like a half-dozen other western states, is hampered now by the public domain lands within its boundaries from which it received little or no income. Wyoming depends upon its mineral resources, and further curtailment of exploration through additional restrictions by a constantly changing administration in Washington could be disastrous at every level.

5. Before any significant changes in the 1872 Mining Law are considered, I hope that you will hear testimony from the experts in the fields of geology and mining, and also involve the State agencies responsible for these operations locally. It is our hope that further changes will be constructive rather than destructive in the sense that they will do everything possible to encourage, not discourage minerals exploration.

Sincerely,

DANIEL N. MILLER, JR.,
State Geologist and Executive Director.

MIDLAND, TEX., *September 28, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: Isn't it time that we as Americans must realize how important our natural resources have been in the development of our great country and how critically important future developments will be in light of the current outflow of American capital for development of raw materials outside the United States, and how dependent we can become on other countries for our basic needs?

In my opinion, passage of S. 921 Public Land Organic Act of 1971 will add further restrictions to the exploration and development of our own resources, by eliminating the prospector and small mine developer, and consequently affecting larger scale development. The potential resources of this country are of no value unless they can be *discovered*, evaluated, and phased into the economy on a timely basis.

Insufficient past recognition has been given to the impact the prospector and small mine developer has had on development of our resources. A great number of the producing mines have resulted from the persistent efforts of the prospector and small mine producer.

I do recognize the need for modification of our mineral laws and feel that this can be accomplished through S. 2542 Mineral Development Act of 1971, which has the endorsement of the American Mining Congress.

Very truly yours,

STUART R. SNOW.

UTAH CONSTRUCTION & MINING CO.,
MINERAL EXPLORATION AND DEVELOPMENT DEPARTMENT,
Riverton, Wyo., September 28, 1971.

Re: S. 921 Public Lands Organic Act of 1971 and S. 2542 Mineral Development Act of 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Buidding, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

Knowledgeable men who are close to the mineral industries project shortages of nearly all minerals in the near future because of greater world demand and dwindling supplies of near surface high grade deposits. If the U.S. is to remain strong we will be forced to compete on world markets for mineral supplies that will be in greater demand by developing nations around the world.

Since S. 921 would place undue power in the office of the Secretary of the

Interior and tend to slow or prohibit prospecting and exploration for new mineral supplies, it does not seem to reflect the best interests of the United States.

Because our mineral needs are going to increase and since new mineral deposits are difficult and expensive to find, the Mining Industry will need encouragement, not restrictions, if we are to produce most of our basic mineral needs in the future.

The Mineral Development Act of 1971 S. 2542 introduced by Congressman Aspinall allows for continued prospecting, exploration and development of mineral commodities without the restrictions of the proposed leasing system and restrictive controls of S. 921. The Mining Industry endorses the later bill and the findings of the Public Land Law Review Commission. Since greater strength for the United States lies in domestic production, not in dependence on foreign sources, I recommend taking the course that provides vigor to our Mining Industry. Bill S. 2542 would accomplish this goal.

Sincerely,

W. MORRIS TROVER,
Economic Geologist.

LITTLETON, COLO., *September 29, 1971.*

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

S. 921

I am *opposed* to *S. 921* for the following reasons:

1. Director of the Bureau of Land Management would control all exploration and mining activities on public lands and all such activities on these lands would be at his discretion.

2. This runs counter to the recommendations of the Public Land Law Review Commission, which called for greater Congressional statutory guidelines and public participation to a limit, rather than broaden administrative authority.

3. S. 921 repeals the General Mining Law and substitutes a mineral leasing system in place of the present location and patenting system, which I believe is more equitable to the small operator and individual prospector.

4. The Bill would give the Secretary of the Interior unfettered power to prohibit, if he wished, mining on the public lands.

5. The Secretary could deny access to the prospector to search for valuable mineral deposits.

6. Development of locatable minerals requires tremendous investments which must be based on long-range forecast of costs, supply and demand and world markets requiring the broadest decision-making power. A leasing system imposes limitations on such decisions.

7. Exploration would be confined to those lands offered for leasing.

8. Long-range production plans would be hampered by the required re-adjustment of lease terms.

9. Acquiring investment capital would be hampered.

10. A system offering prospecting permits coupled with leasing with or without competitive bidding would destroy incentive of the individual prospector, and small miner since development would often be beyond his financial capabilities. In essence, S. 921 would destroy the concept of our free enterprise system as it applies to mineral exploration.

11. A competitive bid leasing or prospecting system would eliminate the small miner.

MINERAL DEVELOPMENT ACT OF 1971—S. 2542

This alternative to S. 921, introduced by Congressman Aspinall, preserves the concepts of freedom to enter public lands for purposes of exploration, incentive by reward to the finder, and security of tenure through a patent of the mineral rights. At the same time, it will prevent abuses of the mining laws by nonminers along the lines recommended by the Public Land Law Review Commission. This bill has been endorsed by the American Mining Congress and Board of Directors of the Colorado Mining Association.

Sincerely,

OTIS M. MCRAE.

RIVERTON, WYO., *September 29, 1971.*

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: As an individual, I would like to voice my opposition to proposal S. 921 "Public Lands Organic Act of 1971". Hopefully this letter will be included in the formal hearing record of same.

It is my opinion that S. 921 has numerous shortcomings, perhaps the most serious of which, is the obvious squeeze on the individual prospectors and small miners. These people have been, and continue to be, the backbone of mineral discovery in these United States. Their elimination would serve only as a further encumbrance to an already maligned, albeit, very vital industry.

To the exclusion of personal politics, and consistant with the best interests of this nation, I do hope that good judgement will prevail. I would suggest that proposal S. 2542 "Mineral Development Act of 1971" would be a much more palatable alternative to S. 921.

Sincerely,

RICHARD A. FRUCHEY.

DENVER, COLO., *September 29, 1971.*

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: There can be no denying that our present mining laws are seriously deficient in several respects and revisions are long overdue. However, it appears to me there are several provisions of S. 921 which would substitute new problems, perhaps more serious than those we're attempting to remedy. Would you please be good enough to consider these comments and record this letter in the formal hearings on S. 921?

Competitive bid leasing will discourage a minerals company from doing first stage exploration since there will be so little assurance they will realize on their expenditure of effort and money. Also, arbitrary administrative authority in the hands of a governmental bureau prevents meaningful planning, particularly long-range—which characterizes most significant mining ventures.

If it is the intent of S. 921 to stifle future mineral production, it will indeed succeed. However, would it not be more meaningful to devise legislation which will conserve resources and insure the preservation of environmental values while allowing the mining industry to extract minerals to the degree actually needed by our economy (granting that our goals will be modified in the future), and thereby supporting whatever standard of living the American people may be willing to compromise on? Anything less suggests abandoning the field to fanaticism and non-reason. I would hope we are not yet reduced to this extreme.

Respectfully,

J. J. LAWSON.

MOAB, UTAH, *September 28, 1971.*

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

Under the provisions of Senate Bill S. 921 the director of the Bureau of Land Management and Secretary of the Interior would have control over all activities on Public Lands. I feel this would give them excessive powers to prohibit exploration, development or possibly even access to Public Lands by the mineral industry and the general public. Further this bill could lead to partisan distribution of mineral exploration and development permits.

Today exploration and development of minerals requires tremendous investments. These investments are frequently based on long range forecasts of labor and production costs, supply and demand and world markets. A leasing system imposes strict limitations on such long range planning by introducing the uncertainty of when a parcel, on which a particular mineral may be found, would be leasable. Long-range production plans would also be hampered by the required re-adjustment of lease terms.

Senate Bill S. 921 repeals the General Mining Law and substitutes a mineral leasing system in place of the present location and patenting system. This runs counter to the recommendations of the Public Land Law Review Commission, which called for greater Congressional statutory guidelines and public participation, rather than broaden administrative authority.

I strongly urge you to support the *Mineral Development Act of 1971—S. 2542.* This alternative to S. 921 was introduced by Congressman Aspinall. His bill preserves the concepts of freedom to enter public lands for purposes of exploration, incentive to do exploration by reward to the finder, and security of tenure through a patent of the mineral rights. Even though it retains the present general mining law, it will prevent abuses to the land and environment by miners and non-miners along the lines recommended by the Public Land Law Review Commission.

Respectfully,

PRESTON L. NIESEN.

PUEBLO, COLO., *September 29, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I feel that the passage of the above acts would be detrimental to mineral development in this great country, because nearly all ore discoveries in the past have been made by small prospectors who, after due location and patenting process, at least had the right to work their claims themselves or negotiate sale of same to larger operators. With passage of the above acts, the small prospector will be eliminated from the picture. The Secretary of the Interior may deny a prospector the right to search, or if permission is granted and the prospector locates a mineral prospect, he could be placed in the position of bidding against others for his own location.

In other words, substitution of a leasing system for the present location and patenting system will give all the advantage to large operators.

Respectfully submitted.

RALPH E. HERMAN.

LAKEWOOD, COLO., *September 30, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I write to express my feelings regarding the subject proposals. If I am not too late, I would appreciate inclusion of this letter in the formal hearing record of these proposals.

I have just finished reviewing the content of the proposed Public Lands Organic Act of 1971 (S. 921) and the Mineral Development Act of 1971 (S. 2542). I write as an individual in the employ of a large corporation. The thoughts included are mine and not necessarily those of my employer.

I object to S. 921 on the grounds that it will essentially strange and eventually halt exploration activities of the individual and small operator. The larger companies would survive but with attendant increase in costs, and ultimately, prices. The fact is, many of the clues leading to major resource reserves are still uncovered by the small operator. Without access to the public lands and a tenure of claim or title, his incentive is gone—and so is he. Some of the end results would be increasing reliance on foreign nations, addition to balance of payments deficit, and creation of inflationary fuel through higher costs for exploration activities.

I cannot argue that the General Mining Lease does not need improvement. However, I don't believe there can be overall improvement under S. 921—only chaos and rapid decay of a great industry.

I urge instead, favorable consideration of the Mineral Development Act of 1971—S. 2542. This bill would prevent the abuses often cited by critics, yet permit the incentive system to operate.

Respectfully,

H. S. MCALISTER.

CHICO, CALIF., *September 28, 1971.*

Hon. Senator HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SIR: I do hereby protest S 921, this bill will force the small miner and prospector out of the mining business. It is in the public interest to retain the General Mining Laws as they are. It is absolutely necessary for survival of individual prospector and small mining companies. This is important to all persons who realize increased commodity costs, lack of investment opportunity and reduced income to State and local governments.

Sincerely yours,

LOUIS CAMENZIND, Jr.

WHEAT RIDGE, COLO., *September 26, 1971.*

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Building, Washington, D.C.

DEAR SENATOR JACKSON: The discoverer of mineral, who has originated a good find, filed and surveyed his claim, and complies with the requirement to hold, should have adequate support under the law at the time of the discovery, and under no circumstances deprived of his or her rights for the benefit of another group. There are already provisions that meet the situation, if they need it they can negotiate with the claimant for it.

I am voicing my information and opinion from my own actual experiences, as a prospector, discoverer, and developer of 4 mining lode claims since I was 19 years old and over a period of 45 years. I have complied with the work and improvements, faced the process of acquiring, and based on my own salary records time of $50,000.00 invested, not counting outside labor, machine costs, mine sheds, original and mineral survey, and legal fees.

This experience proves that the initial procedure for making a mine is not a light one and takes a long time.

This time and money expended for research, discovery and development was made under a law offering me an opportunity to develop for a profit and the right to own, therefore, in no way should I be denied the opportunity of carrying out my endeavor.

To permit others to come in against me and take over for their personal gains and pleasures, by any method other than good business practices would be discriminate.

The plain good U.S. Government Business Policy, that has proven itself in the Mining Industry, like the Mineral Development Act of 1971—S 2542, as I know it excludes no one, and offers some remuneration for the Discoverer or Investor, and defines actually where the participator stands.

I hope you and the Committee members representing us will maintain the Originator or Discoverers Status, which should attract youth and investors to expand our mineral resources.

Respectfully,

CARVEL C. MCWILLIAMS.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., September 18, 1971.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Officers and Directors of both the National Association of Counties and its Western Region District, I would like to thank you for providing us with this opportunity to present our views on this important public lands legislation before your Committee.

We in county government want to commend you for your interest and activity both during the five year Public Land Review Commission study and now with respect to the legislation that you have introduced in Congress.

As you know, county governments across the Nation have also long been interested in legislation which affects the 755 million acres of federally-owned land within their boundaries. Many of our county officials throughout the country have appeared before the Public Land Law Review Commission and

before Congressional Committees in an effort to present county views on these important matters. As a recognition of our interest, the President of the National Association of Counties last year appointed a 40-member "Task Force on Public Lands Legislation" from counties throughout the United States to review "One Third of the Nation's Lands" and to formulate policies and recommendations. The Task Force has completed an initial review and has made recommendations to the NACO Board of Directors on those issues which most directly affect county government. I have attached a copy of our policy statement which was adopted by the NACO Board of Directors on April 5, 1971. This is our adopted and official policy to date. We will be reviewing other aspects of the PLLRC report in the future.

I would like to discuss each one of these positions individually as they relate to your bill, S. 921, the "Public Domain Lands Organic Act of 1971". As you will note, our policy relates to all of the 755 million acres of federally owned land rather than only the 474 million acres of Bureau of Land Management holdings, which are the subject of your bill.

The policy areas that I would like to cover include: payments-in-lieu of taxes the sale or transfer of public lands to state and local governments for public purposes, the "Multiple Use" concept of public lands management, environmental quality control, long-range land use planning, the use of public lands for the expension of existing communities, and the disposition of public lands.

PAYMENT IN LIEU OF TAXES

One of the most important of the Public Land Law Review Commission recommendations, from the point of view of county governments, was that which would institute a system of payments-in-lieu of taxes on the federally-owned, tax-exempt land. We are somewhat disappointed that your S. 921 does not contain a section providing for a system of payments-in-lieu of taxes. But, we were encouraged by your speech before our Legislative Conference last April when you suggested that there was a possibility of amending your bill to include such a provision. We hope that you will give it strong consideration during the deliberations of the Committee.

We would further hope that you would give specific consideration to a system of payments-in-lieu of taxes similar to that which was introduced upon our request by Representative Wayne N. Aspinall (D–Col.), Chairman of the House Interior and Insular Affairs Committee.

There are two differences between our proposal and the payments-in-lieu of taxes recommendation of the Public Land Law Review Commission. First, our proposal calls for the automatic distribution of the payments to counties only. Since federally-owned lands are, with few exceptions, located in the unincorporated areas of counties, since counties and other local governments and not states are the primary users of the property tax, and since counties provide public services in many cases on a county wide basis, our Task Force on Public Lands Legislation believes that the payments should be made to county governments exclusively. Second, our policy calls for reimbursement on a full tax equivalency basis rather than providing for a public services discount of from 10% to 40%. The Task Force believes that this is proper since there is a provision for extraordinary benefits and burdens in the proposal, and since the improvements on federally-owned public lands would not be included in the payments-in-lieu of taxes system.

SALE OF PUBLIC LANDS TO STATE AND LOCAL GOVERNMENTS

NACO also strongly supports the enactment of legislation that would provide for the sale or transfer of federally-owned lands to states, counties, and municipalities to be used for public purposes. Such sales or transfers should be at nominal prices and terms which would stimulate, encourage, and facilitate the accomplishments of the public purposes involved. As a method of promoting good local planning, the lands should not be sold or transferred until local governments adopt comprehensive land use plans and enforceable zoning regulations. In addition, the use of these federally sold or transfer lands should be restricted to the public purposes numerated in the legislation, or the title to such lands should revert to the United States.

The need for such legislation is apparent. In counties which have large federal holdings, private property is limited and therefore expensive when purchased or leased for local government purposes. We believe that where federal lands are

not required for a federal purpose, the public interest might best be served by the sale of some of these lands for sewage disposal sites, water works sites, community parks and playgrounds, community hospitals, solid waste disposal sites and other public purposes.

The Recreation and Public Purposes Act of 1926, as amended, allows the Bureau of Land Management to sell or transfer their holdings for such public purposes. We would recommend to your Committee that this power be extended to other public lands including: reservations, other than Indian reservations, created from public domains; lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws; the national forests; and wildlife refuges and ranges.

MULTIPLE USE CONCEPTS

After much deliberation, our Task Force and NACO Board of Directors went on record supporting the "multiple use" concept of public lands management over the so-called "dominant use" approach. We note that the multiple use concept is contained in your bill, S. 921, and support you in this respect.

ENVIRONMENTAL QUALITY CONTROL

The recent concern for the quality of man's environment in the United States is not just a passing fad or political expediency. It is a positive and serious reaction to the results of a rapidly multiplying population and a technology which produces harmful by-products and massive amounts of wastes. People and technological by-products are not restricted to private lands, but extend onto the public domain. We *can* control environmental pollution but we must be serious in our attempts. It is important, therefore, that the federal government stress strongly their support for such action by recognizing the need for environmental quality controls on their own properties. With this in mind, our Task Force supports legislation which would provide that environmental quality control to be recognized by law as an important objective of land management. They further believe that Congress should require classification of public lands for environmental quality enhancement and maintenance, and specify the kinds of environmental factors to be considered in land use planning. In addition public hearings should be mandatory when environmental considerations are discussed.

Legislation should further provide that federal land agencies condition the granting of rights and privileges to the public lands for their resources on compliance with applicable environmental control measures governing operations off of public lands. This means, for instance, that a timber operation which depends on public lands for its resources must not only comply with environmental quality controls on the public lands themselves, but also with respect to their operations on private lands.

We commend you for your recognition of the importance of environmental quality control on the public lands, as indicated in Section 103 of the bill. We hope that you will give consideration to some of the more specific recommendations that we have made, and to extending environmental controls to all federally owned lands.

LAND USE PLANNING

In reviewing the Public Land Law Review Commission Report, our Task Force agreed that long range land use planning was the key to effective land management and use of the public lands. They therefore went on record supporting legislation which would require federal land agencies to formulate such long range plans, relating these plans to those of other public agencies. This is not to say, of course, that there is not now planning on the public lands. But, this planning should be directed more toward the long range and should stress the coordination among all agencies who manage public lands. In addition, the public and representatives from state and local governments should play an active and effective role in developing these land use plans. This can be accomplished by holding public hearings, by consulting with state and local governmental officials, and by appointing governmental officials and private citizens to advisory commissions. We are certainly not suggesting that the federal government abdicate its authority to make the final decisions with respect to the uses and management of public lands, but rather that they make use of the talents and experience of private citizens and public officials in developing their plans

and making specific land use decisions. In addition, the plans for public lands should be consistent with the plans and zoning regulations of the local governments surrounding them. It seems appropriate that the federal government and the local government cooperate by coordinating their planning efforts on both public and private lands.

"NEW CITIES AND TOWNS"

We further support enactment of legislation which would make federal lands available for the extension of the existing communities and for the development of new cities and towns. There are many communities throughout the West that are almost completely surrounded by either BLM or forest service lands. Although it may not always be necessary to expand these communties, there should be legislative authority available to do so when both the community interest and national interest dictate.

Just as there are legitimate needs for the limited use of public lands for commercial purposes, NACO also believes that there is a valid case for the use of public lands to assist in dispersing the ever growing population of our country and to accommodate the many new cities that will be needed in the future. It is becoming more and more apparent that we will need a balanced urban-rural growth policy to accommodate our growing population and to improve the amenities of life. Hundreds of thousands of people are fleeing the central cities in search of a slower pace of life and a more pleasant environment. Many private and public officials have advocated the concept of new cities is one very meaningful way of accommodating this population shift. It seems proper, therefore, that the federal government take the leadership by providing a small portion of its vast land holdings for these purposes.

We would, therefore, recommend that S. 921 be amended to provide for the use of federal lands for the new cities and towns and the expansion of the existing communities.

DISPOSITION OF PUBLIC LANDS

Finally, NACO supports the enactment of legislation which would provide for the sale, at fair market value, of federal lands required for commercial, industrial and other uses. However, there should be very strict and specific requirements that such sales are not in conflict with federal agency land use plans or state and local land use plans and that such sales would be in the public interest and not result in the loss of important public values. Foremost among these public values must be the consideration of the quality of the environment. NACO does not support a policy of wholesale land disposal, but would emphasize that disposal should be the preferred policy for those occupancy uses that require substantial and long term investments.

These then are the policy positions of the National Association of Counties with respect to the public lands legislation before you and your Committee. I hope you will give our suggestions favorable consideration. We would be happy to work with you and your Committee staff in explaining or detailing any of our proposals further.

Thank you again for providing us with the opportunity to present our views to your Committee.

Respectfully submitted.

LARRY E. NAAKE,
Western Region Representative.

PUBLIC LANDS LEGISLATIVE RECOMMENDATIONS APPROVED BY THE NATIONAL ASSOCIATION OF COUNTIES BOARD OF DIRECTORS

Counties across the nation have long been interested in legislation which affects the 755 million acres of federally owned land within their boundaries. Interest has been high not only in the 13 western states, but also in the midwestern, southern, and eastern states, which contain large portions of federal lands. NACO has, therefore, closely studied the report of the Public Land Law Review Commission and has the following recommendations:

1. That NACO support the enactment of legislation which provide for the sale, at fair market value, of federal lands required for commercial, industrial and other uses, where the sale is not in conflict with federal agency land use plans, and where it is in the public interest and important public values will

not be lost Disposal should be the preferred policy in meeting the need for occupancy uses that require substantial investment.

2. That NACO support the enactment of appropriate legislation which would allow the sale or transfer of federally owned lands to states, counties and municipalities, when not required for a federal purpose, for the development of said lands for local public purposes at nominal prices and terms which would stimulate, encourage and facilitate the accomplishment of the public purposes involved. Such disposal of these federal lands should be deferred until comprehensive local governmental plans and enforceable zoning regulations have been adopted by the appropriate county of municipal jurisdiction. The use of such lands should be restricted to the public purposes enumerated in the legislation, or title to such lands shall revert to the United States.

3. That NACO support the enactment of a statutory framework to make Federal lands available for the expansion of existing communities and for the development of new cities and towns.

4. That NACO support legislation which would require federal land agencies to formulate long range land use plans, relating such plans to other public agency plans. Public participation, including public hearings should be held. State and local governments should also be given an effective role in federal agency land-use planning. Federal land use plans should conform to state and local zoning. No use of public land should be permitted which is prohibited by state or local zoning. Additional financial assistance should be provided to public land agencies to facilitate better and more comprehensive land use planning.

5. That NACO support legislation which would provide that environmental quality controls be recognized by laws as an important objective of land management. Congress should require classification of public lands for environmental quality enhancement and maintenance, and specify the kinds of environmental factors to be considered in land-use planning. Public hearings should be mandatory when environmental considerations are discussed. Legislation should further provide that federal land agencies condition the granting of rights and privileges to the public lands or their resources on compliance with applicable environmental control measures governing operations off public lands which are closely related to the rights and privileges granted. Those who use the public lands and their resources should be required by statute to conduct their activities in a manner that is not adverse to the environment.

6. That NACO support legislation which would assure that the burden of federal land ownership be borne by all the people of the United States and not only by the states and local governments in whose areas these lands are located. The legislation should provide that payments-in-lieu of taxes be paid directly to the states for automatic and unimpeded distribution to those counties where the lands are located to provide full tax equivalency as though the property was in private ownership. Extraordinary benefits and burdens should be treated separately and payments made accordingly. A transition period should be provided for states and counties to adjust in changing from the existing system.

7. That NACO support the "multple use" concept of public lands management over the so-called "dominant use" approach.

8. That NACO support legislation which would direct the federal agencies to obtain additional recreation areas east of the Rocky Mountains which may either be of national significance or regional and/or local significance. This recommendation is in recognition of the difficulty faced by most eastern citizens in visiting the vast national parks and public lands in the west.

STATEMENT OF PAUL GEMMILL, EXECUTIVE SECRETARY, NEVADA MINING ASSOCIATION, INC.

Nevada Mining Association, Inc. representing all of the major mining companies of Nevada and others vitally interested in the mining industry herewith registers opposition to Senate Bill 921, The Public Domain Land Organic Act of 1971, on grounds that the incentive of private ownership in discovery would be destroyed.

The right to search and discover indications of ore having potential value, coupled with the right to acquire ownership in such discoveries, truly built the West. Elusive indications have usually constituted the "discovery" which was typically marketed as a prospect several times and over a period of many years

before production ensued and whether that production was economic did not necessarily control the reward for the discoverer or for the nation.

A large percentage of presently held unpatented claims are based on elusive indications that have stood the test of marketability as prospects but would not measure up to requirements for patent under present day regulations. However, most new production in the future will result from these illusive showings of mineral.

During the boom days of precious metal mining in Nevada, expenditures frequently exceeded income to the investor. Still, the gold or silver was not stamped as to whether or not it came from profitable operations. The Comstock silver and gold was most welcome at the U.S. Treasury in time of need, and like other forms of speculating against long odds, Nevada's economy was centered around this speculative excitement.

Perhaps, lack of first hand experience with the typical series of events leading to a producing mine which starts with the prospector's incentive to search, accounts for the complete lack of understanding by all but people with first hand experience. Responsible government agency personnel have suggested plans declared to be designed for encouragement of production; but, nevertheless, these plans would completely remove the prospect of reward that leads the exploration venturer to make the search.

Admitted deficiencies in the Mining Law of 1872 can and should be corrected for compatibility with other land uses but this must be done without destroying the lengthy high risk and venturesome spirit of the entrepreneur.

BROOKLYN, N.Y., *September 20, 1971.*

Senator HENRY JACKSON,
Senate Interior Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: The California Condor—long an endangered species—is now threatened by extinction (particularly in Los Padres National Forest) as a direct result of an archaic mining law which makes it possible for unwarranted exploitation of protected federal lands.

Congress must act NOW to protect the condor as well as several wildlife refuges in Alaska. We therefore strongly urge passage of bills H.R. 9911 (Saylor) and S. 921 (Jackson). Although both bills propose repeal of the general mining law of 1872, Representative Saylor's bill affords needed protection for the affected national parks and refuges against the mining encroachments.

Save America.

Mr. and Mrs. RAY C. BARBER.

COLLEGE PARK, MD., *September 20, 1971.*

Senator HENRY JACKSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: We support your bill S. 921 condemning use of public lands and in general support the concept of multiple uses not dominated by a single interest group.

Sincerely yours,

BEN and PHYLLIS ZUCKERMAN.

SAFFORD, ARIZ., *September 30, 1971.*

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: I was flabbergasted to read of you introducing legislation that would repeal the "Mining Act of 1872" (providing there were enough Congressmen that fell for such Un-American legislation).

I cannot, even though the Year be 1971, believe that the American People went to the Polls last Fall for the sole purpose of sending to Washington, political "leggers and pluggers" for the Presidential ambition of any one Man; neither can I believe that the Voters performed the sacred Office of Suffrage so that a group of Men should make this Congress simply the "Nesting Place" for election eggs which are to be hatched by the warm and fervid incubation of

countless Left-wingers, Theologians, Keynesians, radical Conservationists, Ecologists, assorted Egg-heads and other Organizations that seem to know little about the things that makes this Nation tick second to none.

Where have we drifted as a Nation when our Legislators humor the Nature Boys and organizations that hover on the fringes of a basic Industry greedily gasping for a word or way to stop mining in the U.S.A., be it Gold, Coal—or what have you? How many of those screaming Environmentalists and their assorted ilk have been Leaders out of ignorance into Wisdom, Fighters against Political contamination, uncompromising defenders of Right, Devastators of oppressive Labor Union privileges, or Establishers of Liberty?

If the so-called Do-Gooders, Do-Doodlers and Scenery-Snuffers in and out of Washington overwhelm the Senators and Representatives who put the welfare of this Nation above and beyond dirty politics (there are some), and manage to ram any sort of legislation through Congress that stifles mining in any form regardless of the Big or the Small operators, such actions are an injustice to the welfare of Our Country. There are Men, and their numbers are legion, who think the "Mining Laws of 1872" are just as obsolete as, for instance, the decision rendered by Mr. Chief Justice John M. Marshall in the case of Marbury v. Madison, 2 L. Ed. 61.

Representative Morris K. Udall stated that, "The basic evil in the system is that a Man can go on Federal Land without notifying anyone or paying any money and eventually own it." He said, "Land has many uses, but today, mining takes precedence. We must have a system where somebody can evaluate the land. The best use might turn out to be a forest or park."

The evils of the system, as Udall put it, does not nest in the "Mining Laws of 1872." The evils are in a political system and its eggs are hatched in Washington amidst Men who know less than nothing since they have has as much experience in mining as those people who were appointed to the "mine safety panel" before Acting Secretary of the Interior, Fred J. Russell resigned. Read the list of experts! Ugh! Ugh! And, speaking of mining precedence, Udall exposes his ignorance as to why this should not be. He fails to know existing conditions that confront this Nation mineral-wise as well as other problems attached to our survival as a Free People which hinges on our production of minerals at home—Not in Russia.

Whose "somebody" is going to evaluate Land on the Public Domain? Will it be some Political Hack or Knothead at a fancy salary who knows just about as much as the experts in the Bureau of Land Management who evaluated land in Pima County, Arizona, declaring it non-mineral yet today, Udall's bailiwick is producing 19% of the Nation's Copper—where none was supposed to be. If the Mines weren't operating in Pima County, the Taxpayers in Tucson would be yelling to high Heaven for relief. AND, the land that is being mined today wouldn't be worth two-bits an acre otherwise.

We the People, have seen too much so-called evaluating by Politicians who have put quite a few kinks in the U.S. Treasury that the Taxpayers can't iron out. Since Mr. Udall knows all about the problems of mining, why doesn't he try his hand at it since a bunch of wiseacres who want to repeal the "Mining Laws of 1872" might be able to put a little badly needed Gold in Ft. Knox or in the depositories in New York. And, as to Udall's Bug on Forests and Parks, they are dripping out our Ears in Arizona, there being only 11,365,246 acres in Forests (Hundreds of Thousands of acres that wouldn't grow a Tree in a Century). Parks and Historic sites cover a mere 1.6 Million acres, so they too need enlarging like an Elephant needs two tails. As of June 30, 1970, only 15.31% of the 72,680,320 acres in the State are privately owned.

Walter R. Hibbard, former Director of the U.S. Bureau of Mines, stated that, "over 75% of our Mineral requirements for Twenty commodities are imported today." He said, "Major tonnages of key basic materials are coming from Foreign operations; 85% of our Bauxite for Aluminum, 40% of our Iron Ore (Arizona has rich magnetite), 35% of our Copper, nearly 20% of our Zinc and Lead, all of our Manganese (deposits in Arizona), and all of Chromium. Gold and silver production is about one-fourth of our Industrial consumption." He further stated, "Projections indicate demand will increase 50% to 100% by 1985, so there must be a better balance between what we spend on developments in other Countries and what we spend to develop our resources at home."

What is the "United Nations Participation Act"? It is one and the same as U.S. Public Law No. 264, signed by President Johnson in 1967. This Nation refuses to buy chrome ore from Rhodesia—the only Country with an abundance of high-grade Chrome. Consequently, we buy it from Russia. A Nuclear-powered

attack Sub requires 50 Tons of Chrome; a Nuclear-powered Aircraft Carrier uses about 400 Tons of Chrome; a Jet Engine uses 2%–4% of the Plane's body weight in Chrome. Nuclear Power Plants, Polaris and Poseidon Missiles, Stainless Steel and many other items require vast amounts of Chrome for our protection yet we fail to hear one yipe out of Congress except from those who want to change the Mining Laws.

Does the U.S. Government intend to develop the Nation's Mineral resources or does it intend to buy our mineral needs from the Communist Gang? If you think there is no danger in our lack of "weak-link" Minerals, then I suggest you read "Soviet Strategy and United States Imports" (Ordnance Magazine, 1969). Also, read Maj. Gen. Lagovskiy's (Red Army Doctor of Military Science) Manual, "Strategiya i Ekconomika", and if these fail to awaken you to the dangers confronting this Nation, then indeed, you are either asleep or don't give a hoot about the consequences.

Why are so many of our Mines lying idle today while the United States buys Minerals that could be produced at home? How many Members of Congress can recall "order #L–208" issued in 1942 through the collaboration of Harry Dexter White, Assistant Secretary of the United States Treasury, with Russia. This order closed 9000 Gold Mines in America—Congress went for it lock, stock and barrel. How many of those Mines re-opened? Under the "lend lease program", $66 Million worth of Gold Mining Machinery was assembled at Seattle for shipment to Vladivostok, Russia, in our Bottoms. This machinery enabled Russia to launch a mammoth Gold-mining industry. Two Hundred Fifty-two Gold Mining Companies sued the U.S. Government for taking their machinery without a "Hearing" and without just compensation. (This seems to be the Order of the Day when politics sticks its nose into "just compensation"). As a recent example: "The Arizona Mineral Strip Land Grab" which outshines the "Tea-Pot Dome Scandal" for pure cussedness . . .

Congress finally woke up to the fact that the Assistant Secretary of the U.S. Treasury was an Agent for Russia; his gift of the engraving plates, paper and ink to print our Occupation money in Germany was a Multi-Billion Dollar whizzer. White picked some choice characters to help him create the "Bretton Woods Conference such as Hiss and Frank Coe, Secretary of the Bretton Woods meetings and the International Monetary Fund. Coe was fired after the damage was done; White committed suicide, and Hiss went to Jail.

What is the relationship of the People to our Government? Does the Interior Department and the U.S. Forest Service (Department of Agriculture) own the Public Domain? Are these Agencies the Boss of the People? The Bureau of Land Management administers about 13 Million acres of Land which are subject to classification. According to provisions of Law, the Secretary of the Interior is empowered to develop and enforce regulations to decide which Public Lands will be retained for specific purposes and which are to be disposed of by the Government. These regulations are ambiguous and contradictory as they apply to prospecting for minerals on Government Land.

An illustration of a Statute authorizing, as to certain lands, the conditioning or restricting of mining activities is the act of April 23, 1932 (47 Stat. 136; 43 U.S.C. sec. 154). 47 CFR 2410.1—4 (b) (2) requires that "Land shall not be closed to Mining Location unless non-mineral use would be inconsistent with and of greater importance to the Public interest than the continued search for a deposit of valuable minerals."

The United States Government launched a campaign some years back seeking to limit the scope of Judicial Review of decisions in the Department of Interior. (How putrid can it get inside or out?) It was broadly contended the "Administrative Procedure Act" did not apply to decisions of the Secretary of the Interior. A court had no difficulty in rejecting this contention. Adams v. Witmer (9 CCA 1958), 271 F. 2d. 29 Cf. Wong Yang Sung v. McGrath, 1950, 339 U.S. 33, 70 S. Ct. 445, 93 L. Ed. 616).

It has been argued that the determination of a Question of fact by the Secretary of Interior, or his authorized representative, is conclusive in the absence of fraud or imposition and that decisions of the Secretary of Interior with *respect to Public Lands have historically been accorded a conclusiveness beyond that of typical regulatory Agencies.* These are not the standards for review provided in the Administrative Procedure Act. (This is quite apparent from actions of courts and the utter disregard of Congress to investigate "snakey deals" like Udall's "Give-away" of the "Arizona Mineral Strip" to the San Carlos Apache Indian Tribe).

Although the Administrative Procedure Act, adopted in 1946 (5 U.S.C. sec. 1009(e)), does not permit a Trial de novo of Administrative decisions, Noren v. Beck, 199 F. Supp. 708 (D.C.S.D. Cal. 1961) ; Adams v. United States, 318 F. 2d. 861 (9CCA 1963). It does authorize and require judicial review under the Standards of the Administration Act, Adams v. Witmer, 271 F. 2d. 29 (9CCA 1959). Denison v. Udall, 248 F. Supp. 942 (D.C. Ariz. 1965), and that a counterclaim is a permissible method for obtaining such a review, Adams v. United States, supra.

There is no statutory time limit for an aggrieved person to seek judicial review of agency action in the Department of the Interior under 5 U.S.C. sec. 1009.5. While the Statute (5 U.S.C. sec. 1031 et. seq.) which vests exclusive jurisdiction in the court of appeals to review orders of certain Federal Agencies limits the time for Petitions (sec. 1034), there is nothing in the Administrative Procedure Act (5 U.S.C. 1009) relating to review of Agency action, generally, nor in the Department of Interior rules and regulations, which prescribes a time limitation for District Court actions to review final Administrative determinations.

(What happened to this act under the reign of Stewart L. Udall as Secretary of Interior, with its provisions for Judicial review, which was designed to safeguard from arbitrary, capricious and illegal deprivation of action of Executive and Administrative Agencies? Who killed it? We would like to know the Congressmen who attended the Funeral!)

If the "Arizona mineral strip" had not been considered as public lands, why were homesteads granted thereon? It has long been established that a qualified Entryman upon the Public Lands of the United States, whether as a "Locator" of a Mining Claim, as a Homesteader, or as one asserting Rights under others of the multifarious Laws governing entries on Public Lands, who perfects his entry by compliance with the applicable act of Congress, thereby acquires a Right to the Land as against the Sovereign itself, as well as Third Persons. (Wilbur v. United States ex rel. Krushnic, 1930, 280 U.S. 306, 50 Ct. 103, 74 L. Ed. 445). It is such a Legal Right which this Appellant here seeks to assert, and it is not a right which the Secretary of the Interior may, in his discretion, ignore or which he may reject "in the absence of fraud or imposition." (Adams v. Whitmer 9CCA (1959), 271 F. 2d. 29). (Udall said his order giving the Mineral Strip to the Indians was "in the Public interest." Anyone in this Country, especially the Taxpayers, knows his statement was a fabrication).

The Department of Interior's rules make the Mining Laws ineffective without actually repealing them, and leave the body of the Law in a very definite state of confusion. Consequently, the Mineral Laws are being changed by indirection—and such being the case, it is time for the People to make a Political issue of the powers usurped by the Department of Interior and the U.S. Forest Service which have become "The fourth government" while Congress has ignored their attempts to make Constitutional Right an abstract thing and proved by nothing since the Courts are supposed to be governed by Law and not by the Political whims of Men who have failed most miserably to denote where it begins and where it ends. No Agency of the Federal Government in defiance of every principle of due process of law, can effectively confiscate or give away property by its own hoity-toity fiat. Any law repugnant to the Constitution is void and courts as well as other Departments are bound by that Instrument. It remains to be seen as to whether Udall is going to get away with his "Land Grab" for the Indians . . . and whether the Government pays just compensation to the parties involved on the "Mineral Strip".

Senator Jackson, since you are Chairman of the Senate Interior Committee, I would deeply appreciate an answer to these Two questions:

(1) Under what circumstances, if any, can Mining Claims be located on Lands proposed for Government disposal prior to actual sale—or "Give-away"?

(2) When, if ever, can Mining Claims be located on Lands proposed for retention and interim management, either after official notice is given or after they are actually classified?

Instead of attempting to change the "Mining Laws of 1872", change the Men in Government who believe in the encroachment of Constitutional Rights of Citizens by the Department of Interior and the U.S. Forest Service.

The Department of Interior's political influence has been as subtle as the atmosphere, but just as penetrating and powerful as it is ineffaceable. It is scandalous in structure, elaborate in its mechanism, of extraordinary endurance unequaley in flexibility, and an illustration as to the seat of the most stupendous as well as the most minute of devious actions that crowd the Souls of Men who place Political position above Principle.

The People's distrust o fthe above mentioned Department has developed in various ways, some of which have been due to knowing their records, the selfish scheming and underhand practices by Individuals who thought they had found the key to political power. But the day came when they were understood and their plausible words had no value because falsity of utterances and crooked deeds over-balanced all their protestations.

Thanking you for your time and patience in perusing this lengthy letter,

Sincerely yours,

EDGAR RUNDLE.

STATEMENT OF IDAHO WATER RESOURCE BOARD

The stated purpose of Bill S. 921 is to "provide for the protection, development, and enhancement of the public lands; to provide for the development of federally owned minerals; and for other purposes." The stated purpose of S. 2450 is to "establish land use policy, to establish guidelines for its administration, and for other purposes."

The Water Resource Board recognizes the need and desirability of updating present laws regarding the use and disposal of public lands. S. 921 and S. 2450 are but two of numerous bills which have been introduced for that purpose. The Board is concerned that in updating the present laws that there be no action taken which would limit the opportunities for Idaho to maintain a viable economic development program in conjunction with a sound environmental planning program. About two-thirds of the land in Idaho is under the jurisdiction of the federal government and some development of the lands will be necessary to help meet the food and fiber needs of the Nation and to sustain the needed economic growth of the state. At the same time, the Federal lands must also meet a proportionate share of the projected increased demand by all citizens for recreation and quality environment. About 2,000,000 acres could be developed under intensive agriculture by 2020 of 34,000,000 acres in Federal ownership or only 6%. The balance would be available to meet other needs.

A review of all proposed land use legislation, providing detailed comments, would be a monumental task. The Water Resource Board, therefore, proposes that the following principles be embodied in any proposed federal legislation regarding public lands. This statement which outlines these principles should be provided to our Congressional Delegation and to other appropriate members of Congress as a means of identifying those issues which the Board feels should be followed in drafting any legislation dealing with public lands.

1. Regional public land coordination activities should be conducted by river basin commissions where established.

2. Grants to states for land use planning should be administered similar to the Water Resources Planning Act of 1965.

3. Federal lands classified under former public land statutes should be reclassified after systematic analyses and reports of alternative uses. However, guidelines should be established whereby public lands having potential for intensive agricultural development could be placed under a program for orderly disposal rather than retention.

4. Congress should clearly enunciate the statutory guidelines to be followed in the classification and disposal of all federal lands.

5. Classification decisions and procedures by federal officials should be subject to judicial review.

6. All public land management plans should be designed and carried out in accordance with regional, state, and local land management plans as developed by non-federal agencies. Where it is deemed to be infeasible or impractical to do so because of national interests or national security, the basis for such a decision should be clearly stated and made known to all regional, state, and local officials.

7. Potential non-federal users of public lands should have the right to require that procedures for the cassification of a particular parcel of land be initiated or reviewed to determine the suitability for disposal.

8. All public lands classified as suitable for disposal should be disposed of in an orderly manner which will:

(a) Minimize opportunity for land speculation by private parties.

(b) Favor development or use by public agencies or private individuals as opposed to corporations.

(c) Eliminate artificial or obsolete limitations on individuals seeking to acquire public lands such as settlement requirements or unrealistic acreage limitations.

(d) Allow non-federal public agencies to acquire land for development under provisions similar to the Carey Act but with updated acreage limitations and settlement provisions.

(e) Allow individuals to acquire lands under provisions similar to the Desert Land Act and the Carey Act but with undated acreage limitations and settlement provisions.

9. If Congress determines that lands are to be sold at auction, potential buyers should be allowed to purchase lands by installment payments with a reasonable rate of interest and repayment period, and state and local entities should receive a share of the proceeds from such sales.

10. Payments should be made to states that will compensate state and local governments for the burden imposed by continued Federal ownership of public lands.

CALIFORNIA INDIAN EDUCATION ASSOCIATION,
CHICO CALIFORNIA CHAPTER,
Chico, Calif., September 17, 1971.

Senator JACKSON,
Chairman, Senate Interior and Insular Affairs Committee, Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I, not only, realize but my family and I feel the impact of the downward trend of our national economy. It becomes more challenging everyday and the price of our freedom continually rises, at the same time the individual's freedom becomes less and less everyday.

As a layman's understanding of your Bill S921, the bill is more of a disadvantage to the Indian people indirectly and directly to those who are involved in mining. The S921 bill may or may not effect todays generation but it will in the future especially where there are reservations, and other Indian land managed by B.I.A. How? bills are passed every day which effect all of us daily and the average person both white and Indian are not informed concerning the bills until the problem arises which effects them individually. Sometimes it is too late to do anything about it because of legal aspects and its cost. This has happened to some of my relatives in the state of California as recently as 1965. What was rightfully my relatives land became public domain land because they had failed to understand the white man's law and therefore failed to file for the land through proper channels to show proof of legal ownership as specified by the law.

The 1874 Mining Law vs Jackson's S921 is the same as saying the individual vs. corporation. The Indian or any other individual could not afford to pay for a lease therefore your bill only benefits the corporation either for a tax write-off or capital gain for the corporation.

Through many disappointments and hardships, my people continually gain a foothold in the white mans world. I am thankful for my people's strong belief in God through His creation. Most of all, I am very grateful and thankful for your ancestors for bringing the Word of God to America (the Bible) which enables some of us to have a better and closer relationship with our Lord Jesus Christ. It strengthens us as it did with your ancestors when they chose a form of Government which we all enjoy as they sought the will of God. I pray that your decision on your bill is for the will of God and not man's will. I'll be praying for you. I thank you for taking time in your busy moments.

Sincerely,

NICHOLAS F. LUCIO.

FMC CORPORATION,
New York, N.Y., September 29, 1971.

Hon. HENRY M. JACKSON,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: FMC is involved in the mining and processing of a number of minerals and, as a result, has an active interest in pending legislation which would affect this area. During the past few months our staff has reviewed seven proposed bills in the Senate and eleven similar bills in the House. We have some general comments to make on the proposed legislation, and we have specific comments on S. 921, as amended, which is now being considered by the Committee on Interior and Insular Affairs.

We are members of the American Mining Congress, and that group usually represents us when Congressional hearings are held concerning legislation affecting the mining industry. However, many of the bills submitted this year are so contrary to the interests of the public, as well as the mining industry, that we believe unusual efforts should be made to encourage realistic legislation. At the very minimum, we want to convey our ideas to you and other members of your Committee.

The proposed bills which we have studied fall into four categories:

1. *Reclamation of abandoned mines.*—We agree, in principle, with S. 1160 which would provide federal and state funds for the reclamation of abandoned mines. However, we would suggest that some limits be set upon annual spending and that the bill be more specific by stating that it applies to mines that are no longer operating.

2. *Controls over existing and planned mining operations.*—We are in general agreement with the bills proposed by the Nixon Administration which would require each state to establish regulations satisfactory to the Department of Interior. The fact that mining varies from commodity to commodity and from state to state should be recognized in such legislation. We believe that your bill, S. 630, or any similar bill adopted by Congress should specifically recognize these differences and provide restrictions in the "satisfactory to the Department of Interior" clause.

3. *Repeal of existing laws and adoption of a new law for general management of federal mineral lands.*—Your bill, S. 921, proposes a radical change in the management of federal lands. While we recognize that modernization of old laws may be in order, we would urge an exhaustive study before such changes are made. Many of these changes go far beyond the question of environmental control.

On September 22nd, 1971, representatives of the American Mining Congress testified before your Committee. This group submitted many objections to S. 921 and endorsed another proposed bill, S. 2542, which would accomplish the objectives of S. 921, but in a manner that would avoid the objections and also incorporate most of the recommendations of the Public Land Law Review Commission. While we are not in agreement with all provisions of this bill (S. 2542), we believe that it is a more practical and workable alternative to S. 921.

Some of our specific objections to S. 921 are:

a. It provides for absolute authority in the Secretary of Interior to control the use of federal lands now administered by the Bureau of Land Management. This would give the Secretary full control over which lands can be prospected, how explored and mining methods.

b. It implies that all lands will be classified according to the best use. This suggests the possibility that the lands would be unavailable until the classification or reclassification process was completed.

c. Section 103 states that the Secretary is authorized and *directed* to permit the use of non-mineral resorces to the maximum extent. This suggests that the land may be used for mining purposes only if there is no other use.

d. The Amendment to Title II represents a major improvement over the original draft, but it fails to provide the benefits to both the public and the mining industry that were recommended by the Public Land Law Review Commission. The law would tend to discourage, rather than encourage, the search for urgently needed mineral deposits and, as a result, would be contrary to the policy set forth in the Mining and Mineral Policy Act of 1970.

4. *Abolition of all surface mining of coal.*—We believe that such legislation is contrary to the national interest. If adopted, the principle could also be applied to other commodities in the future.

We have not commented upon all the 18 bills that have been studied, many of which are duplicates. However, many of these bills contain features which we object to because they are contrary to both the public interest and normal operating freedoms necessary to those providing the goods and services desired by the public. A list of such items is attached to this letter.

We appreciate this opportunity to present our comments on this legislation and hope they will be seriously considered before a decision is made by the Committee. If we can assist you or your staff in any way, please contact me.

Sincerely,

FREDERICK A. GILBERT.

OBJECTIONABLE FEATURES IN SOME PROPOSED LAWS

1. *Organization.*—Too many agencies are involved in administration of proposed bills. Most bills propose administration by the Department of Interior, but others propose administration by the Department of Agriculture, the Environmental Protection Agency, and in one case, a special commission reporting to the President. Perhaps this is one argument in favor of President Nixon's proposed new Department of Natural Resources.

2. *Exploration.*—Any new laws should encourage, not restrict, exploration for new deposits of minerals. Any regulations in this area should recognize that this activity is quite different from other activities of the mining industry.

3. *Right of Appeal*—Individuals should have the right to appeal questionable decisions or requirements of those administering the law.

4. *Bonds.*—Performance bonds required by some proposed bills are unrealistically high, retrictive and unclear. Some bills would prohibit granting of future permits to those who have ever forfeited a bond for any reason.

5. *Retroactivity.*—Some bills imply that the requirements will be retroactive to the beginning of mining operations. In many cases this would be unrealistic, and other provisions should be made.

6. *Reclamation.*—This term needs definition, but such a definition for one area might be impractical in another.

7. *Government Supervision.*—The need for a mining company to obtain Government approval of detailed exploration, development or mining plans goes beyond the objectives of proposed legislation. In most instances the desired environmental results could be accomplished by alternate procedures and the miner should be allowed to select the most desirable method.

8. *Leasing.*—The terms of a lease should not be subject to change while it is in effect.

JOHNSON AND YOUNG,
ATTORNEYS AT LAW,
Golden, Colo., September 29, 1971.

HON. HENRY M. JACKSON,
Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals. This law firm represents a considerable number of small and medium sized mining companies, as well as many individuals engaged in the mineral industry. Many of our clients have expressed great alarm over the implications of S–921 as it would completely and irrevocably shut out the small and medium sized mining companies in the development of our natural resources. The small miner is a very necessary part of the mineral industry as there are practically no large mines which are in operation today which at one time were not small mines found through the efforts of the individual or the small company.

S–921, as we understand the proposal, would allow the director of the Bureau of Land Management, at his discretion, to control all of the public lands for mining purposes. It would also allow the Secretary of Interior unfettered power to prohibit mining on public lands and deny access to public lands for the prospector in the search for valuable mineral deposits. The prospecting permit system, coupled with the competitive bidding prohibits the individual prospector or small miner from participating in the development of the natural resources as he cannot outbid the major corporations.

We are aware that the present law must be overhauled and updated to meet the requirements of today's needs. The Mineral Development Act of 1971, S–2542, the alternative to S–921, preserves the concept of free enterprise for the small miner as the public lands of the United States would, for exploration purposes, remain open with an incentive to the finder that he would have security of tenure for the minerals so found. This bill would prevent the present abuses of the mining law by non-mineral interests in line with the recommendations of the Public Land Law Review Commission. It is our understanding that this bill, S–2542, has been endorsed by the American Mining Congress and various State mining associations, including the Colorado Mining Association.

We sincerely urge you consideration of laws which would preserve the concept that the individual or small mining company still is part of free enterprise and would not be shut out by law alone.

Thank you.

Sincerely yours,

THOMAS R. YOUNG.

MOUNT VERNON, WASH., *September 28, 1971.*

Senator HENRY M. JACKSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: I am a rockhound and I am writing to encourage your action on the bill which you introduced S-921 entitled "Public Domain Lands Organic Act of 1971" I feel this is a very good bill and would most certainly like to see its passage. I am, however, against HR 7211 and feel that it would favor only special interest groups.

I collect material for cutting and polishing to make into jewelry, therefore I do not require large quantities of any single material. I use many rocks which any ordinary person would probably by-pass, because on the surface they are of no special beauty. It is a challenge to cut these into something of lasting value. My phase of this hobby requires specialized tools and equipment which constantly need replacement supplies, therefore cost me a couple hundred dollars a year. These costs are more than compensated for by the admiration which I receive when I display my finished crafts at the county fair, local and federation shows.

I am one member of the one-hundred and seventy that make up our Skagit Rock and Gem Club. I collect according to our national association's (AFMS) Code of Ethics. I also help in our annual litter pick-up campaigns and believe in leaving every campsite cleaner than I found it.

In the pursuit of my hobby I travel to many other areas, some out-of-state, both to collect rough material and to attend other club's shows. My family combines camping with rockhounding, although we do not use the more developed campsites. We prefer those camp areas, such as maintained by the Forest Service, which are designed for only three-six units. When you consider my expenditures for gas and food for camping, as well as for the materials I buy for cutting, I spend approximately $500 per year on my hobby.

I also hope you can help protect our collecting areas for petrified wood in Eastern Washington. I appreciate your taking the time to hear about my interests.

Sincerely yours,

MRS. GEORGE MEYER.

NORTHWESTERN ENVIRONMENTAL COUNCIL,
Duluth, Minn., September 14, 1971.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: Thank you for your letter of September 10 inviting comments by this Council on your amendment to S. 921. As you will not from the enclosed Policy Research Paper No. 8, Public Domain Land Policy, the Northern Environmental Council fully subscribes to the thrust of your amendment, Title II, for repealing the Mining Law of 1872. We fully subscribe to the concept of mineral leasing as proposed in your amendment to S. 921, and the procedures to provide for environmental protection.

However, we find in it one major omission: that dealing with oil shale. We would strongly recommend to your Committee the principles set forth in our Policy Research Paper No. 6, Oil Shale In The Public Interest, be incorporated in the amendment. The reasons for this suggestion are included not only in the oil shale Policy Research Paper, but also in the September 11, 1971 Resolution by this Council, titled Opposition to Oil Shale Leasing.

We sincerely appreciate this opportunity to present views to your Committee. Because of a conflict in travel schedules, we will not be able to send a representative from the Northern Environmental Council to the hearings.

(The material referred to were retained in the Committee files.)

Very sincerely yours,

CHARLES H. STODDARD.

CORONADO SILVER CORP.,
LOS LAGOS OFFICE,
Rollinsville, Colo., September 27, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: We would appreciate your including this letter in the formal hearing record on the above proposals.

Mining is such a critical and important part of our existence, our ability to feed ourselves, our ability to survive, our water, our transportation, our fuel, our fertilizers, and our standard of living that any new laws that affect this basic industry must be carefully considered.

To begin with, only a tiny portion of our land is affected by mining, less than one-seventh of one percent. Two-thirds of this mined land has been restored. Practically none, with our present knowledge and tools, need ever be permanently damaged.

In contrast, fifty percent of our land is devoted to agriculture, seven percent to urban areas (one-fourth of our urban areas are unsightly slums, or fifteen times the area affected by mining). Our streets and highways affect more than seven and one-half times the area used by mining.

Our mineral resources are found where nature put them. They are very sparse, very scarce, and extremely limited in area. They are difficult to find. The easy finds have been made, and greater efforts must be made to make any new discoveries.

There is no danger that the production of minerals from mining can rapidly expand or in any way affect more than a tiny portion of our plains, valleys, deserts, or mountains. The beauty of our country is safe from mining.

Most of the great mineral finds of the world have been initially found by dedicated, determined, tenacious individuals.

Most large mines have started as small prospects and were carried to the stage of importance by the dogged determination of individuals.

Nothing must be done to hamper or eliminate the rewards to an individual or a small company which makes the effort to find and develop a mineral property.

On the contrary, the individual or small group must be given every encouragement to do so. A competitive bid leasing or prospecting system would eliminate the individual or small mining group. Our country would be a tremendous loser under such circumstances.

Our mining schools are turning out very few graduates. Fewer and fewer good men are being attracted to the mineral industry. If it becomes more hamstrung by the dead hand of a shortsighted bureaucratic government, if individual incentives are eliminated, we can say goodbye to a vital industry that our nation cannot be great without!

The United States mining industry needs every encouragement. It must not be reduced to a Big Government-Big Company status. Of the above proposed acts, the Mineral Development Act of 1971—S. 2542, is by far the best for our country.

Sincerely,

ALFRED G. HOYL.

DURANGO, COLO., *September 28, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I have been a practicing mining geologist for over twenty years and am hopeful that new Public Lands legislation will be in the best long range interests of not only the mining industry but also of the entire country.

In brief, my recommendations are as follows:

1. The present mining laws contain many provisions which *should be changed.*

2. The proposals set forth in S. 2542 more nearly meet the unique problems of the mining industry than those of S. 921.

Very truly yours,

CHARLES R. BUTLER.

JOY MANUFACTURING CO.,
DENVER, COLO., *September 29, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate
New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: Please include this letter in the formal hearing record on the above proposals.

S. 921—Public Lands Organic Act of 1971—This law, if passed would repeal the General Mining Law and substitutes a mineral leasing system in place of

the present location and patenting system. A leasing law would have many disadvantages:

1. The Bill, if passed, would give the Secretary of the Interior unfettered power to prohibit mining on the public lands. As we understand the Bill, he could even deny access to the prospector to search for mineral deposits, should he so desire.

2. Exploration would be limited to those areas offered for leasing. This would mean that the areas would be selected apparently without any regard as to whether minerals in commercial quantities were present or not.

3. We understand that this Bill is counter to the recommendations of the Public Land Law Review Commission. This Commission recommended greater Congressional statutory guidelines and public participation, instead of greater administrative authority.

4. Development of commercial deposits of minerals requires tremendous investments. A leasing system would limit ability to make decisions on whether to develop the deposit or not. Investment capital would be hampered because the potential profit would be clouded.

5. The small miner could not bid against large corporations in a leasing arrangement.

S. 2542—Mineral Development Act of 1971—Congressman Aspinall has introduced an alternate Bill which seems to offer many advantages over the S. 921, Some of these are enumerated below, as we feel they deserve your careful consideration:

1. Preserves the right to enter public lands to explore for possible commercial mineral deposits.

2. Offers a reward to the finder of the deposit.

3. Offers a security to the finder through obtaining a patent of the mineral rights.

4. Prevents abuses of the mining laws.

5. Carries the endorsement of the American Mining Congress and the Colorado Mining Association. (This is particularly important since these people have to work with the law and it is the basis of their livelihood.)

Please consider the points raised in this letter. Denver Equipment Division manufactures equipment used by the mining industry, so we are concerned with the possible passage of laws that could be detrimental to this industry.

Thank you for your consideration.

Sincerely,

ROBERT E. LINTNER, *Manager, Product Group.*

SILVERTON, COLO., *September 28, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Building Washington, D.C.

DEAR SENATOR JACKSON: Having grown up and worked in this area most of my life, I am very concerned about this proposed legislation and its impact upon the local mining industry and the country as a whole.

Most of us will admit there has been abuses of the old mining laws, but believe that they should be modified much as proposed in S. 2542 rather than completely abolished.

We have observed recently that much of the "panic" changes in environmental control have not helped and in some cases has actually been detrimental, such as the recent non-phosphate detergents.

Because of the difficulty and long length of time required to find and develop a mineral deposit the extremely adverse effects of this proposed legislation will not be felt for several years and by the time it is felt it will be critical, and it will not be able to be rectified in any short length of time. The length of time from discovery until production in most cases is an extremely long time, not to mention the initial exploration time which is usually quite a number of years in itself.

It is my opinion that you will not only hurt the small miner and prospector, but will eventually hurt the nation as a whole.

There is a huge misconception about the "free land" which the miners can just take. If someone does get a patent on mineral land he has had to do a great deal of work and has worked for every bit of it. The whole country benefits

by having an adequate supply of low cost minerals available to them. If the price of mineral commodities goes up, and it will if S. 921 is passed, the whole country and economy will suffer.

Please consider this letter and realize that there are several hundred other miners in this area who will be similarly affected, but who are not writing you a letter. Please do not be pushed into a legislative program which really is not good for our country.

Sincerely,

GEORGE HOLCOMB.

IDAHO ENVIRONMENTAL COUNCIL,
Idaho Falls,, Idaho, September 28, 1971.

Senator HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: The Idaho Environmental Council supports S. 921, the "Public Domain Lands Organic Act of 1971", by Senator Henry Jackson and others, and requests that each member of the Senate Committee on Interior and Insular Affairs, including our own Senators Church and Jordan, work for its passage.

S. 921 would apply to land administered by the Bureau of Land Management, Department of the Interior. In Idaho, BLM lands amounts to about 12 million acres, or about 23 percent of the land area in the state. The Environmental Council believes that S. 921 is a good environmental bill because in general, it emphasizes environmental protection and retention in the public domain for BLM land rather than disposal or exploitation, gives the BLM more authority to so administer the land, and repeals certain acts which now operate counter to protective efforts. More specifically, we think some of the good provisions of S. 921 are:

1. Repeal of the 1972 Mining Law, and replacement with a mineral leasing system.
2. Establishment of Multiple Use and Sustained Yield administration authority for the BLM.
3. Making the BLM subject to the Wilderness Act of 1964, and requiring that the Secretary of Interior review each BLM roadless area of over 5000 acres and report to the President on its suitability for wilderness designation.
4. Giving the BLM authority to enforce regulations and penalties for violations on BLM land.
5. Repeal of the Desert Land Entry Act, the Homestead Acts, and other acts which have encouraged disposal of the public domain.

The Council also supports the similar bill in the House, H.R. 9911 by Congressman John Saylor. However, we oppose related bill H.R. 7211 by Congressman Wayne Aspinall, since it would not accomplish the above, but would generally place more emphasis on disposal and exploitation of public lands (not just BLM) rather than on environmental protection. Furthermore, H.R. 7211 would create a large complex system of advisory boards and commissions which would likely become "stacked" against environmental interests; this is a problem with many existing BLM and Forest Service Advisory Boards now.

We hope for early passage of the "Public Domain Lands Organic Act of 1971", S. 921 by Senator Henry Jackson and H.R. 9911 by Congressman John Saylor.

Sincerely,

GERALD A. JAYNE, *President, IEC.*

LOHF & BARNHILL,
Denver, Colo., September 23, 1971.

Hon. HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs,
New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I write concerning S. 921, The Public Lands Organic Act of 1971, introduced by you. In so writing, I do not speak as a representative of any company or organization but merely from the standpoint of one who has spent a few years in study and practice of the mining and public lands laws and one who has some interest in proposals affecting those subjects.

I do no presume to enter into any discussion of the relative ad comparative merits of the location system and a leasing system. Well intentioned and informed indviduials, proceeding in entire good faith, can well arrive at different conclusions on this subject, depending to a great extent upon the initial premises assumed by them and the objectives which they seek to accomplish. All informed persons must admit that the Mining Law of 1872, as applied to modern conditions, has serious shortcomings; the proposition is certainly tenable that the premise upon which that Act is based is not completely in accord with premises currently gaining wide acceptance. At the same time, that law contains many valuable and meritorious provisions whose complete sacrifice may well result in long-term harm.

Beyond that initial and fundamental question, I am concerned with two or three other factors presented by your proposal:

1. The inevitable result of the leasing system which you propose is to eliminate the small individual or independent operator and to provide for pre-emption of the field by substantial organizations. In this respect, I do not wish to be understood as vigorously espousing the cause of the small against the large, *per se*. What does concern me is that, in an overwhelmingly large number of instances, the way to ore deposits has been opened by the individual or the small operator as distinguished from the large company. As an instance, very few, if any, of the substantial uranium deposits in the United States were discovered by either the massed exploration forces of the government or by large companies. In substantially all instances, initial discoveries were made by the individual or the small operator. One may well advance the conclusion that, had the system proposed by you in S. 921 been in effect when the search for uranium began, few of the deposits which have provided essential reserves to the nation would have been discovered. It seems to me of great importance that, in any new system adopted, the values to the nation present in the pre-existing system in the sense here mentioned should be retained.

2. I am concerned, further, with the wide and substantially uncontrolled discretion granted to the Secretary. Probably, such reaction is one common to men in my profession. Experience has taught us, however, that administrative discretion uncontrolled usually runs rampant. With respect to the mining laws, a substantial case could be thoroughly documented that many of the abuses and evils complained of have arisen not so much out of the law itself as out of the abuse and misuse of discretionary power by administrative officials, even where such discretion was not clearly delegated. I think that Congress fails to discharge the responsibilities resting upon it when it delegates substantially uncontrolled discretion to executive departments and administrative officials. Even assuming that the basic premises of your proposal are eminently desirable, I feel that such proposal would be deplorably inadequate if it did not contain specific and definite guidelines within which administrative discretion was to be exercised.

3. I am concerned, further, with the disposition which may be made of mining claims in existence on the effective date of the Act. I will agree that a very substantial number of these claims have no validity and, probably, should not be in existence. At the same time, a very large number of claims exist which were located in good faith under law existing at the time and have been maintained to the best of the locator's ability and oftentimes at considerable sacrifice. Again, experience has taught us that power placed in the hands of the administrative agency will be used for purposes deemed desirable by that agency. The procedures which have taken place under the Act of 1955, the Surface Resources Act, are a clear illustration of this procedure. When that law was enacted, all concerned viewed it as a desirable solution to abuses of the mining law which had crept in. Immediately, however, and increasingly as time went on, the Forest Service particularly, as well as the Bureau of Land Management, used that law as a means of attack upon all mining claims existing where such Departments did not wish them to exist. The end result has been that no person may maintain his claim if such claim is not acceptable to such Departments unless he is prepared to spend in defense thereof amounts far beyond the capabilities of the individual or the small operator. I would suggest that much greater and more careful consideration be given to the handling of this problem.

I am not sure that the comments above set forth will be of any help to you. If they will serve to cause some further weighing and consideration of certain of the factors involved, the letter will have served its purpose.

I should greatly appreciate your courtesy in placing my name upon the list of those who will receive printed records of the hearings held with respect to S. 921 as soon as such record is available. If any charge is involved, I shall be glad, f course, to pay it.

Thank you for your courtesy.

Yours very truly,

R. LAREN MORAN.

EXPLORATION GEOLOGISTS OF TUCSON

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: We represent a group of exploration geologists from Tucson, Arizona whose members are mineral consultants and heads of mineral exploration for the Southwest from different mining companies.

We have studied Senate Bill S. 921, a bill to provide for the protection, development, and enhancement of the public lands; to provide for the development of federally owned minerals; and for other purposes. It is requested that these following comments suggesting major modifications to the bill be incorporated in the record of the Hearing on S. 921.

Our group has met at various times to discuss matters of concern with state and federal organizations and their representatives, including: the Arizona Department of Mineral Resources, the U.S. Bureau of Land Management, the U.S. Bureau of Mines, the U.S. Geological Survey, and U.S. Representative Morris K. Udall of Arizona, and we presented testimony at the hearing on H.R. 7211.

We are, by the nature of our work, more aware than any other non-federal entity of the inadequacies and shortcomings of our mineral land laws, of the abuses of these laws by some private individuals, and of the misinterpretation of these laws by government entities. As responsible citizens involved in the discovery and development of the nation's mineral resources, we are concerned about these matters.

We hope that the legislators and administrators of this country will correct the shortcomings of the mineral land laws without reducing our capacity and incentive to find, develop and produce the mineral resources upon which the security, independence and wealth of this country are based.

Public Law 91–163, "The Mining and Minerals Policy Act of 1970," sets forth a national policy that it is:

"In the national interest to foster and encourage *private enterprise* (emphasis added) in (1) the development of economically sound and stable domestic mining, mineral, and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities."

A similar set of objectives was recommended in the report to the President and to Congress by the Public Land Law Review Commission which stated:

> Public land mineral policy should encourage exploration, development, and production of minerals on the public lands.
>
> Mineral exploration and development should have preference over some or all other uses on much of our public lands.
>
> The Federal Government generally should rely on the *private sector* (emphasis added) for mineral exploration, development and production by maintaining a continuing invitation to explore for and develop minerals on public lands.
>
> . . . the environment must be given consideration, but regulations must not be arbitrarily applied if the national importance of minerals is properly weighed.

We strongly support the policy and objectives set forth in these two documents that were established on the basis of extensive testimony. We hope that succeeding legislation will supplement and support them.

Proposed S. 921 sets forth some twelve admirable goals and objectives for the development of national resource lands. We can find no fault with these objectives, and give Section 103 (1 to 12) and Section 203 (1 to 11) our full support. However, we are seriously concerned as to definitions and the methods proposed to implement these goals.

Senate Bill 921 by one fell swoop repeals most of the public land and mining laws which have grown out of a century of experience in the development and use of our natural resources, and replaces them with general guidelines for rules and regulations to be promulgated by one person. Consider for a moment the effect on all the users of the public lands during the interim period between the repeal of the laws and the promulgation of the new rules and regulations. We can only visualize it as a period of complete chaos of indefinite duration. We strongly urge that modification of the public land and mining laws be done by the legislative process through the enactment of specific and carefully worded laws by Congress. We realize that this will be time consuming and not an easy task, but it is a democratic procedure that is most likely to result in the most efficient and most equitable management of our public lands.

The proposed law appears to separate mineral and nonmineral resources. However, this is nowhere clearly stated, and we are perplexed as to the relation between Title I and Title II.

Section 102(1).—The redesignation of Public Lands as "National Resource Lands". We question this change in policy that would change the concept of Public lands by inference or application.

Title I of the proposed law refers only to land held by the B.L.M. (451,137,473 acres at December 31, 1970) and does not include the 187,033,255 acres held by the Department of Agriculture at that date. This perpetuates the present undesirable and often confusing diversity of land policy and administration.

Section 102(2).—The definition of the term "Multiple Use" leaves it a matter of individual opinion rather than of definition. The general principles of sustained yield and multiple use are endorsed we are not in favor of exclusive land use but believe in simultaneous and successive use of the land by different interests for maximum benefit to all, whenever and wherever such use is consistent with good resource management.

Section 103, Title I and Section 203, Title II refer to, but do not define, the following terms:

(5) "Quality environment"—This has a nice sound, and may appeal to the voter, but how is it to be defined, and by whom?

(8) "Fair market value"—Who determines this and how?

(9) "Adequate tenure"—What is adequate?

(9) "Fair Return"—What is fair?

(10) "Competition in the allocation and development of mineral resources"—What does this mean?

(11) "Undue concentration"—What is undue?

(12) "Efficiency"—As defined by whom?

Ad infinitum—

Senate Bill 921 delegates to one person extraordinary powers for the promulgation of rules and regulations which in effect become laws. Broad discretionary powers, including police and punitive action, are granted to the Secretary subject only to vague general guidelines. The language of the proposed bill does not make it mandatory that the Secretary consult with advisory boards or commissions knowledgeable in the various phases of public land matters or representatives of the users of the public lands. To illustrate we cite the following (emphasis added):

Section 103.—"The Secretary is authorized and directed to permit the use of the nonmineral resources . . . under such terms and conditions as the Secretary finds consistent. . . ."

Section 104(a).—"The Secretary shall develop and promulgate regulations . . ."

Section 106.—"The Secretary of the Interior shall review . . . and report to the President his recommendations . . ."

Section 107.—"The Secretary shall establish boundaries . . ."

Section 108.—"The Secretary is authorized to sell . . . market value thereof as determined by the Secretary . . ."

Section 111(a).—"The Secretary is hereby authorized to acquire by purchase, donation, exchange, or . . ."; (b).—". . . the Secretary may accept title to any non-federal property or interests . . . in exchange therefore he may convey . . ."

Section 112.—"Violations of . . . regulations of the Secretary . . . shall be punishable by a fine . . . or imprisonment . . ."

Section 113.—"The Secretary may authorize such persons . . . in the Bureau of Land Management . . . to make arrests . . ."

Section 114.—"The Secretary is authorized to promulgate such rules and regulations *as he deems necessary* to carry out the purposes of this title."

Section 115.—"The Secretary *may* establish . . . advisory boards as he deems necessary."

Section 203.—"The Secretary is authorized to permit . . . under such terms and conditions *as the Secretary finds consistent* . . ."

Section 205.—"The Secretary shall consult . . . *to the extent he deems necessary* . . ."

Section 206.—"The Secretary shall publicize all proposals . . . to the extent and by those means *which he deems necessary* . . ."

Section 207(a).—"The Secretary may dispose . . . *in any manner, which in his judgment* . . . Such preference right may include, *in the discretion of the Secretary* . . ."

(*b*).—". . . the Secretary *may* negotiate. . . ."

Section 208.—"The Secretary shall reserve . . ."

Section 209.—". . . the Secretary shall incorporate such terms and conditions *as he deems necessary or desirable* . . ." (including cancellation, removal of improvements, rental and royalties, penalties, uses of lands, etc., etc.)

Section 210.—"The Secretary is authorized to issue such regulations *as he finds necessary or desirable* . . ."

The public record is replete with examples of inconsistencies in policy and irresponsible action in the office of the Secretary of the Interior. The large investment of capital funds required for a major mining operation cannot be justified when the rules are arbitrarily laid down and subject to change at the whims of a political appointee. The Rules by which the Secretary must abide *must* be spelled out and not left to discretion; we question the constitutionality of the delegation of such broad powers.

An even more serious flaw in the proposed legislation is its failure to provide for either Congressional or Judicial review of the rules promulgated by and the decisions of one person. Is there to be no recourse from the rules and decisions of the Secretary?

This Bill is inconsistent within itself in that the mechanisms proposed will not achieve the goals and objectives set up. It is not consistent with *Public Law 91–163*, "The Mining and Minerals Policy Act of 1970", nor with the recommendations of the Public Land Law Review Commission. We are well aware of the inadequacies and shortcomings of our public land and mining laws and agree that they should be modified or corrected. However, together with the deficiencies in our present laws, one of the major problems with the efficient and equitable administration of our public lands has been the frequently capricious and personally biased rules and decisions of administrators. *Senate Bill 921* cannot be considered an effective remedy to either problem.

We would like to repeat our recommendation that modification of the public land and mining laws be done by the legislative process through the enactment of specific and carefully worded laws by Congress.

W. C. Lacy
R. E. Radabaugh
Ben F. Dickerson III
Thomas S. Nye

Statement of the Pershing County Mining Association

At its regular meeting in Lovelock, Nevada, on the evening of 31 Aug 71, the Pershing County Mining Association duly instructed its Secretary, William U. Inman, to respond to member U.S. Senator Howard W. Cannon's offer to take its statement before the Senate Interior Committee 21–22 Sep 71 Hearing on Senate Bill S.921.

This proposed legislation is cited as the "Public Domain Land Organic Act of 1971".

However, we feel that the sense of this document identifies it almost as an *alter ego*, as it were, with Mr. Kyl's H.R.10,049 and with Mr. Udall's H.R.6253, and, therefore, our remarks following are directed essentially at the problem at hand, not to be blinded nor eclipsed by one nor by several of the vehicles thereof, and we then object equally to any bill now extant or that may ever be proposed in the sense of Mr. Jackson's S.921 cited above. We do hereby voice absolute

opposition to S.921 and H.R.10,049 and ask that they be dismissed by the Committee from any present or future consideration.

We are aware of the existence of H.R. 4332, but we do not yet have a copy, and we are therefore not clearly informed of its intent nor language.

Webster defines "law" as "all the rules of conduct established by the authority or custom of a nation". Webster defines "nation" as "a stable community of people with a territory, history, culture and language in common".

Webster defines "democracy" as (1) "government by the people, directly or through representatives", (2) "a country, state, etc. with such government", (3) "majority rule", (4) "equality of rights, opportunity, and treatment". Webster defines "democrat" as (1) "one who believes in democracy", (2) "one who practices the principle of equality of rights, opportunity, etc.", (3) "D"—"a member of the Democratic Party".

Webster defines "republic" as "a state or government in which the supreme power rests in all citizens entitled to vote and is exercised by representatives elected by them".

Webster defines "federal" as (1) "designating or of a union of states, groups, etc., in which each member subordinates its power to a central authority".

U.S. history presents its Federalist Party between the years 1789–1816, apparently a kind of residual, anglophilic comeback. Here is 1971 a little research shows that one of the co-sponsors of S. 921, Mr. Alan Cranston, Democrat of Los Angeles, was national president of United World Federalists in 1949–52 with his business career one of land investment and home construction. He was elected to the U.S. Senate on November 5, 1968 and became a member of the following Committees: Banking and Currency; Labor and Public Welfare; Veterans Affairs; Select Committee on Nutrition and Human Needs.

As for the other co-sponsors, (1) Mr. Philip Hart of Michigan was Director of O.P.S. in 1951;

(2) Mr. Hubert H. Humphrey is officially described as "Democrat-Farmer-Labor", Minnesota State Director of War Production, Training, 1942; assistant director, War Manpower Commission, 1943; professor in political science, Macalester College, 1943 & 1944; professor of political science and international affairs, Macalester College, 1969–70; professor in the social science program, University of Minnesota; chairman, board of consultants, and member, board of directors, Encylopaedia Britannica Educational Corp.; member board of directors Encylopaedia Britannica, Inc.; elected to the United States Senate November 3, 1970, for 6 years beginning 3 Jan 71. Mr. Humphrey is recorded officially as having graduated with degree from Denver College of Pharmacy; University of Minnesota with A.B. degree (Phi Beta Kappa); University of Louisiana with M.A. degree; and he is said to hold honorary doctorate degrees from 38 colleges and universities.

(3) Mr. Lee Metcalf of Montana is listed as "lawyer"; (4) Mr. Clinton P. Anderson of New Mexico was born in South Dakota in 1895, president of Rotary International 1932–33, appointed Secretary of Agriculture June 30, 1945 and resigned May 10th, 1948 to enter Democratic primary for U.S. Senator—his present term ends 3 Jan. 73. (5) Mr. Warren G. Magnuson of Seattle was born in Minnesota in 1905; attorney and Washington state legislator in 1930's; served his country as a lieutenant commander in the USNR, Pacific Fleet; (6) Mr. Gaylord Nelson of Wisconsin obtained a law degree from the University of Wisconsin in 1942; served in the Okinawa Campaign during his 46 months in the U.S. Army in World War II; elected Gov. of Wisconsin in 1958 and re-elected in 1960. Presented U.S. Senate Bill S. 2848, cited as "The Mineral Leasing Act Revision of 1969", on 13 Aug 69. His major target was our mining laws, and in Sec. 3 on page 2 he called for—"The mining law is hereby repealed . . ." "No new rights under the mining law may be acquired after the effective date of this Act." Fortunately, the act was never passed.

Mr. Henry M. Jackson, apparent author of S. 921, was born in the state of Washington in 1912. He obtained an LLB degree from University of Washington Law School in 1935 and practiced law thereafter before the bar of the State. Those who know him say that he is very knowledgeable in matters of timber and international distribution of ore deposits as well as international mineral product supply and demand. It is not clear to us how much he knows about such things as chemistry, jacklegs and bulldozers.

Although history says the Federalist Party died around 1816, its spirit would seem to be quite active in 1971, and with a new twist. We here submit that legislation without representation is equally unacceptable as is taxation without representation. These Congressional Bills must originate from the will of the people in fact upon the land, and according to American legal precedent we here demand that proposed bills affecting mining, milling, or the mineral fabricating

industries be written only by men and women who can prove that they are either actively engaged in these industries, or that they are *bona fide* representatives of that segment of our population.

It is our will and understanding that supreme power and authority rests in the people at "grass roots", so to speak,—with the township, city, state and federal governments existing for the sole purposes of convenience, efficiency, coordination, understanding and equanimity. We Americans do not "subordinate" our power and authority to any government organ nor individual official, but rather we DELEGATE office, or right to act in accordance with our will, only so long as that government, office, or individual serves our proposes in good faith as a loyal servant.

"The Mining Law of 1872" is a sensationalized misnomer, and any competent attorney knows it. American Law of Mining is a very well ordered combination of rules and regulations by the miners and millers upon the land prior to 1872 and right on down to the present day. The writer has proposed a 7-man county mining board made up of men actually engaged in mining, milling or some aspect of the mineral production industry. This board would work closely with the Attorney General of the state in "sagebrush" enforcement of mining law, registration of prospectors, validation of mining claims before permit to record certificates of location in the public records, etc. This board would also work closely with legislators at county, state and federal levels. The Pershing County Mining Association at its regular meeting in Lovelock, Nevada, on the evening of 31 Aug 71, fully discussion this 7-man mining board proposal. County Commissioner "Jack" Johnson is an active, voting member of the Association, and he was present. A motion was made by Les Daniels and seconded by John Moore, with voting unanimous, that Secretary Inman draft a proposal for a 7-man Pershing County Mining Board made up of competent mining men. Said proposal to be scrutinized and edited by the Association membership, put into final form, and presented to our Commissioners with copies sent to our various friends and members such as Gov. Mike O'Callaghan, Sen. Howard W. Cannon, Sen. Alan Bible, Hon. Walter S. Baring, Nev. State Sen. Emerson F. Titlow, Association attorney Stanley H. Brown, Esq.; Dean of Mackay School of Mines Dr. Vernon E. Scheid; Dr. Arthur Baker III; Mr. Roland Christiansen (Bus. Rep., Plasterers & Cement Masons Local No. 241, Reno, Nevada), etc., etc. . . . It is our feeling that every county in the United States of America wherein any mining, milling, or mineral fabricating, refining or physio-chemical alteration activity of any kind obtains—every such county should institute their own needs in the form of a self-tailored Mineral Activities Board. This is our answer to a start in the right direction at balancing the national budget, increasing national prosperity, and avoiding civil strife by simple replacement of an expensive federal bureau (BLM) with an inexpensive system of county boards of voluntary, qualified and loyal people on the land.

In addition to rules and regulations by miners and millers upon the land, for generations the American public has elected many able and loyal citizens from among them to legislate, appoint judges, etc. . . . with the result that a great, well-conceived and well-written body of mining law composed of a combination of thousands of democratic statutes and court decisions appear in well ordered form, available to all, and legible to any person with a normal grade school education. S. 921, H.R. 10,049 and similar bills would abjectly destroy all this and replace with an oligarchy of unparalleled centralized power and authority,—but doubtful ability to serve the true and rightful interests of the people upon the land.

In specific reference to S. 921, the accompanying cassette tape entitled "S. 921 Hearing 21–22 Sep 71—by Pershing County Mining Association" discusses the subject bill, section by section. This tape contains, many of the expressions and views of thousands of our brotherhood in the mining districts of the West. Voices of the writer, Lester E. Daniels, Clayton M. Mendham, Warner Meissner, Larry A. Henderson, Vern S. Schoenfeld and Glen Martin. This tape is submitted herewith and made a part hereof.

In the best interests of the United States of America, our beloved Nation, we ask that you summarily kill for now and forever the subject U.S. Senate proposed bill, S. 921.

RENO, NEV., *September 25, 1971.*

Senator HENRY M. JACKSON,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SCOOP: I have given a lot of thought to your Bill S–921, particularly the Title II provision repealing the General Mining Law. I support your proposal,

and think that although there are very real dangers in a leasing law, on balance S–921 would be beneficial for the mining industry and the Nation.

I know that this is not the position I would be expected to have, for, as you know, I am an independent oil and mining man and have been involved with small oil and mining exploration projects all of my life. I'm also a U.S. Mineral Surveyor and a member of the AIME, a director of two small natural resources companies, and count on smaller operations for a good deal of my income. Unquestionably, your bill would affect me, and many others like me if enacted into law.

My experience with the oil leasing system and the minerals leasing act as they have and are being administered has been good. I feel that they have worked out very well, benefiting the concerned industries and the country. For this reason, it seems doubtful to me that a properly administered mining leasing law could really be fatal for, or even adversely affect, anyone but the very small inefficient marginal mining prospector or operator. From my experience, the properly capitalized and reasonably competent independent miner should be expected to get along at least as well as the small independent oil operator has under the oil leasing system, and will still have plenty of opportunity, although he will have to align and operate differently, of course. The major companies have the resources and ability to adjust and should find their operations somewhat eased by your proposal.

The case of the small independent marginal miner or prospector is a sad one. I'm afraid that circumstances have already placed his activity in an accelerated decline; and your bill, although it may be blamed for his total demise, will be responsible for no more than putting him out to pasture a bit sooner. Sound prospects of a character and size which he can cope with have all but disappeared, and methods of exploration, mining targets, and operation costs are increasingly formidable. For many years these factors have steadily backed him into a corner from which he is not going to emerge. He lacks the technical expertise, management ability, and money raising capability to adapt to a leasing system operating to eliminate inefficient activity and valueless exploration. Naturally, he clearly and correctly sees the end for him in a leasing bill which strips from him the fancied but not very real protections of an antiquated law designed for another time. There will be lots of nostalgia, but few will mourn his passing on sensible grounds.

The substantial dangers in your proposal are that the leasing laws would be over-regulated, subject to inconsistencies in administration, and warped by the pressures of environmentalists and such groups to the extent that they become impossible to operate under. This could be fatal for the extractive industries and the Nation. I think you will find that this is the real concern of informed industry people, and that most realize that the old laws have outlived their usefulness.

There are going to be many who would rather "bear the ills they have than fly to those they know not of," but there will be many in the industry like myself who believe that these are the risks the country must take in order to align ourselves properly for a future where we will have more, not less, dependency on our shrinking domestic mineral reserves, demanding the utmost efficiency and skill of our extractive industries. We won't have time to waste on an old, unworkable, outdated law. The time is coming, and the continuation of a strong mineral industry will be absolutely essential to the Nation.

I hope your committee hearings of the 21 and 22 of September were beneficial, and I would very much appreciate a copy of the proceedings. I would have written sooner, but have been out of the country.

Very best regards,

MARVIN SMALL.

STATEMENT OF THE ALASKA MINERS ASSOCIATION

The Alaska Miners Association favors the retention of the United States Mining Laws. Our reasons for supporting these laws have been given many times, and I am submitting with this letter:

(1) A petition supporting the mining laws containing 3429 signatures; also the letter of transmittal, accompanying this petition

(2) A copy of a letter written by me to the PLLRC as a private citizen (1969)

(3) Copy of an article written by me for Alaska Construction and Oil June, 1971.

(4) Copy of "Affluence in Jeopardy" by the world renowned mineral economist Charles F. Park, Jr.

(5) Copy of Mineral Resources of Northern Alaska, Heiner and Wolff, Univ. of Alaska.

The rest of this letter will concern itself with S921. We oppose the entire bill because it will give vast discretionary power to people who have no responsibility for keeping the nation in minerals, and who do not understand the gravity of our minerals and energy situation. It would take mineral exploration and development out of the hands of the people who have developed our tremendous minerals industry and put it under the control of non-professionals. It will cause irreparable harm to our minerals industry. It will make it very difficult to get land from the public domain into private ownership. Alaskans own privately less than 4% of the land. Prices are skyrocketing. We must get more land, quite aside from our mineral requirements.

We consider this bill to be among the most important of our time. The public lands of the United States, with which this bill deals, are concentrated in the west, and more than half of them are in Alaska. These lands, and private lands acquired from them under the mining laws, produce most of our non-ferrous metals. People living in parts of the country that do not contain public lands nor metallic minerals do not understand that these lands, the storehouse of our minerals, can best be explored by providing the simple invitation extended by the mining laws. The whole process costs the Government nothing.

The idea has been fostered that the mining laws provide a "giveaway." This is not true. After a discovery by diligent work and courageous enterprise, a property almost immediately passes into the hands of a large company, which will spend millions and tens of millions, generating jobs and taxes like any other company. What the mining laws do is to provide the best, most efficient, most democratic and cheapest means of *discovering* a deposit. Without discovery, a mineral deposit provides no wealth nor help to society. The subsequent history of the deposit, after exploration, is virtually unaffected by the laws.

We spent years of time and millions of dollars on the Public Land Law Review Commission. Although many of us feel that the commissions' recommendations are not entirely realistic, we recognize that they provide a best compromise. Among the recommendations of the commission that are not followed in S921 are the following:

(1) Mining should not be excluded from any area without a strong reason. and mining should have a preference over some or all other uses. The bill repeatedly stresses "environmental" considerations, "wilderness", "classification", and other terms which, if past experience tells us anything point to the exclusion of mining. The comments and statements accompanying the printed bill in the Congressional Record for February 23, 1971 indicate a sentiment which certainly would exclude mining and exploration from large areas. The article from the Billing Gazette by one Tom Brown, and another of anonymous authorship certainly point toward exclusion. In fact they give the impression that the companies are digging in the Beartooth Mountains for no reason except to hurt fish, which incidentally is not demonstrated. Neither of these authors has been qualified as an expert, and the inclusion of such articles in the Congressional Record does not constitute a "strong reason" for exclusion of mining.

(2) This gets to the heart of the whole matter. The PLLRC stated plainly that there should be a continuing invitation to explore for and develop mineral deposits in the public domain, and that prospecting should be encouraged *not merely permitted.* The whole tone of this bill, and of the comments and statements accompanying it, contradict this admonition. Section 203 says, "The Secretary is authorized and directed *to permit* . . . any person to prospect . . ." and then only under such terms as consistent with 11 objectives, only one of which recognizes the need for minerals. As a mineral economist I can assure you that this need is extremely grave.

(3) The PLLRC recommends that we amend, rather than replace the Mining laws. The whole thrust of this bill is to replace all of our land laws, Sec. 211, (a) (1) specifically repeals the law of 1872.

(4) Although the PLLRC advocated a lease system, it specifically states that the prospector should initiate the claim, and be issued a permit to explore. The permit should contain provisions specifically authorized by statute regarding the preservation of the environment. Contrary to this, this bill leaves unlimited discretion to the Secretary.

(5) Until a prospector wants an exclusive right to prospect, or wants to use methods which will significantly alter the ground conditions, the public domain should be open without charge for non-exclusive operations. Implicit in the Commission's recommendations is the idea that if the prospector finds something it is his. Nothing in this bill says this, although it is so stated in the Amendment recently introduced.

In Section 208b, the Secretary is authorized to lease by competitive bid Federal lands known to contain valuable deposits of hardrock minerals. It has been stated many times, and should be restated! There are no such lands. The only way this can be known is by hard work and large expense, and the persons who expend this work and money are entitled to the property.

We oppose the idea of an exclusive right to prospect, except on individual properties on which the prospector is trying to verify the existence of an ore deposit, which he suspects by virtue of earlier geologic, geophysical, or geochemical work. There must be non-exclusive access to the public domain until that time. In some types of deposit, e.g. placers, the prospector must be protected in his right long before he even suspects the presence of gold, because he may need to drill or sink deep holes, and has no inkling of success until he reaches bedrock. At present he protects himself by staking the ground, which he gives up if he is unsuccessful.

This bill and the commission state that "users" of the public lands should pay fair market value. This includes everyone, because everyone uses the products of such lands, and we should make no mistake about it, all will pay. Everyone who buys a wool shirt, a copper plumbing fitting or a piece of lumber will pay, because the price of all of these will go up, whether produced on the public domain or not.

In reading the PLLRC recommendations, we are struck by the fact of how well our present mining laws take care of the main ones. Thus we have the continuing invitation to explore, competitive efficiency, pre-discovery protection while checking out geochemical anomalies, assurance of a continued supply of minerals, and a host of other valuable features. Payment of fair market value is assured through severence and income taxes.

We urge that any legislation follow the old laws closely.

Sincerely,

ERNEST N. WOLFF.

(Items 1, 4, and 5 referred to were retained in the Committee files.)

COLLEGE, ALASKA, *September 3, 1969.*

PUBLIC LAND LAW REVIEW COMMISSION,
(c/o Hon. Wayne Aspinall)
House of Representatives,
Washington, D.C.

GENTLEMEN: Since this is our last opportunity to express an opinion before you make your recommendations, I am sending this by airmail. I devote all of my spare time and considerable money to prospecting in Alaska and have done so for thirty years. Although I have never made a new discovery, my colleagues and I have expanded known deposits by drilling. As a matter of fact, small prospectors have made all of the discoveries in Alaska and in most other states to date. We can only operate under the mining laws. A leasing system which might (and this is doubtful) bring more money to the Government, would put us all out of business since the large companies could outbid us every time. They are operating on money carefully figured as part of the cost and hence passed on to the consumer. We are putting up our own money; it costs neither the buyer of metal nor the Government anything.

We hear constantly that the mining laws are "hopelessly out of date." Why? These laws have made us a great mineral producing country. The Soviet Union by a tremendous expenditure of governmental effort, also produces a great amount of minerals. Which is the simpler, cheaper and most equitable system?

I urge you most strongly to retain the basic mining laws. Their principal provisions cannot be improved upon. Remember that we get nothing for nothing. If we should in some way increase the yield to the Government by going to a lease system, this cost will only be passed on to the user of metals, including the Government. In addition, we will have destroyed a democratic institution that is much needed in this age of the growth of bigness.

Another point sometimes overlooked is that metallic deposits occupy very small areas. A recently introduced bill speaks of "lands known to contain workable deposits of hard rock minerals". Any prospector knows that there are no such lands. Even in the midst of mining districts, new deposits are found only by hard and expensive work.

I am enclosing a copy of our report to the NORTH Commission. I believe that the section on mineral policy bears on this subject.

Sincerely,

ERNEST WOLFF.



WOLFF SPEAKS OUT

"No other industry utilizes and disturbs less area than mining, not by a small margin, but by an astronomical proportion."

by ERNEST N. WOLFF
President, Alaska Miners Association

The Alaska Miners Association consists of several hundred members, few of whom are actual miners. All of us, however, are dedicated to the reestablishment of a minerals industry in Alaska. We realize that Alaska north of the Gulf Coast and Bristol Bay is existing and has existed for years on a government economy, chiefly military. We forsee a gradual diminishing of this economy, and realize that we must develop exports to generate the money needed to pay for our imports, which include almost everything that we use. Only minerals can be exported in any quantity, and we are not now producing them. We therefore know that the production of minerals is not only desirable for Alaska; it is absolutely necessary. The same may be said for the Nation. The following article deals with various aspects of the problem, but chiefly with the aspect of mineral land tenure and concepts of land use, and the people's relation to the land, both as to their economic and social implications. For make no mistake about it; the minerals will be produced. The only question is under what rules.

There are now before the Congress and various state legislatures innumerable bills aimed at changing the system of land tenure, especially mineral land tenure, in the United States. Most of these bills deal with the public domain, but some of them would regulate activities even on private land. In addition to these bills, several changes by administrative action have been made. We in the Alaska Miners Association believe that most of these bills would have seriously deleterious social and economic effects.

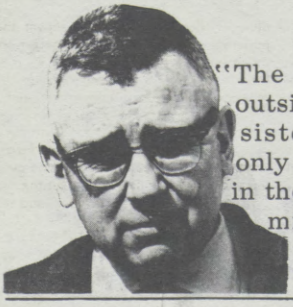
Whenever there is a strong movement such as this, especially one which generates strong opposition, it is necessary to inquire into the reasons and motives behind it. Before doing so, however, it is well to examine the laws under which we have operated and to try to define the situation that exists and is developing.

The land laws of the United States were intended to develop agriculture and mining; the 320 (later 160 acre) homestead and the 600 by 1500 foot mining claim were the basic units of land. Headquarters sites and trade and manufacturing sites filled the need for smaller areas. Later, oil, gas, and coal were put under a lease system, and still later certain non-metallic materials were made leasable. By making these leasable, the Government recognized that larger areas were required for them, and that actually they are sedimentary rocks, easier to find than metallic minerals, and in many cases dependent for their value only on their location with respect to markets. They also disrupt larger land areas, and therefore may be more expensive to reclaim.

In the United States proper, acquisition of surface title by homestead practically ceased in 1934 with the passage of the Taylor Grazing Act, but mineral rights, with accompanying surface rights, could still be acquired. In Alaska, where the Federal Government owns more than 95% of the land, homesteads can still be acquired (except for the land freeze).

Mining people have recognized for a long time that mining claim sizes and shapes are somewhat unrealistic, and have suggested certain changes. Public Law 167, the Multiple Use Act of 1955, reserved to the Government the surface products on a mining claim. This bill also established that "common varieties" of sand, stone, etc. would be disposed of by sale, not by claim location. A B.L.M. pamphlet describing the law says, "The primary effect of this part of the law is to allow the same land to be used for more than one purpose at the same time. It is possible that miners, stockmen, and loggers could be operating on the same land at the same time. This is how the principle of multiple use acts". Miners have accepted this principle wholeheartedly, and the industry endorsed the law,

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"The truth is that, outside of Native subsistence, there are only two uses possible in the Brooks Range: mining and recreation, and the BLM knows it."

WOLFF SPEAKS OUT

through the American Mining Congress. However, it sometimes appears to miners that they are the only ones who did not have their fingers crossed about multiple use. For example, a recent pamphlet by the B.L.M. "The Central Brooks Range — a Proposal" speaks of "too intensive" uses which we should "guard against", and "incompatible uses." In another place, under the heading of "multiple use", it mentions bird hunting with farming, fishing with irrigation reservoirs, camping with forestry, and swimming with flood control dams. Of course, farming, irrigation, logging, and flood control never have been and never will be practiced in the Brooks Range. Some multiple use! Some multiple use! The truth is that, outside of Native subsistence, there are only two uses possible in the Brooks Range: mining and recreation, and the B.L.M. knows it. Those uses are perfectly compatible, and the passages quoted are simply attempts to circumvent multiple use by clouding the issue. There are only two uses, and if anything is prohibited because of being "too intensive" it will be mining.

In 1964, Congress passed the Classification and Multiple Use Act. This gave the Bureau of Land Management temporary authority to classify Public Lands for retention or disposal. That authority has expired.

During the past ten years, there has been agitation for more radical changes. The Public Land Law Review Commission worked for more than six years gathering information on which to base recommendations for change. Contrary to what the experts were predicting, the Commission recommended that the principle of ownership to mineral rights should be retained, rather than adopting a leasing system for metallic minerals, and that entrance to the public domain for exploration should not only be permitted but encouraged.

There is a point here that needs clarification. Mineral deposits are non-renewable, and cannot be cultivated like forests. They must be developed where found, and are found only by expensive exploration. This is the reason for minerals people's insistence that there are two requirements for keeping our nation in minerals. These are free access to the public domain, and the necessity that mining be one of the multiple uses. The Public Land Law Review Commission cites the figure of 0.13 percent of the land in Arizona used for mining in 1966 even though it was the western state with the most area being mined. In 1966, there were 54,000 acres of active claims in Alaska north of 65°. The total area of this region is about 155 million acres. Therefore, the proportion of land hald under the mining laws was .00035 or 0.035%. Such figures can lead to only one conclusion on multiple use: No other industry utilizes and disturbs less area than mining, not by a small margin, but by an astronomical proportion. Other less intensive uses can swirl around mines without notice. In addition, mineral deposits usually occur in places where nothing else can be done. Even wilderness or non-use is compatible with mines. We have only to look at the past, when there were more wilderness and more mines, to see this.

In spite of this, there is an almost continual stream of bills and regulations designed to restrict access or make exploration and mining more difficult and costly. One already on the books is the National Environmental Policy Act which makes it necessary to consider the environment in any major undertaking. It is this act that is directly and indirectly holding up the pipeline. Under it, suits and injunctions may be brought to stop almost any development.

Some other bills that are pending are the following:

H.R. 60	*Surface Mining Reclamation Act (Saylor, Pa.)*
H.R. 444	*Mined Lands Conservation Act (Saylor, Pa.)*
H.R. 550	*Amendment of National Environmental Policy Act (Downing, Va.)*
H.R. 652	*Department of Environmental Quality Act (Dingell, Mich.)*
H.R. 2288	*Environmental Rights Act (Ford, Mich.)*
S. 77	*Mined Lands Restoration and Protection Act (Nelson, Wis.)*
S. 220	*Amend the Mineral Leasing Act of 1920 (Moss, Vt.)*
S. 275	*Establish a National Marine Mineral Resources Trust (Nelson, Wis.)*
S. 632	*National Land Use Policy (Jackson, Wash.)*

In addition, the U.S. Forest Service has recently proposed more rigid restrictions on mining in National Forests.

However, the two bills that are of primary and immediate concern are S. 35, a Native claims bill, and S. 921. Many people have been saying that the United States needs a leasing system for hard minerals, "Non-competitive, of course, and very low rentals." Senate Bill 35, by Henry M. Jackson, contains several irrelevant riders, one of which would extend the land freeze five years, and another which would make it necessary to lease competitively all leasable minerals, *or any which might be made leasable in the future.* This is the back door approach; make them leasable, then require all leasing to be competitive.

The other bill is S. 921, which Senator Jackson also introduced, and which he calls the "Public Domain Lands Organic Act of 1971". In his remarks to the Senate when he introduced the bill, Senator Jackson said that this bill would implement the Public Land Law Review Commission's recommendations. Nothing could be further from the truth as far as mining is concerned.

In this bill, unlike S. 35, the Senator takes the direct approach to changing our system of land tenure. He would put hard minerals on a competitive lease basis; he states that "no one is satisfied with the present system of exploration and exploitation" under the "location" method (his quotes); he quotes former Secretary Udall as saying the location system is a "give away" and that royalties should be charged for hard minerals under a lease system. In answer to this we can say that everyone who has used the location system is satisfied with it in principle, and the Commission itself recommended its retention and said that the prospector should be encouraged to initiate mineral rights. There is a definite reason for the two systems: claims for hard minerals and leasing for others. As already mentioned, the leasable minerals are actually sedimentary rocks of low unit value that cover large areas. The hard mineral deposits are pin points on the map, and are found by hard and costly work. No one would work to find an ore deposit, then bid for it. In connection with royalty payments, we should not deceive ourselves: this is a form of taxation of the public. Every dollar of royalty payment will eventually be passed on to

the consuming public, who are at least as numerous as the tax paying public. If this is the purpose, we should recognize it, and not speak as the sponsor of this bill does, of collecting something from the mining industry for the people. To the charge of "giveaway," an ore deposit only has value by virtue of its being found. Anyone looking for something free should definitely not look for an ore deposit. Certainly, leasing systems for hard minerals are in existence, but when an individual leases to a miner, the individual actually owns an ore deposit, not some hillside where the lessee may prospect. When Indian tribes lease an area competitively, the companies are actually bidding on an exclusive right to prospect. We believe that if this becomes general practice, then we are in effect putting a premium on bigness, and that big business and big government will take over the minerals industry.

The Government's side of the alliance would be looked after by the Director of the B.L.M. He would be a civil servant, trained in "resource management," appointed for life, and removeable only for cause or disability. He will not be subject to any control nor need he be responsive to any opinions save those of the class that he represents: federal employees who have a vested interest in retaining the land. The man is unknown who is trained in "resource management" who also understands the problems of mining. Almost invariably he views the production of non-renewable resources as detrimental to surface values, and inherently bad.

Both the Commission and this bill would separate mineral rights from surface rights, and would charge "fair market value" for the surface. This appears fair, but it must be remembered that the surface of much of Alaska has little value except as a result of a mineral find.

The bill would give Bureau officials the power to arrest for "violating land laws," and allow the requirement of a bond. This also operates against the small prospector, because the definition of "damage" must be subjective, and it is doubtful if a prospector could purchase a bond.

S. 921 makes quite an issue of "classification of land". Most mining people in Alaska find it almost unbelievable that government officials think that they can classify land as to its best use. Mines can only be found where a mineral deposit exists; farms can only be established where markets exist; recreation can only be found where people with leisure and money are available. In short, land always has and always will classify itself through economics.

We have shown that mining uses less land than any other industry, and is compatible with all other uses, even wilderness or non-use. We have shown that minerals will be produced, no matter how much furor is created, because we must have them to live. We have shown that classification by government officials is doubtful of accomplishment at best, because land has a habit of classifying itself. It seems that we must look further than the stated reasons to find the cause for the continuing attacks on mining.

It appears that our system of land tenure is under attack. Apparently we have two concepts of the meaning of "the people." Under the old concept, each man had an equal chance to avail himself of our land laws, and the small prospector had the right to pit himself against the giants — who usually find it cheaper to purchase a discovered ore deposit from an individual than find one themselves. Under the concept expressed in this bill, government officials are the stewards of the land for "the people", who now are actually equal in that they cannot acquire land or mineral rights. Those prerogatives are left to giant corporations who pay "the people" for the right to explore and mine "their" land. As already demonstrated this is a sleight of hand which allows a tax on the consumer to be called a "royalty".

The current debate over land and mineral policy may be the opening guns in a struggle to see which concept of "the people" will prevail. □

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JUNE, 1971

HEINRICHS GEOEXPLORATION CO.,
Tucson, Ariz., September 2, 1971.

Senator HENRY M. JACKSON,
Chairman, Senate Committee on Interior & Insular Affairs,
Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: Regarding proposed hearings on your bill S. 921, I respectfully request that my 31 May 1971 PAY DIRT article enclosed herewith be entered into the hearing records in opposition to this bill. For reasons stated in the article, *total* repeal of the Mining Law of 1872 and substitution of *total* leasing is wrong at this time.

For convenience of yourself and others getting a copy of this letter, a condensed version of the article is also enclosed. You are urged to carefully consider the critical role that individuals still play in the health of our national economy as far as metallic mineral resources are concerned. Contrary to the atisfactory leasing situation in oil, gas, coal, etc. (because they are relatively abundant and easy to find) competetive bid leasing, especially in metallics, administered by Interior, would soon make this country a metallic have not. That we cannot afford merely to satisfy an emotional minority at the expense of hurting the vast majority of our people.

Reaction from you and others is solicited.

Sincerely yours,

WALTER E. HEINRICHS, Jr., *President.*

[From Pay Dirt, May 31, 1971]

PEOPLE, MINERALS, ECOLOGY AND THE MINING LAW OF 1872

(An open letter to Bill Gilbert, writer for Sports Illustrated magazine, by Walter E. Heinrichs, Jr., Tucson geologist.)

You article, "When a Law Fights a Law," Sports Illustrated, 26 April 1971, understandably betrays considerable unfamiliarity with the subjects of ecology, social science, mining law and history. And, sports readers, being even less familiar about how these subjects relate to each other, makes the slanted nature of your story particularly misleading to the general public. With the amount of national influence Sports Illustrated has, such an article represents a type of social irresponsibility. Let me explain:

The incredibility of the Mining Law of 1872 is that so many people can be so collectively naive about a law so fundamentally beneficial to society. Rarely will a nation come upon a principle of governing quite so uniquely simple and socially rewarding as this law. The contribution of the law was enough to substantially help this country become the greatest in the world. Few other laws brought about nearly as much toward providing real food and fiber for the people. Even so, as the needs of society change, the favorability of a law in the past does not obviate the need for making desirable revisions in the future. However, it does suggest that much care should be taken in making the necessary revisions. Especially in this instance we should not be premature in eliminating the primary feature of the law which helped make this country great, that principle which encourages searching and best assures finding and developing our precarious and vital mineral reserves. This primary feature is the principle of Discovery. It is unfortunate that so many in and out of government miss this essential point. Your failure and that of so many other influencial people, to grasp and explain the ultimate significance of the discovery principle of the Law to the people is particularly deplorable.

It is difficult for those outside the mining industry to understand how vague and complex is the manner in which nature hides and holds the ore deposits on which we depend so dearly. But, it is the responsibility of influencial people to thoroughly understand causes they wish to espouse. As a lifetime prospector-geologist and sometimes successful finder of ore, I can testify to the extreme difficulty and uncertainty of mining exploration. This is precisely why maintaining the elements of discovery and claims in the Law is so important. Only that incentive will continue to provide the persistence and imagination necessary to find the minerals essential to modern society. No other approach will so automatically adjust to the unpredictable changes in social needs and nature's way of providing for these needs. No organized company or government effort alone can do this nearly so well as with the help of the individual. The proposed idea of solely leasing will improve governmental controls, but it will do this only at the expense of

a dangerous reduction in our discovery rate and utimate reserves. This is a price we cannot yet afford to pay!

It should be easy to see the historical results of the Mining Law of 1872. Its effect of directing the power of man's quest for personal adventure and independence on the development of our nation was dramatic shortly after the law was passed. It is also easy to forget, if in fact collectively we ever realized this singular reason, why our country became so great so fast. Obviously there was more than a single reason, but the fact is that the industrial revolution did not come about with just good top soil and scenery. The God-given minerals were here, were found and we soon became a highly industrialized and mechanized nation. There is no doubt that the subsurface mineral contribution was critical and still is and this is our heritage. Just because change brings on new problems doesn't mean they can be solved or alleviated by changes which cut off the nose to spite the face—which we seem to be doing now. The major difference between now and then is that originally the minerals provided greatness, but today the minerals are simply essential for survival in our complex high population society. It is no longer just a matter of maintaining affluence.

Another paramount factor is that the easiest mines to find were found first and now we are looking for other ones that are much harder to find. The easy ones gave us our affluence at first, but now we face the overwhelming realization that the imperative needs for our very existence today not only dictates that we continue to find mines which are more and more difficult to find, but also we must find bigger and better ones faster. The prospect is something like having to win the Decathalon by breaking the world record in all ten events. This sounds fantastic, but God gave man certain minimum needs which we cannot do without. In this country we have these needs in such ready abundance that most of us never even wonder how they are derived or provided and what really makes it possible and feasible to feed so many so easy and so well. Somehow, our voting majority has come to believe it is all automatic.

You mention license to take over huge tracts of public lands at no cost and with no taxes paid. You say the Mining Law of 1872 was created for the mining industry. Actually, this law was created by and for the people and it was the needs and wants of the people that created the mining industry. When you really think about this, how could it be otherwise? How does any national industry exist in a democracy if the people do not need or want its products or services? Who uses the minerals if the people don't? Last year, an estimated $26 billion was spent by the U.S. Mineral industry and taxes paid amounted to an estimated $2,500,000,000. Admittedly, these are very rough approximations, but regardless of the amounts the essential relationship to our economy and survival is very real.

Someone recently inferred, adversely, what the mines did to Bisbee, Arizona. Apparently it never occurred to them that without a mine there in the first place, Bisbee would never have existed. This applies more or less to much of the whole western U.S.

These are all commonly misconstrued facts, but a more important one is the creation of new wealth which the minerals industry provides for a growing society. Last year this amounted to almost $30 billion. This is not wealth stolen from the people, it is wealth given only by nature and produced for the people. Think about this for a moment; only one other basic national industry creates new wealth as fundamental as mine or an oil well and that is agriculture. Yet today, agriculture could not stay in the race without minerals of all kinds.

Because of the principle of discovery in the Mining Law of 1872, your so called "free land subsidy" occurs only after discovery, potentially beneficial to society, has actually been made. Until then, there is nothing but hunch and hope. Meanwhile, the total amount of land involved in every aspect of the mineral industry of this nation is less than one percent of our whole area. Compared to the proportional contribution to society, this is a very minute percentage. Considering what is relatively at stake, we already have most of the regulations, laws and controls we need to administer our mineral production and conflicts between our mines and the public and private sector. Exceptions do exist in matters pertaining to quality of title, reclamation and pollution, but these are gradually being improved and brought under control. Anyway, these are truly minor factors when related to our suddenly decreasing affluence, ever increasing poverty and the needs of people for plain existence.

As our population increases, our social conflicts increase and so does our need for more of everything, certainly including minerals. Historically we never had and today we still have absolutely no choice about where to place our mines and

get our minerals. Mines are made by men only from natural mineral deposits, and mineral deposits are located and made only by nature. Thus, we have to take our minerals wherever we are lucky enough to find them and able to produce them at a price the public is willing to pay. This point even escapes many mining people let alone those outside the industry. As is the case with all other human land needs and uses, including our precious forests, farms, factories, cities, parks and many other recreational facilities, our mineral deposits cannot be moved, rebuilt or renewed. So the question is which of all these resources is most precious to society?

Without doubt, one of the highest land uses of modern society lies not only in its present discovered, proven and producible mineral reserves, but also in those unpredictable ones yet to come. Unfound and undeveloped deposits are not reserves of anything, to society they are nothing, not even solace. Unfortunately too few of our public and those in our government remotely appreciate how precarious is the position and health of our mining industry today. With passionate and radical environmentalists looking for social scapegoats on which to blame all of our problems, and government officials who think the State can do better than the people, or private industry, the mining industry is most vulnerable to attack. One reason for this is that the members of the mining industry represent such a small voting minority of the people. Another reason is that those outside the industry think mineral production can be turned off and on simply at will like a faucet, or like sowing seeds. This most definitely is not the case.

Today a significant mine takes five to ten years and roughly one hundred million dollars ($100,000,000) to get into production. This does not include the totally unpredictable time and cost of prospecting. An average figure over the years for most companies and places (except possibly Arizona), might be an additional ten years and ten million dollars ($10,000,000). This is the main reason why so many are looking for mines right here in Arizona. It is correct, however, that the domestic search in the U.S. is accentuated by nationalistic exclusion of foreign control of mineral deposits. Other countries have now begun to recognize the crucial importance of their own mineral deposits for their own people.

From the effort of roughly forty groups constantly looking for minerals in Arizona alone during the past twenty-five years, there are now eight new mines being produced by five companies, with three or four more announced and probable eventual producers, and two or three more identified as possible eventual producers. Incentive, via the right of individuals to claim a discovery, played a paramount role in the development of these new deposits. If left entirely to the companies or the government, many of these mines would remain buried, still hidden and undiscovered.

Some say we should not just conserve our whole environment, but actually preserve it just as it is, including our minerals. But how is this feasible? One immutable law of nature is constant change and one of these changes, at least up to now, includes a rapidly increasing population.

How can we take care of this population if we hold back everything except population? One does not need to be a geologist, or even a technologist to know this is practically impossible except for brief moments. All things in life are more or less temporary, even the mineral needs of society. If intelligent use is not made of our minerals while we have the opportunity, there likely will not be another chance for this particular civilization. Our present national psychology seems to be leaning toward the inevitability of an early international cataclysm. Too many people desire to spend the remaining interval reveling in the good old days in benign peace and quiet until Armageddon. What if this does not happen soon? How can we hope to provide enough for everyone if we do not all cooperate and concentrate on the effort. It won't be easy, it never was really, not even during the "good old days," but as in the past, we will try. Though often inept, we should always try to at least do our best.

Back to your article, certainly doing our best won't be to let the government do it all alone, or the big corporation either. There is considerable evidence supporting the idea that big government and big industry is often not the best or only way to do many things. This is especially true for government and particularly BIG government. The best recent example of this in mining is what happened in the early 1950's when our society suddenly decided we needed much uranium. The rest of the world, being as smart as we are, knew why, so they didn't just give it to us. In a small world, everyone deserves and wants his own

uranium supply, the same as oil, gas, coal and steel mills, etc. Consequently, our U.S. Atomic Energy Commission set up additional incentives for all groups and individuals, including aliens, over and above the Mining Law of 1872. And just to cover all bets, they teamed up with our Federal Bureau of Mines and the esteemed U.S. Geological Survey to mount urgent exploration and prospecting programs with much research and many men and instruments in the field. Since then, there have been many mines and discoveries made—not directly by the government or by the large companies either, but rather by adventuresome individuals with some or considerable government and company assistance.

Who in 1940 could have predicted that in 1950 we would suddenly need uranium? Even more difficult, who in 1940 could have predicted where we would find the uranium we would need? Can you imagine the impossible task of setting aside national uranium "preserves" in 1940? Would Wyoming have been considered for instance? Now think back further, before the time of oil for example, then look ahead and try to suggest what next new minerals we may need and where they will have to be mined. It is not that we should not try to look ahead as best, far and fast as we can, but why burn all of our bridges first, when due care will let us have some cake and eat it too?

The success of the A.E.C. program insured our nuclear preeminence and perhaps helped add some temporary political stability to the world. But most of the public and Congress did not care or understand the full implications of how this came about and/or those who did understand, soon forgot. It is true, we live under a democracy and majority vote prevails, but it is up to our government and industry to properly educate our people so that enlightened majority decisions can and will be made.

* * * * * * *

Related processes of our government gaining more power and the people losing more freedom must be forestalled. Instead of fighting petty skirmishes over highly desirable, but secondarily important esthetics, we can start solving the increases in poverty and hunger of the people and stop losing ground in the battle for survival.

Rather than incessantly restructuring priorities, while hoping to stumble on the ideal solution, we can mount a real endeavor to define the essential fundamentals which constitute the tiniest, most simple and desirable ecological circle in which man is a part. Our technology may help destroy us, or may help save us, but certainly we cannot do without it now, or our minerals, if we are to keep living and growing on this earth.

WALTER E. HEINRICHS, Jr.

NOTE.—The open letter was prompted by a recent article in the national magazine, giving a slanted report on a recent mining activity in the Huachuca Mountains of southern Arizona. We reprint the letter here primarily because it is an excellent defense of the Mining Law of 1872. It shoud be read by every one wanting to change it. Heinrichs is a Certified Professional Geologist, a charter member of the American Institute of Professional Geologists and is chief officer of Heinrichs Geoexploration Company of Tucson, a geologic exploration firm active in developing and using new techniques in the location and development of mineral deposits.

SOCIETY OF MINING ENGINEERS
MINING ENGINEERING

People, Minerals, Ecology and the Mining Law of 1872

OUTLOOK

opinion

Walter E. Heinrichs, Jr.

The following is a condensed version of an open letter addressed to Bil Gilbert of *Sports Illustrated:*

Your article, "When a Law Fights a Law, *Sports Illustrated,* April 26, 1971, betrays considerable unfamiliarity with the subjects of ecology, social science, mining law and history. In a magazine as widely circulated as *Sports Illustrated,* an article of such a slanted nature misleads the general public.

It is incredible that so many people can be so naive about a law as fundamentally beneficial to society as the Mining Law of 1872. Rarely will a nation come upon a principle of governing quite so socially rewarding as this law, which has helped this country become the greatest in the world. Few other laws have contributed nearly as much toward providing real food and fiber for the people. Of course, the past success of a law does not obviate the need for revisions as the needs of society change, but much care should be taken in making such revisions. In this instance, especially, we should not be premature in eliminating the primary feature of the law, because it encourages the search for—and best assures the finding and development of—our vital mineral reserves. This primary feature is the principle of discovery.

It is difficult for those outside the mining industry to understand the complex manner in which nature hides and holds the ore deposits on which we depend, but it is the responsibility of influential people to understand the causes they espouse. As a lifetime prospector and geologist and sometimes successful finder of ore, I can testify to the extreme difficulty and uncertainty of mining exploration. This is precisely why the elements of discovery and claims in the Law are so important. Only these incentives will generate the persistence and imagination necessary to find the minerals essential to modern society. No other approach will so automatically adjust to the unpredictable changes in social needs. Neither organized companies nor Government can discover minerals so well alone as they can with the help of the individual. If lands are solely leased, as has been proposed, governmental controls will improve, but only at the expense of a dangerous reduction in our discovery rate and reserves.

It should be easy to see the historical results of the Mining Law of 1872. The industrial revolution did not come about with just good top soil and scenery. There is no doubt that the subsurface mineral contribution was critical—and it still is. The major difference between then and now is that our minerals originally provided greatness, while today they are simply essential for survival—not just for affluence.

Our very existence today not only dictates that we continue to find mines that are more and more difficult to find, but also that we find bigger and better ones faster. In this country, we have such ready abundance that most of us never even wonder how this abundance is provided and what really makes it possible and feasible to feed so many so easily and so well.

You mention license to take over huge tracts of public lands at no cost and with no taxes paid. Last year, the U.S. mineral industry spent an estimated $26 billion and paid an estimated $2.5 billion in taxes. You say the Mining Law of 1872 was created for the mining industry. Actually, this law was created by and for the people, and it was the needs and wants of the people that created the mining industry. Who uses minerals if the people don't?

Someone recently commented adversely on what the mines have done to Bisbee, Ariz. Apparently it never occurred to him that without a mine Bisbee would never have existed.

Even more important than its past contributions is the new wealth the mineral industry provides for a growing society. Last year, this amounted to almost $30 billion. This was not wealth stolen from the people, it was wealth produced for the people. Only one other basic national industry creates new wealth as fundamental as that created by the mineral industries, and that is agriculture. Yet today agriculture could not stay in the race without minerals of all kinds.

Your so-called "free land subsidy" allowed by the Mining Law is provided only after a discovery potentially beneficial to society has actually been made. Until then, there is nothing but hunch and hope. Meanwhile, the land involved in every aspect of the mineral industry is less than 1% of the nation's total, a minute percentage in proportion to the contribution the industry makes to society. We already have most of the laws we need to administer mineral production and settle conflicts between the mining and other sectors. Exceptions do exist, but these are being resolved.

We have absolutely no choice about the sites of our mines as we do about those of our forests, farms, factories, cities and parks, so the question is, which of all these resources is most precious to society? Without doubt, one of the highest land uses of modern society lies not only in present and producible mineral reserves, but also in those yet to be found. Too few even remotely appreciate how precarious the position of our mining industry is. With environmentalists looking for social scapegoats and Government officials who think the state can do everything better than the people or private industry, mining is most vulnerable to attack.

Those outside the industry think mineral production can be turned off and on simply at will. This is most definitely not the case. A significant mine takes 5-10 yr and roughly $100 million to get into production without the unpredictable prospecting factor. Average figures for the latter might be an additional 10 yr and $10 million.

How can we hope to provide enough minerals for a rapidly increasing population if we do not all do our best and cooperate in the effort? And certainly our best will not be to let the Government do it all alone—or the big corporations either. The best recent proof of this was the success of the Atomic Energy Commission's uranium program in the 1950's. When our society suddenly decided we needed uranium, the AEC set up incentives over and above those in the Mining Law for all groups and individuals. Since then, there have been many discoveries—not directly by the Government or large companies, but rather by individuals with Government and company assistance.

The success of the AEC program insured our nuclear preeminence, but few fully understood how this came about. It is true that we live in a democracy where majority vote prevails, but it is up to our Government and industry to educate people so that enlightened majority decisions can be made.

As always, our elected officials are torn between facts and statesmanship on the one hand and emotion and majority politics on the other. Congressman Udall, I am sure, feels that his proposed new mining bill is what a majority of his constituents want. Only if he were convinced of the overriding importance of it would he try to persuade the voters of his district to go along with a particular idea against the majority wishes. Perhaps he would consider such statesmanship if he really understood the dire possibilities of abandoning the discovery and location principle in favor of leasing.

Now, if you and *Sports Illustrated* will help tell the whole truth to provincial people who never heard of the public lands of the West, let alone the Mining Law of 1872, we can all claim a very worthwhile service to society. Instead of fighting petty skirmishes over highly desirable but secondarily important esthetics, we must start solving poverty problems and stop losing ground in the battle for survival. ME

SME Member W. E. Heinrichs, Jr., is President, Heinrichs Geoexploration Co., Tucson, Ariz.

WESTERN ROCKHOUND ASSOCIATION, INC.,
Artesia, Calif., September 20, 1971.

Subject: Statement on S. 921, "The Public Domain Lands Organic Act of 1971."

Hon. HENRY M. JACKSON,
Chairman, Senate Interior and Insular Affairs Committee,
Washington, D.C.

DEAR SENATOR JACKSON: We wish to present our views on Senate Bill 921, the "Public Domain Lands Organic Act of 1971", for the consideration and record of the Senate Committee on Interior and Insular Affairs.

The Western Rockhound Association is a newly formed national organiaztion of individuals, growing rapidly, with members in 17 states, so far. Our association represents the recreational, education and scientific aspects of the rock and mineral hobby, dedicating itself to the responsible use of both public and private lands.

Our views, we feel are representative of the many thousands of hobbyists in the United States who regularly visit field areas, both public and private, in the pursuit of this activity on a *non-commercial* basis.

"Rockhounding" is perhaps the most basic and meaningful hobby today. It concerns itself with the earth, its geology, history and life forms. It offers infinite challenge to the individual with interests ranging from travel, hiking, photography, study, to creative skills in the home workshop and exhibitions at schools, meetings and museums. We are including, as an attachment, several information releases describing the hobby in more detail and the objectives and orientation of our association.

Devotees of the hobby are frequent visitors to the public domain lands; hence the statement is unique in that it represents a grassroots appraisal of the situation; the recommendations are based upon a first hand knowledge of field conditions and problems. We are concerned with resources, not from the standpoint of preserving and hoarding them, but from the standpoint of using them wisely.

The evidence is plain that the nation cannot apply its science and technology indefinitely to the exploitation of natural resources without giving consideration to environmental damage from inept, wasteful and irresponsible actions.

National goals and objectives for the use of land and resources should recognize to a greater degree the fact that man is an inextractable part of the ecosystem of nature irrespective of his science and technology and his power to reshape nature to human purposes. Goals and objectives must be directed to finding a position of equilibrium between population, technology, a continuing supply of resources, and the satisfaction of human needs over the long term.

As there are more people and more leisure time, much more emphasis must be given to outdoor recreation and meaningful leisure time activities.

It is obvious that the remaining public lands are a finite resource. They must be made available to many more people on a continuing basis and they must be used more cooperatively and intelligently than in the past.

We are hopeful that the work, thought and effort over the past few years in reviewing public land matters will lead to creative legislation aimed toward a better utilization of land and resources. Our basic concerns, to be achieved by such legislation, are as follows:

A. The adoption of a comprehensive set of national goals and objectives based upon fact and knowledge, in consideration of (1) human need, including the need for outdoor recreation (2) availability of resources, and (3) the maintenance of environmental stability and quality.

B. The repeal of obsolete disposal laws. This would include basic revisions to or repeal of the Mining Law of 1872 and the adoption of legislation to insure an orderly development of mineral resources and to preclude outright appropriations of both land and resource.

C. The establishment of broad authorities and staffing within the land management agencies of government to inventory resources, plan land use and manage public lands and resources for the benefit of the national public on a long term multiple use sustained yield basis.

D. The establishment of a closer and more direct contact between the management agency and the public for the exchange of information and to promote understanding, cooperation and harmony.

As we read and study the various proposals now before the Senate and House, on land use and disposal policy, we are struck by the fact that the Secretary of the Interior has not been specifically directed to make an inventory of land

resources, features and uses. We urge that your Committee consider the value and necessity of establishing an in depth *national land data bank* for the purpose of land and resource use, preservation, consumption and restoration, available to planners and specialists both public and private. We are not suggesting a crash program, but a uniform system to which all agencies, at all levels of government, can contribute as new and better information is developed.

Our experience in the field as outdoorsmen, and our long time cooperation with the Bureau of Land Management in their land classification program, leads us to the conclusion that *general* land information is available, but relatively little is known about the *specific* values of public lands, both as to assets and use by the public.

Every management agency has developed certain basic tools necessary to carry out its function. A good deal of knowledge about the land has already been accumulated by both government and private groups, but it is non-uniform, scattered and overlapping. Generally it is unavailable for use since it is buried within the files of many departments and agencies.

If there had been knowledge of the facts, wiser choices could have been made in the past, and many of the land problems we have today could have been avoided. Today's technology enables us to store and to retrieve information at will. It seems logical and timely that the nation should utilize modern tools in the effort to make better choices in the future than were possible in the past.

We are pleased that S. 921 meets a number of basic objectives. The attachment is our analysis and recommendation for suggested changes and additions.

Sincerely yours,

FRED J. WILDANGER,
President.
A. H. KRAMM,
Chairman, Research Activities.

ANALYSIS OF S. 921 AND POSITION STATEMENT OF THE WESTERN ROCKHOUND ASSOCIATION

Title 1, Sec. 102, Subsection (2) and Subsection (3). We heartily endorse continuing emphasis on management for multiple use and sustained yield of renewable resources. We note with approval the inclusion of the phrase "without impairment to the environment" as an extension of the *multiple use concept* as adopted by Congress on September 19, 1964 (Public Law 88–607).

Sec. 102, Subsection (5)(A) and Sec. 202 (5)(C). What constitutes a "qualified individual". Under Section 102, Subsection 5(A), "aged twenty-one years or more" is one qualification. However, under Sec. 202 (5)(C) any age is acceptable for mineral leasing so long as the individual is "authorized to enter into a contract for acquisition of title to real property . . .". It would seem that the definition of a "qualified individual" should be consistent and should recognize the national voting right age level.

Section 103(2). See also remarks on Section 111b. The Secretary should work in *consonance* with statewide outdoor recreation plans developed under the Act of September 3, 1964 . . .; however, independent of them. We recommend the use of the word "consonance" in this section in place of the word "conformity". The Secretary should not be instructed to "conform" to each state's outdoor recreation plan.

In order to qualify for federal funds under the Act of September 3, 1964 (P.L. 88–578), states were required to submit comprehensive statewide outdoor recreation plans and meet other requirements for consideration by the Secretary for financial assistance.

These plans, in most instances, were hastily put together to comply with the "letter of the law. It is doubtful that much consideration was given to recognizing or satisfying specific needs of citizens for outdoor recreation. The outdoor recreation policy of the State of California, for instance, does not recognize some of the recreational pursuits admissible under federal jurisdiction. It has been our experience that California state recreational policy is closely tied to economic considerations and vulnerable to local pressures rather than a policy consistently administered to search for and satisfy the needs of the recreational user.

It would seem that the Federal government has established a position of leadership in outdoor recreational and environmental matters through the studies of the Outdoor Recreation Resources Review Commission (report 1962) and the establishment of the Bureau of Outdoor Recreation. It seems illogical that the

Secretary should now have his hands tied in the exercise of Federal recreation programs involving Federal lands by requiring him to "conform" to the recreation programs in each of the 50 states.

Section 103(8). There should be a differentiation between the commercial and recreational user of public land. We agree that the United States should receive payment for the use of public lands where the use is for commercial purposes in anticipation of financial profit, *but we do not believe fees should be charged for non-commercial recreational use, particularly at locations offering minimal facilities or services.* Any fees charged for non-commercial, recreational purposes should be directly related to the welfare and protection of the recreationist. Proceeds should be used for maintenance and improvement of the local facility. Fees for public recreation should never be used as a revenue raising device; neither should they be used as a means of reducing competition with private enterprise or with facilities under other jurisdictions. No citizen should be precluded from use of the land by the charging of fees.

Section 103(9). Our question here concerns meaning, priority and control. Congress should set down some very definite guidelines to the Secretary for this type of operation. It is not clear whether this section applies to the exploitation and development of a natural resource or; whether it applies to the exploitation of the public who come to the area as recreationists; or whether this section applies to both types of operation. We believe there should be a clear distinction made between these two types of operation.

We agree in principle that lessees, permittees, etc., should have the opportunity of a fair return on private risk capital; however, this should not be the primary goal or objective. The primary goal or objective of any exploitation or development on public land should be the public interest. If the exploitation or development does not accomplish this, it should not be allowed. Secondly, there should be more guidelines to control the permissible *limits* of private investment; and finally, tenure should be based on reasonable periods for the return of capital. In addition, and notwithstanding the above, contracts, permits, leases and grants should be written in behalf of the public interest and subject to cancellation by the agency when the permittee or lessee fails to meet described standards of performance, irrespective of investment.

Generally speaking, profit motivation is alien to good conservation practices; tenured operation leads to overuse of the resource and; the non-competitive nature of a concession leads to over-exploitation of a captive public.

There is a growing pressure on government to enlarge the use of concessioners for the development and operation of recreation facilities on public land. We agree that there are places where this type of operation may be advantageous and even desirable. Generally speaking, however, the non-competitive aspect of this operation has resulted in a public victimized by overdevelopment, overpricing, poor service and poor quality. The policy of government should be directed towards *minimizing* this type of operation on public lands and encouraging recreational facility development with private funds on nearby existing private land insofar as practical.

Section 104 (a). We recommend inclusion in this legislation of a statement of national policy to the effect that *the amount of land in Federal ownership should not be diminished.* When it is found necessary to dispose of Federal lands, equal amounts of land should be acquired to keep up the total amount of land in Federal ownership. Thus, the disposal of one parcel of land could be accompanied by the acquisition of another, eventually improving the usefulness of both public and private lands. In this way, checkerboarded parcels could be blocked up or access provided to them where desirable, enhancing their value for multiple use and management.

The criteria for the classification of land for disposal, to be promulgated by the Secretary, should be made in consideration of an in depth inventory of all *values and features* of the region, both current and potential, surface and underground, and in consideration of the use intended. While this may be inferred by the statement which includes "consideration to all pertinent factors . . . and the relative values of the various resources in particular areas", the statement appears rather broad, giving us concern that land will be classified for disposal without sufficient study.

As outdoorsmen, who roam in remote areas, we have come to the conclusion that too little is known about the intrinsic values and features of much of the public domain land to permit well-informed and wise decisions to be made from information that is currently available. Unless these values and features are

identified and considered, in the very near future we may find that we have disposed of some of our most valuable property, or land may be disposed of for uses inconsistent with its potential as in the case of structures built over known geological faults.

Section 104 (c). Agree. Public notice oftentimes brings information on an area otherwise unknown. At least 60 days notice should be given in the Federal Register.

Section 105. We would agree, as a matter of management flexibility, if the national policy was to maintain approximately the same ratio of Federal lands to non-Federal lands as now exists (See Sec. 104(a)).

Section 106. We believe that Wilderness Areas are a necessary part of our environmental and ecological heritage and they should be carefully selected and preserved. The question here is what constitutes a "roadless area". Under some interpretations, this appears to mean any area where a trail or road is unmaintained by a governmental agency. We would like to point out that most roads leading to areas used by rockhound for recreation, science and study are generally unmaintained. However, they have been established by long use and are generally negotiable by conventional vehicles.

The criteria for the designation of a Wilderness Area should be based on several factors besides being 5,000 acres or more and a "roadless area". The criteria should include whether the area is being used to any appreciable degree and whether it is *accessible* by people. Care should be taken that the Wilderness Area designation is not used to discriminate against people who have established a substantial interest in the area over a period of time.

Consideration has been given, under the law, to certain commercial activities within Wilderness Areas. Equal consideration should be given to established recreational use and access.

Lately, several so-called "roadless areas" important to the Rockhound have been proposed for Wilderness, irrespective of the fact that these areas have been heavily visited for many years using unmaintained roads or trails established by long use.

Section 108. See Section 104(a).

Section 110. Agree that mineral deposits should be reserved to the United States.

Section 111(a). Agree that the Secretary should be authorized to acquire land by purchase, donation, exchange or otherwise. See 104(a) comments regarding inventory.

Section 111(b). We fully agree with the principle of this section but not the means by which it is to be accomplished. We suggest that the words *per acre* be inserted in the beginning of the sentence which reads: "The values *per acre* of the land so exchanged either shall be approximately equal . . .". It is desirable to avoid outrageous land exchanges as occurred at Point Reyes National Seashore where one acre of inholdings at Point Reyes was proposed for exchange for 200 acres of prime recreational land near Winnemucca, Nevada. This was on the basis of equal dollar value. Exchanges should be approximately on an acre for acre basis with the difference made up in dollars. See remarks Section 104(a).

We disagree with the proposal that the "proceeds recovered from any conveyance . . . shall be credited to the land and Water Conservation Fund" for several reasons, and we urge the creation of a separate fund to be administered for the specific purposes of land acquisition and exchanges.

First, we can see no real reason for the states participating in *any* funds which may be generated out of a conveyance. *All* the proceeds from a conveyance of Federally owned public land should be utilized for the purposes of this section to "provide access to or otherwise facilitate the administration of public lands" and their use by the public. See our recommendation Section 104(a).

Secondly, we sincerely believe that funds now being transferred to the states from the Land and Water Conservation Fund for recreational purposes must come under much closer Federal scrutiny and supervision before more funds are added to it. There must be greater assurance that state recreation plans and programs are truly responsive to the needs of the public. We sincerely doubt that this is occurring.

Section 113. We heartily endorse this provision giving Bureau of Land Management personnel authority to enforce rules and regulations prepared to meet the changing demands and needs of the environment and the users of the land. Funds to implement such authority should be derived from the general tax revenues of the United States Treasury since land administered by the Bureau of Land

Management is used by many groups and individuals for both commercial and non-commercial purposes.

Section 115. We heartily approve of the use of advisory boards and councils whenever they can make a contribution. We suggest that this provision be strengthened by requiring the use of such Councils whenever practicable and affording state and district offices of the Bureau of Land Management and other government agencies the opportunity for establishing such councils. We also feel that it is desirable to specify that such councils be composed of a broad representation of interested groups.

Title II. Mineral Leasing. Section 202(3). Agree, but would add *Wilderness Areas* as item E. It is the purpose of a wilderness area that it be held in protection for undeveloped use by the public. To permit grazing and mining to occur within certain wilderness classifications (except in the event of a national emergency) not only defeats this purpose but grants special privilege to commercial users without granting equal privilege of access to the public for non-commercial uses.

This is a matter of clarity. There should be a clearly stated distinction made between the commercial exploitation of minerals required for industrial and national purposes on the one hand and the use of public lands for recreational, educational and scientific rock hobby purposes on the other.

This latter operation is non-commercial, and land should be kept open, available and managed for public use without the necessity of leasing or permits for the study and collecting of specimen materials on or near the surface.

Section 203(7) "Payment by users of public lands and resources at fair market value" is application to commercial exploitation in anticipation of profit and should not be applied to hobbyists whose objective is entirely different.

Section 203(1) through (11). We agree, but believe several items should be added. We would like to add to item (11) that the "surface must be restored on a pre-planned basis as the mining operation progresses". We suggest adding an item (12) to read, "The surface of land not actually used in a mining operation, or which lies idle or is exhausted of its resources, should be available to the maximum extent possible for multiple use management including recreation.

Section 205, 206 and 207. Agree.

Section 211. We are not familiar with the detail of this section.

WESTERN ROCKHOUND ASSOCIATION, INC.
Artesia, Calif.

Western Rockhound Association is a member supported, non-profit corporation dedicated to promoting responsible use of Public and Private Lands. WRA is also concerned with the study, conservation and preservation of all natural resources on both Public and Private Lands.

OBJECTIVES AND PURPOSES

"To gather, study and disseminate information regarding rock collecting and other recreation, leisure time activities and the conservation of natural resources;

"To cooperate with an assist other similarly purposed organizations;

"To advance the education of the membership and the general public with respect to safety, conservation oriented practices and the recreational use of natural resources, both public and private;

"To provide for exchange of information between rockhounds;

"To study proposed and existing local, state and federal legislation and policy affecting rockhounds and recommend appropriate action in keeping with the stated objectives of the Association;

"To promote the understanding of rockhounding as a beneficial activity with recreational, educational and scientific values;

"To engage in such other activities as are desirable and necessary for the promotion and perpetuation of rockhounding in its many and varied aspects."

CODE OF ETHICS

I will respect both private and public property and will do no collecting on privately owned land without the owner's permission.

I will keep informed on all laws, regulations, or rules governing collecting on public lands and will observe them.

I will, to the best of my ability, ascertain the boundary lines of property on which I plan to collect.

I will use no firearms or blasting material in collecting areas.

I will cause no willful damage to property of any kind—fences, signs, buildings, etc.

I will leave all gates as found.

I will build fires in designated or safe places only and will be certain they are completely extinguished before leaving the area.

I will discard no burning material—matches, cigarettes, etc.

I will fill all excavation holes which may be dangerous to livestock.

I will not contaminate wells, creeks, or other water supply.

I will cause no willful damage to collecting material and will take home only what I can reasonably use.

I will support the rockhound project H.E.L.P. (Help Eliminate Litter Please) and will leave all collecting areas devoid of litter, regardless of how found.

I will cooperate with field trip leaders and those in designated authority in all collecting areas.

I will report to the Western Rockhound Association, Bureau of Land Management, or other proper authorities, any deposit of petrified wood or other material on public land which should be protected for the enjoyment of future generations for public educational and scientific purposes.

I will appreciate and protect our heritage of natural resources.

I will observe the "Golden Rule", will use "Good Outdoor Manners", and will at all times conduct myself in a manner which will add to the stature and "Public Image" of rockhounds everywhere.

Adapted from the American Federation of Mineralogical Societies Code of Ethics.

The Rockhound Hobby in America

In terms of personal creativity, educational accomplishment and outdoor recreation no hobby is more rewarding than rockhounding. It is both relaxing to the body and stimulating to the mind. The term "rockhound" is a colloquial expression, to be sure, but expressive of the wide range of educational, scientific and recreational activity associated with it. It embraces practically every phase of the earth sciences—mineralogy, geology, gemology, lapidary, paleontology, archaeology, petrology and so on. It branches out into the observation and study of life forms, photographic efforts, and a general appreciation of the outdoors. It is a hobby the family enjoys together irrespective of age or physical condition.

There are two phases of the rockhound hobby—the field phase and the home phase. Studies have shown a very high degree of interrelationship. Neither phase can exist long without the other. The field phase is the starting point and basis for each part of the activity. It is here where families camp together, relax together—enjoy the campfire together. It is here where rockhounds collect mineral specimens and lapidary materials, study geology, investigate natural phenomena, and observe flora and fauna.

However important the field phase of the hobby is, the home phase occupies most of the time—perhaps 80% of it. It is in the home where the field trip finds are cleaned, identified and prepared for exhibit. It is here where the semi-precious stones are cut and polished and transformed into jewelry or other artistry. It is in the home phase where books and magazines relating to the hobby are studied; where club and study group meetings are attended, where a host of community service projects are planned, and where arrangements for the hundreds of public shows and events that occur each year throughout the nation are made.

A survey has shown that the average family has $4,820 invested in vehicles and specialized hobby gear which it has accumulated in the last 3 or 4 years. Furthermore this family has bolstered the national economy by spending $877 annually in maintaining this equipment and gear and for gasoline, food, etc., while on field trips.

Rockhounds have never asked for public expenditures for their hobby, either to build or improve roads or for campsites. They take the country as they find it and they disturb the ecology minimally. Many of them are members of the Western Rockhound Association, or are affiliated with the American Federation of Mineralogical Societies, and thus are exposed to an excellent Code of Ethical Conduct.

All that rockhounds ask for is access to the land and the right to set up a campsite in order to enjoy the primitive values of nature. They ask it not only for themselves but for future generations.

ROCKHOUNDS ARE CONSERVATIONISTS

Most of rock and sample materials of interest to them occur on or near the surface of the earth as "float." These materials are constantly being exposed as the crust of the earth is worn down through the natural process of erosion. If these were not collected, erosion would eventually destroy them and their value to mankind would be lost. What is not preserved in its natural state, such as minerals and fossil specimens, rockhounds convert to jewelry and objects of art.

The conservation attitude of the rockhound hobby is best expressed by these quotes:

Excerpts from an article written by Bernice Rexin, AMFS President, 1967.

"In the State of Wisconsin, there are no fossils of dinosaurs, for all the rocks that were land down during the Mesozoic era, when dinosaurs flourished, were eroded in the milleniums that followed. There were no rockhounds (or paleontologists) to collect and preserve the fossiles as they were exposed. Just as certainly, all the fossils now being exposed in our wildnerness areas will be destroyed by erosion if no one is allowed to collect them."

"If Edward Cope (1840–97) and Charles Marsh (1831–99) had not been permitted access to the land of our West, during the latter part of the last century, to hunt for fossils, much we know today about vertebrate paleontogolgy would remain undiscovered. There would be large blanks in books on paleontology. Many discoveries, just as important as those made by Cope and Marsh may never be discovered if our wilderness areas are closed . . ."

"The minerals that amateurs collect are also of great importance to schools and museums. . . . Most of the fine specimens being collected today will eventually end up in museums. . . . Free access by rockhounds to wilderness areas for collecting float material is also important to American culture for the artifacts created by amateur lapidaries are an important facet of American art. It can continue to develop only if an adequate supply of gem material is available . . ."

Excerpt from testimony by Herman Sharp, Director WRA, before the Public Land Law Review Commission in 1967.

"When permission is given by the mine owner to search their dumps, we collect rocks that are considered waste to all except us. A good example is in Iowa Hill area in Placer County, California. This area was at one time an extensive and very rich deposit of crystotile asbestos. During the mining activities, large quantities of material were deposited in the dumps as worthless and were called 'clinkers.' These clinkers were a form of silicified asbestos, which cannot be used in commercial asbestos products, but are considered to be high quality gemstone. Which is conservation? To let these stones lay there until final erosion, or use them for the enjoyment of all people who have an appreciation of beauty? . . . In the mining of natural resources, such as gas and oil, when the final product is used once, it is forever lost to mankind. The collecting of rocks adds richness and variety to the lives of all of us and it is never lost."

The strong desire among rockhounds to learn about nature and to conserve, preserve and enhance its various forms, goes hand in hand with his wanting to share this pleasure with the world of people around him. This is expressed in several practical ways. We find many rock hobbyists preparing specimen material for schools, museums and cultural centers; we find many donating lifelong collections to these institutions. Others with financial means are acquiring exquisite specimens and art forms wherever they exist, and donating them to public institutions where they can be studied and permanently displayed and enjoyed. Is this not conversation in its highest sense?

DENVER, COLO., *September 19, 1971.*

Senator HENRY JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: I am writing to express my support of your efforts to change the 1872 mining law.

Last summer my favorite camping spot in Roosevelt National Forest was staked out as a mining claim. I don't know about the minerals, but it is a *beautiful* homesite! If the law isn't changed, I expect to find NO TRESSPASSING signs in a few years.

Please lets revoke the right to patent mining claims. Lease them if necessary, but don't let National Forest land become private property. Good Luck.

Sincerely,

JAMES A. BARKER.

PARADOR MINING CO., INC.,
San Francisco, Calif. September 29, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

We, the undersigned, are opposed to passage of S. 921—Public Lands Organic Act of 1971—for the following reasons:

Giving the Director of the Bureau of Land Management control of all activities runs counter to the recommendations of the Public Land Law Review Commission, which called for greater Congressional statutory guidelines and public participation to a limit, rather than broaden administrative authority.

Repealing the General Mining Law and substituting a mineral leasing system in place of the present location and patenting system is not in the best interests of small mining companies.

The Bill would give the Secretary of the Interior unfettered power to prohibit mining on the public lands and he would also be empowered to deny access to the prospector to search for valuable mineral deposits. Location and development of minerals requires long-term investing and planning and a leasing system would impose grave restrictions on such decisions. Acquiring investment capital would be hampered with a system of leasing. There would be little incentive for the individual prospector and small miner since development would often be beyond his financial capabilities. The economic system of the United States is built upon the right of free enterprise and in this regard we see S. 921 as an infringment upon that right.

MINERAL DEVELOPMENT ACT OF 1971, S. 2542

This alternative to S. 921, introduced by Congressman Aspinall, preserves the concept of freedom to enter public lands for purposes of exploration, incentive by reward to the finder, and security of tenure through a patent of the mineral rights. At the same time, it will prevent abuses of the mining laws by non-miners along the lines recommended by the Public Land Law Review Commission. This bill has been endorsed by the American Mining Congress and the Board of Directors of the Colorado Mining Association.

Sincerely,

ELIZABETH ADOOR, *President.*

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
ON S. 921, PUBLIC DOMAIN LANDS ORGANIC ACT OF 1971

Presented by
Marvin L. McLain, Legislative Director
September 29, 1971

Mr. Chairman and Members of the Committee:

The American Farm Bureau Federation deeply appreciates this opportunity to present views relative to S. 921, the Public Domain Lands Organic Act of 1971. These views relating to the vital public lands now held in federal ownership are based upon 1971 policies developed by the voting delegates representing the 1,943,181 member families of the 2,817 County Farm Bureaus which are affiliated into the State Farm Bureaus in 49 States and Puerto Rico which, in turn, are affiliated by voluntary agreements into the American Farm Bureau Federation.

Consideration of legislation titled "Public Domain Lands Organic Act of 1971" is an important point in the history of policy development relative to federal public land administration and management.

In our view, the work of the Public Land Law Review Commission was an outstanding accomplishment of a monumental task. During the course of the Commission's deliberations we endeavored to provide the Commission, its official family and staff with views of State Farm Bureau officials, County Farm Bureau Presidents and individual Farm Bureau members by presenting witnesses before the Commission at the Salt Lake City, Albuquerque, Fresno, Billings and Spokane meetings. Mr. Charles B. Shuman, then President of the American Farm Bureau Federation, presented the views of our organization to the Commission in Washington, D. C. on January 11-12, 1968.

Farm Bureau has taken an active interest in issues that relate to public lands over a period of nearly 50 years. Our interest continues as we believe these lands to be valuable to all citizens of our country. We believe the sound management of these resources vital to the local, state and national economy.

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Updated federal policy should be established to assure the viability of these resources for the present and future needs of our nation, recognizing the broad multiplicity to which the resources can be applied by sound policy and equally sound, effective administration of that policy.

The elected Voting Delegates of the Member State Farm Bureaus to the 52nd Annual Meeting of the American Farm Bureau Federation in December of 1970 at Houston, Texas, adopted the following policy:

"Federal lands

"The work of the Public Land Law Review Commission--including the report entitled 'One Third of the Nation's Land' and contract and staff studies--provides the basis for constructive changes in national policy and administrative procedure relative to the federal lands. We shall continue to take an active interest in decisions relative to public land management.

"We favor the multiple use of public lands. Management of renewable resources should recognize that definable land areas have dominant use capability which should be recognized within the concept of multiple use.

"We recommend repeal of the Homestead Act.

"Federal land suitable for private ownership and use should be made available for disposal on terms and conditions that recognize the basic land use in the area, the historic land use patterns, economic value, and the vital relationship of the private land involved in the farming or ranching operations of the established current user.

"The federal government should transfer federal land needed for local and state purposes to the appropriate public agencies.

"The livestock industry is a constructive, efficient, traditional user of the renewable grazing resources of a public land.

"The national interest is served best by continued use of these lands for grazing under conditions that promote the sound long-term interest of the farmer-ranchers and the local community, state, and nation.

"We favor cooperative relationships between the user and appropriate federal agency on all aspects of good range management and improvement, including the use of public and private funds.

"Congress should establish guidelines essential to contractual agreements for use of public lands for grazing which would

provide, among other conditions:

"(a) An adequate and reasonable term of years.

"(b) Opportunity for personal capital investment in range improvement and operation facilities.

"(c) Conditions relative to multiple use including hunting, fishing, and recreation.

"(d) An appeal procedure.

"(e) An equitable fee structure including the capital investment in a permit as a factor in annual operating costs.

"(f) Severence damage.

"(g) Trespass regulations.

"(h) Permittee to be granted the increased grazing capability which accrues from improved range management.

"We support the use of advisory boards but believe such boards should be established by Congress with guidelines, responsibilities, and membership delineated. Appropriate representation should be provided for user interests, but boards should include both public and non-government interests which relate closely to the management of public land resources.

"If the national interest dictates that lands should be retained in federal ownership, it is the obligation of the United States to make certain that the burden of this policy is spread among all the people of the nation and is not borne only by those states where the lands are located.

"Therefore, the federal government should make payments to compensate state and local governments for the tax immunity of federal lands.

"We recommend that basic changes in established public land use be subject to Congressional approval.

"We favor legislation requiring that each state receive 90 percent of the mineral royalties from federal lands within the state as provided in the act admitting Alaska to the Union.

"We favor legislation requiring that each state receive 90 percent of the mineral royalties from adjoining federal tidelands."

Today, federal civil and defense agencies administer about 762 million acres of federal lands, or about one-third of the 2.3 billion acres total of lands in the

United States including Alaska and Hawaii. About one-half of the public lands are in Alaska; the other half are located in 48 contiguous states. Over 90 percent of this other half is located in the eleven Western states of California, Oregon, Washington, Idaho, Montana, Wyoming, Utah, Nevada, Arizona, New Mexico and Colorado. More than 86 percent of the State of Nevada is owned by the federal government, an area twice the size of the State of New York. Public land in California amounts to eight times the total area of the State of Massachusetts. Utah's public lands are equal to the whole State of Florida and the entire State of Pennsylvania is smaller than the federal public land holdings in Wyoming. Federal lands are important in many other states and policy relative to their management is vital to those states but critically important to the states of the West.

Since the early days of our nation the public lands have played a vital role in the development of America. Federal policy relating to land opened the doors of opportunity for millions of people and the lands remaining in federal ownership continue to hold great resources of material wealth and recreational values.

The homesteader and the cowboy are deeply embedded in American history and legend. These pioneers established farms and ranches which continue today to be extremely important in food and fiber production in America. Farm Bureau membership in the 11 Western states in 1970 was 134,313. We expect this membership to increase in 1971. Included in this membership are hundreds of ranchers dependent in part or in whole on federal lands for grazing of their cattle and sheep. Most have private lands that are dependent on public lands to sustain viable economic units. Under the Taylor Grazing Act this type of commensurability is a required type of operation. The grazing resource is renewable and contributes to local, state and national economy. These ranches, these intermingled private and public lands, provide some of the best habitat for wildlife that is attainable. These ranges, well managed, provide also for improved water resources vital in these western states.

The following comments relate to S. 921:

We note with interest in Section 101 (2) the words "these lands should be improved and protected". One of the unfortunate paradoxes is the public's concept that agriculture's use of federal lands is basically consumptive and, therefore, is a detrimental influence upon the land. In reality, managed grazing by livestock provides the most efficient and effective machinery for range and resources management available to man.

Livestock grazing "mows the lawns" and "prunes the shrubs". If the federal lands are to be managed for the greatest benefit and enjoyment of the public, then it is imperative that livestock grazing be recognized as a vital management tool.

Seventy-three percent of these lands could be improved by management, according to the Public Land Law Review Commission's contracted study by the University of Idaho. We believe, as stated in Section 101, that resource improvement should be a major objective of our government. We also believe that, given constructive opportunity, the private sector can play a substantial partnership role with government agencies in effecting these improvements.

In Section 101 we are pleased to note the objectives of "multiple use" and "sustained yield."

We agree with the principle enunciated in Section 109 that there should be adequate tenure for users to plan and develop operations. We would underline the words "adequate tenure" and a fair return for their risk and investment, as a basis for achieving a team effort between federal agency employees and resource permittees.

Section 104 includes disposal. We believe there are some federal lands which are suitable for nongovernment ownership. We would hope that this legislation might lay the groundwork for land disposal policy.

Section 106 also deals with a review of "roadless" areas to determine those deemed "suitable or nonsuitable" for designation as wilderness areas. Farm Bureau has a long record of concern about the designation of land areas as wildernesses, due to practical land management problems and to our members' experiences in land management.

We have, in the past, supported the designation of some land as wilderness areas and believe that, due to current experience in the management and operation of wilderness areas and the increased evidence that some management is needed in wilderness reserves, the designation of additional wilderness areas should be on a limited basis.

Section 108 -- We have long supported the principle of transferring federal lands needed for state, county, or local government to the appropriate agency. We are pleased to see this principle in Section 108.

We also support the principle of disposing of tracts of federal lands to individuals through competitive bidding. We urge that the criteria for such disposals include provision for compensation to historic users of the resource who may have dependent industries and capital investments which would be disrupted or economically damaged through a change of ownership and use of the land.

Section 110 -- We wish to restate our members' opposition to federal reservation or title to mineral deposits when federal land is sold.

Section 111 -- We would suggest the following amendments: Following the word "access" on line 1, page 9, insert the word "management." On line 2, page 9, we recommend addition of the words "to block-up federal and private lands to increase efficiency in the management of the 'checkerboard' land, as well as the 'isolated parcels' of federal lands."

The "isolated parcels" of public land are surrounded by private lands. These parcels of public lands create a serious management problem for the federal land

agencies, as well as private land owners. They often are as small as 20, 40, 60 acres in size. They usually are too small for efficient management except with the adjacent private lands.

If an "isolated parcel" must remain in federal ownership to protect valuable public benefits that would be lost in nonpublic ownership, this parcel of land should be fenced, with the federal government bearing the cost of the initial fence construction and the continuing cost of fence maintenance.

The other approach would be to dispose of such parcels of land, using the disposal mechanism of sale to the owner of adjacent lands at fair market value or the exchange of isolated parcels for lands of equal value, using principles that would "block-up" both federal land ownership and nonfederal ownership.

Section 114 provides authority to the Secretary of Interior to promulgate rules and regulations. We believe this section should be amended, following the word "promulgate" on line 17, page 10, by inserting the words "those rules and regulations for which Congress has established guidelines". We believe authority and responsibility for establishing guidelines for management, use, development, or administration of these lands should be retained by Congress.

Section 115 deals with advisory groups and boards. Some of the nation's most capable land managers and conservationists are in the private sector--particularly in the agricultural industry.

Many of these individuals are educated and trained in the science of range and land management and have had years of practical management experience. Inherently, these individuals strive to improve the productiveness of all lands they use. This background, coupled with substantial investments in dependent base ranch properties, gives them an important personal interest in a long-term improvement program that will develop the public ranges to better serve the interests of all user groups. Local government, industry, and other user groups also have capable and well-qualified leaders who have great interest in proper development and management of the public ranges. This experience and interest should be brought into effective use.

The Taylor Grazing Act provided for the appointment of "District Advisory Boards." We believe the principle of advisory boards is sound. On the basis of BLM experience and Forest Service experience, they have proven to be a valuable benefit to federal land administrators. We strongly recommend that there be an authorization for range management advisory boards at national, state, regional and local levels. The authority for such boards needs to be written into law so that the interest and ability of knowledgeable individuals from various sectors of society can be effectively employed.

It is our intention that such boards should have authority under congressional guidelines to make maximum "inputs" into the management and administration of those lands retained in federal ownership.

To accomplish this purpose, we would suggest the following amendment to Section 115, beginning on line 21, page 10:

> "shall establish multiple use, special use, or ad hoc advisory boards or groups for national, state, regional, and local areas to provide knowledgeable individuals the maximum opportunity of weighing alternative approaches for the use, management, administration, and development of the federal lands."

This amendment does not mean we disagree with the principle of public hearings. Section 103 provides for the public to participate fully in the conduct of public business. Other sections of the bill also make provision for public hearings. We strongly support the principle of public hearings. We would support equally as strongly the principle of advisory boards because we believe both can make vital contributions to attainment of the objectives of this legislation.

Public hearings provide for informational "inputs" from a broad base of citizens and in a setting where persons can express their special points-of-view. Advisory boards of knowledgeable individuals can also provide citizens an opportunity to make informational "inputs" on a particular point-of-view, but these smaller groups

can also provide administrators invaluable service in analyzing the numerous alternative approaches to determination of the potential impact of each alternative.

Section 117 -- While we generally agree with the proposed repeal of the listed laws which basically deal with the disposal of federal lands, we question the advisability of the repeal of all of these laws until Congress had adopted new legislation which spells out guidelines for the determination of those lands which are "suitable" for non-federal ownership. We, therefore, recommend that Chapter 8 of Title 143, Sections 315-F and 315-G, commonly called the Taylor Grazing Act, not be repealed at this time.

We are also opposed to the repeal of the Desert Land Entries.

Item 10 on lines 1 and 2 of page 12 covers the "sale of isolated tracts". We believe this law should be repealed providing amendments are made to this bill to provide for the disposal of isolated tracts which are suitable for private ownership.

Section 118 deals with the appointment of the Director of Bureau of Land Management. We generally are in agreement with the principles outlined in this section.

As this bill progresses along the legislative route we may wish to make additional views available to the Committee. We shall look forward to expressing views on separate legislation relating to grazing fees, disposal, tax immunity, water resources and other issues.

The renewable grazing resources on the federal lands are very important to the local, state and national interest. Federally controlled lands in the 11 Western states are of major importance to the livestock industry in these states and the nation. There are 571.2 million acres of national forest, BLM and private land in farms used for pasture and grazing in these 11 states. There are 296.3 million acres or 51.9 percent controlled by the Forest Service and BLM, and 274.9

million acres or 48.1 percent are privately owned. In 1969 the USDA reported 19,363,000 head of non-milk-type cattle and calves on farms and ranches in these 11 states and 8,711,000 head of stock sheep and lambs.

The number of cattle and horses permitted to graze on Forest Service and BLM lands in 1969 was 3,576,694 head or 18.5 percent of the total in the states. The number of sheep and goats on farms was 8,864,000 head in 1969 in these 11 states.

The number of sheep and goats permitted to graze on the federally controlled lands was 6,126,153 head or 69.1 percent of total in these states.

We have attached to this statement a table entitled "Grazing Fee Receipts and Livestock Numbers Permitted Graze for Indicated Years", which further indicates the size and importance of utilizing the renewable grazing resources.

We appreciate the opportunity to express our views relative to S. 921. We shall be most happy to be of service to the Committee at any time.

GRAZING FEE RECEIPTS AND LIVESTOCK NUMBERS PERMITTED GRAZE FOR INDICATED YEARS

States	Permitted Graze--1969 Cattle-Horses BLM (No.)	Cattle-Horses F.S. (No.)	Sheep-Goats BLM (No.)	Sheep-Goats F.S. (No.)	Grazing Receipts 1970 BLM (Dollars)	1968-69 Forest Service (Dollars)
Arizona	101,671	154,785	35,427	58,298	$ 343,903	$ 660,716
California	61,201	123,478	124,935	82,730	218,882	249,971
Colorado	231,249	203,248	493,522	418,228	316,161	535,031
Idaho	289,974	139,595	508,768	471,197	534,629	396,221
Montana	317,195	133,492	229,065	113,304	645,185	354,677
Nevada	356,655	61,977	454,928	109,461	904,375	158,195
New Mexico	252,031	99,948	218,339	47,966	808,330	313,044
Oregon	205,010	119,439	46,536	72,046	433,834	251,276
Utah	156,276	116,407	776,815	389,871	570,172	349,626
Washington	—	40,779	—	15,148	14,921	56,615
Wyoming	275,089	147,195	1,092,174	367,395	833,153	354,995
Total	2,246,351	1,330,343	3,980,509	2,145,644	$5,623,545	$3,680,367

Source: USDI-BLM Public Land Statistics, 1970.
USDA Agricultural Statistics, 1970.



NATIONAL COAL ASSOCIATION

Coal Building | 1130 Seventeenth Street, Northwest | Washington, D. C. 20036 | NAtional 8-4322

CARL E. BAGGE
president

October 21, 1971

Honorable Henry M. Jackson, Chairman
Committee on Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The National Coal Association (NCA) is the trade association representing most of the nation's major bituminous coal producers and sales companies. The coal industry has a vital interest in legislation now before your Committee which would revise the administration of public lands. Below the surface of public lands in the western states lies billions of tons of coal. That coal will provide the major source of fuel for the ever increasing future energy demands of our nation.

NCA recognizes the complexity of public land law and the difficulties involved in updating and clarifying it. We actively supported the efforts of the Public Land Law Review Commission (PLLRC) and the then senior vice president of the Association, Robert E. Lee Hall, served on the Advisory Council to the Commission. Legislation in this field should be based, for the most part, upon the findings of the Public Land Law Review Commission. Two basic and fundamental recommendations were directed to the Congress by the PLLRC.

First -

> That "Congress should establish national policy on all public lands by prescribing the controlling standards,

guidelines, and criteria, for the exercise of authority delegated to executive agencies."

Second -

That "Congress assert its constitutional authority by enacting legislation reserving unto itself exclusive authority to withdraw or otherwise set aside public lands for specified limited purpose uses and delineating specific delegation of authority to the Executive as to the types of withdrawals and set asides that may be effected without legislative action."

These recommendations were based on the Commission conclusion that Congress had delegated its plenary constitutional authority to the executive branch and essentially, where authority was not delegated, it passed to the executive branch by default. The National Coal Association concurs in these broad recommendations, and favors implementing legislation.

NCA generally supports S. 2450. Of the various bills before this Committee, it appears best suited to meet the future problems of public land management with respect to both the environmental demands and the physical and economic requirements of the nation, and preserves those parts of the existing body of public land law which have proven to be realistic and successful in the past.

Definitive rule making procedures proposed in section 6 of S. 2450 are absolutely necessary to guide federal land management agencies and overcome deficiencies in existing law. Section 4 of the Administrative Procedures Act provides for general notice of rule making in the Federal Register and the right of interested persons to have the opportunity to comment on the proposed rules and participate in the rule making process. But, one of the exceptions relates to public property and the Department of the Interior has interpreted this exception as excluding from the Administrative Procedures Act rules and regulations relating to public lands and minerals on public lands. While Interior has followed the general rule-making process in recent years, this

is, nevertheless, a "grey area" in administrative procedure with respect to public lands. Section 6 of S. 2450 would eliminate any doubt with respect to this issue since the status of public land matters under the Administrative Procedures Act would be specifically clarified by providing for inclusion of public land matters and minerals on public lands.

The question of withdrawals and reservations has long been a point of contention between the federal government and the private sector. The Secretary of the Interior doubtless should have some flexibility in this area, but his powers should be specifically restricted by Congress. This would be accomplished by section 13 of S. 2450. The Secretary of the Interior would be permitted to withdraw up to 5,000 acres under specific guidelines set forth by the Congress. Any withdrawal in excess of 5,000 acres would be subject to approval by the Congress. Since the public lands belong to all the people, their elected representatives should make any final determination with respect to withdrawal of vast acreages.

Guidelines are set forth in section 13(a) of S. 2450 under which the Secretary of Interior may withdraw parcels of land under 5,000 acres. One of those guidelines instructs the Secretary to pay particular attention to degradation of the environment. Strictly interpreted, "degradation" would be any disturbance of the natural environment, whether it be any form of mining, logging or other similar use. Certainly, even road building is a form of degradation. This could result in innumerable parcels of 5,000 acres or less being withdrawn from possible mineral or other development. This does not appear to be the true intent of the provision and we recommend that this guideline be clarified.

The National Coal Association strongly opposes any legislation which would repeal the Mineral Leasing Act of 1920. This law has proven to be a successful vehicle to accomplish a desired objective and a body of law has evolved which provides guidance for those operating in this area as well as the government and the courts. We are pleased to note that S. 2450, as well as S. 921 as amended by Amendment No. 417, would not disturb this law under which federal lands are leased for mineral development purposes.

S. 2450 would institute a "dominant use" concept with respect to public lands. We support this concept, recognizing that in some instances valuable mineral lands may be relegated to a secondary use. However, the unique nature of nonrenewable mineral resources should be fully taken into account when public lands are classified.

Mineral resources on public lands should not be barred forever from development. Most often a mineral can be removed from the ground and the land can be returned to productivity in harmony with the environment. After mineral lands have been developed and their resources put to the use of the public, the land may be devoted to other uses. Multiple use of the public lands would permit recovery of the valuable nonrenewable resources and the land could then be reclaimed for other beneficial uses. With farsighted planning and realistic controls our public lands will provide a full measure of commercial and social productivity for the nation.

The National Coal Association believes that the Public Domain Lands Organic Act of 1971 is deficient in a number of areas where S. 2450 realistically addresses the problems.

Contrary to the recommendations of the PLLRC, Title I of S. 921 vests almost unlimited power in the Secretary of the Interior. The Secretary is given broad ill-defined and vague criteria for his guidance in the management of public lands. The Congress would hardly retrieve its constitutional authority to govern the federal land domain under this bill.

The National Coal Association strongly opposes Title II of the original S. 921, for it would have repealed the Mineral Leasing Act of 1920 (30 U.S.C. 181). During the fifty years of that Act's implementation, a large body of court-tested law has been developed. To repeal such a law for yet-to-be-conceived regulatory powers vested in the Secretary would be unwise.

Amendment 417 to S. 921 would preserve the Mineral Leasing Act so that the system under which coal is leased on public lands would remain intact. However, the original bill and the amendment still retain objectionable features, particularly the unfettered management authority of the Secretary of the Interior, and NCA opposes its enactment in its present form.

While your Committee is considering the entire question of public lands management, we believe some thought should be given to the existing acreage limitation with respect to coal leasing. Title 30, section 184, of the United States Code limits the amount of acreage any one person or entity may hold in lease in any one state to 46,080 acres. Admittedly, this limitation was increased from 10,240 acres only seven years ago. However, at that time the significance of coal's potential in the Western states was not fully recognized. Nor was the nation facing an energy shortage of enormous magnitude. Today we are aware that literally billions upon billions of tons of coal lie beneath public lands in states such as Wyoming, Montana, Washington, Colorado, Utah, and the Dakotas. To fully realize this potential, the Committee should consider a substantial upward revision of this limitation in the light of the provision in the law permitting oil and gas leases in one state in the aggregate of 246,080 acres.

Conclusion

It is our position that public lands legislation should be complementary to existing law and the recommendations of the PLLRC. S. 2450 would accomplish this, since it grants the Secretary of the Interior reasonable management prerogatives, while retaining for the Congress the authority for major policy decisions and withdrawals of large acreages.

S. 2450 recognizes the unique status of nonrenewable minerals and encourages their proper development. Further, the Secretary will have available to him the expertise of knowledgeable, concerned individuals through the establishment of various advisory committees and interstate commissions. These committees and commissions would be in a position to advise the Secretary and the various agencies with respect to the most advantageous utilization of public lands as applied to both nonrenewable and renewable natural resources, giving full consideration to environmental implications and optimum state and local uses.

The National Coal Association cannot support S. 921, even as amended, because of the broad grant of authority to the Secretary. Enactment by the Congress would be an abdication of its duties as guardian of the public lands. Ill-defined and vague criteria are not substitutes for establishing "national policy on all public lands by prescribing the controlling standards, guidelines and criteria for the exercise of authority delegated to the Executive agencies," as recommended by the PLLRC. (One Third of the Nation's Land, Report of the Public Land Law Review Commission, Page 2.)

NCA respectfully requests that this letter be made a part of the hearing record.

Sincerely,

Carl E. Bagge



American Mining Congress

copy

October 21, 1971

The Honorable Henry M. Jackson, Chairman
Committee on Interior and Insular Affairs
United States Senate
137 Old Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

At the time of our testimony before the Senate Interior Committee on September 22, we asked and were granted permission to file for the record the comments of the American Mining Congress on Title I of S. 921, S. 2401, and S. 2450. These bills would, in varying degrees, set forth goals and objectives for public land management and provide the administration authority to accomplish these purposes.

In its report published June 1970, the Public Land Law Review Commission stated "...that the Congress has largely delegated to the executive branch its plenary constitutional authority over the retention, management, and disposition of public land; that statutory delegations have often been lacking in standards or meaningful policy determinations; that the executive agencies, understandably, in keeping with the operation of the American political system, took the action they deemed necessary to fill this vacuum through the issuance of regulations, manuals, and other administrative directives; and that the need for administrative flexibility in meeting varying regional and local conditions created by the diversity of our public lands and by the complexity of many public land problems does not justify failure to legislate the controlling standards, guidelines, and criteria under which public land decisions should be made."

The Commission recommended that "Congress should establish national policy in all public land laws by prescribing the controlling standards, guidelines, and criteria for the exercise of authority delegated to executive agencies."

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The American Mining Congress is in accord with this recommendation and the findings upon which it is based. We feel, therefore, that the bills now pending before this Committee should be measured against this standard.

S. 921 is to be cited as the "Public Domain Lands Organic Act of 1971." The provisions of Title I dealing with public land administration are directed only to those public lands administered by the Secretary of the Interior through the Bureau of Land Management. Certainly the intent of the Commission in its report was that Congressional guidelines should be established for all public lands including those administered by the Forest Service of the Department of Agriculture. A similar shortcoming is contained in S. 2401, "The National Resource Land Management Act of 1971."

There are a number of specific faults to be found in S. 921. The definition of "multiple use" (found in Sec. 2) speaks of the harmonious and coordinated management of the resources "without impairment of the productivity or environment" and calls for "consideration of the ecological relationship involved." The definition of the term "multiple use" is difficult at best and it certainly should not be encumbered with vague abstractions that are subject to misinterpretation.

Section 103 (1) states that "the Secretary is authorized and directed to permit the use of the nonmineral resources of public lands..." so as to provide "an adequate supply of resources to meet national, regional and local requirements at reasonable market prices in a timely fashion " Although this provision is apparently restricted to nonmineral resources, it could readily be extended to all public land resources. It reflects a philosophy which is abhorrent to the system of private initiative and enterprise upon which this nation is founded.

Section 106 of S. 921 states that "the Secretary of the Interior shall review every roadless area of 5,000 acres or more on national resource lands under his jurisdiction on the effective date of this Act and shall report to the President his recommendation as to the suitability or nonsuitability of each such area for preservation as wilderness, in accordance with the Wilderness Act of 1964."

The Wilderness Act makes provision for review and possible incorporation into the wilderness system of two general types of land: National Forest Primitive Areas of 5,000 contiguous acres or more in National Parks and Monuments, National Wildlife Refuges and Game Ranges; and all roadless islands in wildlife refuges and game ranges.

By requiring wilderness studies of all roadless areas in the public lands administered by the Bureau of Land Management of 5,000 acres or more, S. 921 goes well beyond the present provisions of the Wilderness Act. There are thousands of such roadless areas throughout the West. Surely lands possibly suitable for wilderness are already well defined. Subjecting millions of additional acres of public lands to possible wilderness addition is tantamount to a further major withdrawal of lands from mineral entry.

The overriding objection to Title I of S. 921 and S. 2401 is that their provisions run counter to the fundamental recommendations of the Public Land Law Review Commission. Whereas the Commission recommended that Congress prescribe "control standards, guidelines and criteria for the exercise of authority delegated to executive agencies," S. 921 and S. 2401 would extend to the Secretary of the Interior virtually unfettered authority to administer the public lands with only the vaguest of policy guidelines. If Title I of S. 921 or S. 2401 were enacted into law, the Secretary of the Interior would become an absolute czar of the public lands and all activities on those lands would be done at his discretion. Far from following the Commission's recommendation which calls for Congressional statutory guidelines and public participation to limit, rather than broaden, administrative authority in this field, this legislation provides the Administrator the broadest possible latitude in administering the public lands.

Of these measures pending before you, S. 2450 comes closest to meeting the recommendations enunciated by the Public Land Law Review Commission.

Section 2 (a)(6) of S. 2450 frankly recognizes that "among the actions that have contributed considerably to the inadequacy of existing public land policy and law has been the failure of Congress to exercise its constitutional authority over the retention, management, and disposition of public land and that, where Congress has delegated such authority to the executive branch, such delegations have frequently been broad and without adequate guidelines to assure protection of the public interest." We strongly support provisions in S. 2450 which would provide these vitally needed statutory guidelines.

Section 3 of S. 2450 establishes a declaration of policy. For clarity, we would suggest eliminating (1) and (2) and amending the sentence of section 3 to read as follows (additional language is underscored):

> SEC. 3. The Congress affirms its policy that the public lands of the United States shall be retained and managed or disposed of, all in a manner to provide the maximum benefit for the general public, <u>due consideration being given to local and regional needs</u>.

In its Report the Commission recognized that "the general public" comprised many "publics." However, the impact of public land management falls heaviest upon the states and localities where the public lands lie. Many of these regions are totally dependent on the public lands. It is important, therefore, that their needs be given special attention in any declaration of policy.

The American Mining Congress has long supported the concept that the use of our public lands "shall be planned so as to assure multiple use and sustained yield management." We also, of course, appreciate the specific recognition given the importance of the minerals industry. Section 5 (g) of S. 2450 states that "incentives be furnished for the discovery and development of additional domestic sources of mineral supply, including source offshore."

Many of the definitions contained in section 4 of S. 2450 should be carefully reviewed. Several of these, when coupled with the "goals and objectives" in section 5, are simply not applicable to nonrenewable resources. For example, "sustained yield" is defined as meaning "the management of renewable and nonrenewable resources to produce a flow of values calculated to meet an appropriate share of the foreseeable needs of the American people at least cost with action programs adjusted periodically, whether annually or otherwise, to reflect changes in needs, land use capabilities, and production technology." This definition reflects a concept of federal economic planning that is alien to this nation's system of private initiative.

We are pleased to note that section 6 of S. 2450 would establish definitive Administrative Procedures to guide federal land management agencies in the rulemaking process. Section 4 of the Administrative Procedure Act provides, with certain exceptions, that general notice of proposed rule making must be published in the Federal Register and that government agencies shall afford to interested persons an opportunity to comment thereon and participate in the rulemaking process. Among the exceptions are any matters that relate to "public property." This exception is regarded by the Department of the Interior as including regulations relating to public lands and minerals on the public domain. The Department has, however, since 1954, generally followed the mandate of the statute as a matter of policy. Section 6 clarifies the status of public land matters under the Administrative Procedure Act and, if enacted, would eliminate the contention that public land matters are exempt from that Act.

The American Mining Congress in its statement to the Public Land Law Review Commission in January 1968 recommended that the Commission "urge Congress to enact comprehensive legislation governing public land withdrawals by agencies of the executive branch of the federal government, and, in such

legislation, the Congress expressly prohibit withdrawals by executive agencies under the implied consent doctrine." We, therefore, support section 13 of S. 2450. This section would permit the Secretary of the Interior to withdraw public lands not exceeding in the aggregate 5,000 acres but would require him to follow specific statutory guidelines and publication of the proposed withdrawal in the Federal Register. One of these guidelines to be considered appears as section 13 (a)(2) of S. 2450 which reads in part that "particular attention will be given to aspects of use that might cause degradation of the environment." A strict interpretation of this provision could serve as the basis for the withdrawal of vast areas of land from mineral development. It seems appropriate at this point to bring to the attention of the Committee the Commission Report itself which stated:

> Even though we are concerned about various impacts on the environment, and make recommendations in this report for the strengthening of the Federal Government's authority to regulate such impacts, we recognize that mineral exploration, development, and production will, in most cases, have an impact on the environment, or be incompatible with some other uses. By its very nature, mineral activity alters the natural environment to some degree, and if no such impact were to be tolerated, it would be necessary to prohibit the activity. Mineral exploration, development, and production are essential to our national economic and strategic well-being, however, and such activities cannot be barred completely.
>
> Accordingly, our emphasis must be on minimizing impacts.

We support the provision in section 13 (e) of S. 2450 which stipulates that the Congress reserves to itself authority to withdraw lands exceeding 5,000 acres in the aggregate, for periods in excess of ten years, and lands of unique value. The Commission recommended that Congress specify clearly the kinds of withdrawals which should be made by the Executive and that all other withdrawals should require legislative action. Of course, the Pickett Act likewise specified limited Executive authority which was circumvented by the Executive Branch's assertion of an inherent withdrawal authority, broader than that delegated by Congress. Without an express preemption of all such Executive authority in this bill, the same results could ensue. Therefore, we suggest that the following provision be inserted at the beginning of section 13:

The authority of the Executive Departments to withdraw public lands is hereby limited to that provided for in this section, and all other withdrawals shall be made only by Act of Congress.

We would appreciate it if this letter could be included in the hearing record.

Respectfully submitted,

W Howard Gray

W. Howard Gray
Chairman
AMC Public Lands Committee

CONTINENTAL OIL CO.,
Denver, Colo., December 3, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: The Minerals Department, Continental Oil Company, is headquartered in Denver, Colorado, and we also have a number of field offices located in various other states, and are engaged in the exploratory search for and production of minerals vital to the economy and security of our nation. Equally important is our commitment and dedication to the principle of good corporate as well as individual citizenship.

A considerable number of bills have been introduced recently, in both the Senate and House, that would revise our mining laws specifically as these relate to Public Domain Minerals.

We take this opportunity to express our favorable support of S.B. 2542, Mineral Development Act of 1971, for we feel it is the most comprehensive and equitable approach in resolving current problems and providing for a resolute direction for the future.

For years miners have been in a precarious position while exploring and developing mining locations because of the necessity that they must be in possession of each location at all times to protect themselves against other locators. S.B. 2542 remedies this difficult situation.

Another problem solved by S.B. 2542 is the cloud on the title of lessees under the Mineral Leasing Act where their leases cover lands which are subject to locations, many of which were made in the early 1900s. Heretofore, again, there has been no satisfactory way to clear the title as against these old mining claims. S.B. 2542 corrects this situation.

We are, also, impressed by the provisions in S.B. 2542 insofar as they continue the location system under suitable regulation. In the past the small, independent miner has made many great mining discoveries and we would not want to see anything in the mining laws which would suppress these important activities of the small, independent miner. The orderly procedures outlined in the proposed bill for taking mining locations to patent are also commendable, and the provisions for rental and royalty payments to the United States Government are salutary in that the government will now receive direct monetary income from mining operations on the public lands.

It is also noteworthy that S.B. 2542 recognizes that the environmental laws and regulations will be applicable to all mining locations and operations on the public lands. This, it seems to us, is the soundest and best approach in dealing with environmental matters. There have been some suggestions lately which have super-imposed a lot of environmental provisions in laws and regulations dealing with oil and gas leasing and mining and these, rather than being helpful, tend to confuse the situation because they are often inconsistent with the existing environmental laws. We applaud the way this has been handled.

We also note that in many respects S.B. 2542 closely follows the recommendations of the Public Land Law Review Commission—recommendations which were developed after years of study and thoughtful consideration of mining problems.

We have also carefully reviewed S. 921 and S. 2727, and although these contain some worthwhile features, we cannot endorse them. When compared to S. 2542, we do not feel these serve as an incentive to the mining industry and the welfare of the nation. The discretionary decision making and almost unfettered power placed in the hands of the Secretary of the Interior would definitely have a negative impact and retard progress in the extractive mineral industry.

Thanks for listening and we appreciate your dedicated service to our country and representing us in Washington.

Yours very truly,

A. P. LORFING,
Manager of Lands, Minerals Department.

WESTERN OIL & GAS ASSOCIATION,
Los Angeles, Calif., November 30, 1971.

Hon. ALAN BIBLE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BIBLE: At the conclusion of this Association's testimony on S. 921, S. 2450 and S. 2401, Mr. Dudley Couvillon, Chairman, Public Lands Committee, Western Oil and Gas Association, was asked to provide you with comments on your bill S. 2542, "The Mineral Development Act of 1971."

Only a few of our member oil companies have hard mineral interests. However, we have provided these companies with copies of S. 2542 and requested comments thereon. They have now been received, and I am pleased to make our position on this legislation known to you.

The changes set forth in S. 2542 are primarily beneficial; claim sizes are to be increased, the proof of a valid discovery is waived, and a more logical payment of assessment work is established. The minimum royalty proposed in S. 2542 is certainly reasonable.

We believe that S. 2542 is generally more reasonable than other pending legislation seeking amendment of the mining laws of 1872, and for that reason we urge that the bill be enacted.

We can see only one minor problem and that concerns the payment of royalties. We note that royalties are to be calculated on the basis of net income before tax for each property. While we have very little quarrel with this proposal we do believe that if adopted, it will complicate the accounting procedures of large mining companies.

Again, we congratulate you on the introduction of S. 2542. Please let us know how we may make our support known to others in the Congress.

Very truly yours,

HENRY W. WRIGHT,
Secretary, Public Lands Committee.

THE UNIVERSITY OF WYOMING,
NATURAL RESOURCES RESEARCH INSTITUTE,
Laramie, Wyo., September 14, 1971.

Hon. CLIFFORD P. HANSEN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: By this means I wish to comment on this proposed legislation—S. 921—and, indirectly, on the findings of the Public Land Law Review Commission's report and recommendations which are along these general lines. See Chapter Seven of *One Third of the Nation's Land.*

The Mining Law of 1872 was evolved out of the conditions which, and by the people who, established the mineral industry here in the west. As with all such instruments, deficiencies have become apparent with time and abuses have arisen which are deserving of correction. On the other hand, one does not resort to amputation when minor surgery or even a bandaid would cure the patient.

On the whole, the 1872 Mining Law has served the American public and the economy well. It has been the undergirding that has furnished the metal and mineral raw materials which are the sinew and bone supporting of the entire domestic economy, the growth of which is unparalleled among nations. As the mineral raw materials needed to meet the domestic requirements have become more difficult to obtain from domestic sources, the American mineral knowhow and capital has been exported to acquire these materials from foreign sources. The prospects that domestic requirements will continue to be readily met by supplementing local production by importation of products from captive foreign operations or even operations partly financed and/or managed by American companies has become increasingly tenuous in recent years. With the increased na-

tionalization of foreign mineral sources, the mining industry should be provided with incentives to increase domestic activity rather than to further hamstring it by changes in the working rules as proposed.

Among the reasons advanced for the sweeping changes in the Mining Law are two which are regarded as falacious and deserving of comment, since the changes represent such a drastic change in philosophy:

First: The connotation of "giveaway" and the inferred favored treatment ascribed to acquisition of claims and eventually patents embodying an exclusive right to own, mine and dispose of the mineral product and thereby acquire wealth is regarded as undesirable and undemocratic hence deserving of change. Two counterclaims or contentions which refute that that feeling are advanced:

A. Prior to its discovery in the ground, the mineral does not constitute wealth or value and therefore nothing has been given away. On the other hand, after discovery the discoveror of the mineral deposit claimed must define its extent and devise ways by which the mineral can be extracted from the ground and converted into a product to be traded for money in commerce. In order to be successful and to result in a continuing operation, all of these steps must be accomplished with an overall profit. This profit is then taxable and thus the people derive benefit (income) from the overall operation. Going back to the crucial point, nothing would have taken place without the original discovery which is the basis for the claim.

B. The adoption of a leasing or royalty system merely transfers a portion of the people's benefits from the profit-tax category to an expense item which must be satisfied prior to the profit determination and tax apportionment. The expense goes up and the profit (and hence tax) goes down and there is a possibility that it could go down to the extent that the operation is no longer profitable; in which case there is neither royalty nor tax because there is no production due to the lack of profitability.

The second reason advanced for advocating changing the Mining Law is related to the contention that since the mining industry is exploiting publicly owned wealth (?), the Federal government should set up the machinery to administer this exploitation. The question of wealth is covered above. The extent and detail of such administration can be imagined from the specification of the eleven "goals and objectives" set forth under Section 203 and further by the twenty-six "terms and conditions" (and possibly more) set forth in Section 209 of the proposed legislation. I do not wish to appear to belittle any of these specifications but the length of the list, and the provision for the addition of others, would be regarded as indicative of the administrative detail involved. Hence, it would seem very doubtful whether the government's income from royalty together with any corporate tax income (neither of which is earmarked to pay for such administration) will result in increased or decreased net income because of the high administrative expense.

In the mind of the writer, the adoption of this legislation will fall far short of the first of the several "goals and objectives" namely, to (make) "1. Provision of an adequate supply of minerals to meet national, regional and local requirements at reasonable market prices in a timely fashion." At that point in time when the rapidly expanding domestic demands for mineral raw materials are being filled to an increasing extent by imported supplies, the domestic mineral industry will not be encouraged to more extensively explore domestic possibilities by the repeal of the Mining Law of 1872 which assures the discoveror of exclusive rights to his discovery. There are an increasing number of considerations which complicate and add to the expense of mineral exploitation such as environmental and reclamation considerations together with the new statutory health and safety regulations. The industry accepts its responsibilities with respect to these considerations. On the other hand the Congress would be advised to search for ways in which the industry would be stimulated rather than retarded by the removal or repeal of stipulations which provide incentives to exploit new domestic mineral discoveries.

Respectfully submitted,

WALTER E. DUNCAN, *Director*.

UNIVERSITY OF NEVADA, LAS VEGAS,
Las Vegas, Nev., October 4, 1971.

Senator HENRY M. JACKSON,
U.S. Senate,
Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR SENATOR JACKSON: I received your letter of September 28th regarding the above bill, together with the amendment that you think to be more acceptable to the mining industry. Not being a spokesman for the industry, I cannot say, but I have read the amendment and offer following detailed comments on each section. I hope at this time that I can convince you to withdraw this bill, which must have been instigated by persons who are in gross error as to the basic requirements for the industrial base of the nation.

Your bill, if passed will confiscate property without compensation; will discourage exploration for mineral resources at the very time when foreign sources have been diverted to Red China and the nation stands in need for additional resources; it delegates all authority to the Secretary of Interior on items which are the jugular vein of the industry, without setting any limits; it makes land tenure for mining a serious liability and thoroughly discourages investment in mining at a time when the demand for metals is at a peak; it fails to recognize the economic fact that 5 to 20 years normally elapse between discovery and economic production.

This indictment of your bill refers to the amended version, on which I will comment in detail below. If passed it would be a disaster of major proportions to the United States, whose effects would not be felt directly by the eastern populace (for whom the bill was undoubtedly written), until the lack of new ore bodies became apparent through lack of exploration—a period of 8 years or so. Then the disaster would be that the nation would need 20 years to catch up after repeal of your law, if in fact this ever could be done.

Specific objections to sections follow:

Sec. 203(4)—Requires conformance to plans that do not exist. Experience with the "White Clouds" and other prospecting in Montana, Idaho, Arizona, and California indicates that whenever a mining company undertakes any exploration program, it will be actively opposed by "ecology" groups and that the agencies you mentioned will unanimously side with them. Therefore, the law creates an ex-post-facto condition.

Sec. 203(5)—The term "interdisciplinary approach" means something in academic circles but means nothing at all here. Whatever meaning is desired is not conveyed, which will lead to later abuse. "Interdisciplinary" may mean "politics" plus "money in the proper political hat."

Sec. 203(6)—The public already takes part in public business. Is this to mean that mining is now to be a public business? How many of the public knows anything about it? If your intention is to make mining a public business, why not introduce a bill to nationalize mining by purchase rather than to steal it by theft?

Sec. 203(7)—"Fair market value" is not defined and is meaningless when discussing unmined mineral reserves.

Sec. 203(8)—"Adequate tenure" must be defined. From section 211(c) of this bill it is obvious at the start that others involved in legislating our future have unrealistic ideas of what is adequate. This should be spelled out in years.

Sec. 203(8)—"Fair Return", seems to be inappropriate here, but it is helpful to realize that it is part of the law. I am sure, however, that the proponents of the law do not realize the risk involved.

Sec. 203(11)—Your bill will drastically reduce the present level of efficiency in prospecting and mining. Because it is such a grotesque statement I believe Sec. 203(11) should be omitted for the sake of honesty.

Sec. 205—"Secretary shall consult with . . . the general public *to the extent he deems necessary to secure full public participation*" . . . etc. We have had much experience in U.S.A. with the subjective judgment of public officials on this type of thing. All of it has led to a distrust of such subjective judgment. Hearings (as on your bill) are normally held 3,000 miles from the affected people;

opponents are not invited to participate, or the notice of hearing is made as difficult as possible to discover until after it is an accomplished fact.

Hearings on your bill should be used as an example of lack of equitable hearings, or notification of parties whose vital interests are at stake.

Sec. 206—"Secretary shall publicize *by those means he deems necessary.*" Same comments as above on Sec. 205. Advertising should be required in LOCAL papers of GENERAL circulation to the public.

Sec. 207—"under such rules and regulations as he may prescribe" . . . and "terms and conditions as the Secretary deems appropriate." Congress here is delegating dicatorial control of the mining industry to one man, with no limits whatsoever. An examination of the unworkable rules promulgated on Indian lands, and on the Lake Mead Recreation Area will suffice to show what we may expect. The lack of hard rock mining in these areas is the wave of the future. These items should be tied down with the areas of "rule making" severely restricted.

Sec. 208(a)—"valuable deposits of hard rock minerals have been discovered" What is VALUABLE? When is it DISCOVERED? These questions have been the chief bones of legal contention in the Mining Law. Now you have created the same problem only compounded it by requiring an excessive decision. This should be eliminated, and whenever a prospector decides he has found a valuable discovery, he alone can decide whether it is worth his investment.

Sec. 208(b)—A loophole here whereby if nobody has already applied for a permit the land can be put up for bid, allowing participation only by the rich and circumventing your law entirely.

Sec. 208(c)—Same comments as Sec. 205. Terms and Conditions must be a part of the law.

SEC. 209—"proper use of lands" is not defined. Loopholes such as this have been used in the past in order to help collect contributions to political campaigns.

Sec. 209(5)(7)—Renewal must be automatic and must be provided by law. Rentals and royalties must be spelled out and must be very low. Any royalty at all will have to be paid for by increase in the depletion allowances for hard minerals. It is a nonproductive severance tax and is anti-conservation. It also unfairly eliminates the reward for the many (99 out of 100) unsuccessful prospecting ventures.

Sec. 208(17)—Inspection of business records—for what purpose? We are already subject to inspection of business records by 7 or 8 Federal and State agencies. This adds nothing but another level of Bureaucratic payroll.

Sec. 209(19)—I welcome the recognition (belated) that royalties are not in the public interest. However, this provision allows personal (and political) handling of reduction in royalty, and will undoubtedly be used to the advantage of certain political contributors. Royalties should be eliminated entirely, but if included they should be based on *Net* value after smelting, freight, hauling, and milling, but NEVER on gross. They should be stated in the law and should be very low. They should also be compensated by an equal rise in depletion allowance to offset the anti-conservation feature of this.

Sec. 209(26)—Exploration and mining methods are not the business of the Interior Department. This is part of the heart of the problem. The nation was not built by bureaucrats, and never will be. However, it appears that it will be destroyed by them. There is no justification for 209(26).

Sec. 211(c)—This section brings about confiscation of private property without compensation, in exactly the same manner as Peru and Chile did it.

For several years the Interior Department has maintained that it required a claim to be *in production* in order to receive a patent. Therefore you are requiring that a claim must be in production within three years or it will be confiscated. There is no provision to pay the costs that have been invested in good faith over the years relying on the mining laws. You must not realize that 5 to 20 years normally will elapse between location and production. For rare metals it is even longer. Since Interior is both the judge and the prosecutor of the rules that are made "as the Secretary sees fit," where do we stand? This is the ruination of the industry, and with it also the economy of the very eastern interests who have promulgated this farce of a bill.

I will give you an example:

A company has expended $200,000 on some claims searching for ore. They have discovered mineralization, but cannot afford to continue the development (costing an estimated 80–100 million dollars). Under your bill they are allowed three years. They apply for patent. Under Interior rules this is denied. Now under

Sec. 208(b) Interior offers the property for lease. Large company X bids it in and Small company A has their property confiscated for the benefit of large company without compensation.

Another example:

A company has drilled out 3,000,000 tons of 3% lead ore. This cannot be worked at a profit today because of prices. When prices are higher it will be workable. Company applies for patent. Patent denied. Same thing happens as above with large company picking it up when price conditions change. Again confiscation of assets without compensation.

No provision whatever is made for claims on metals with no ready market. Rhenium is an example. This metal replaces platinum in the refining of petroleum, and is necessary today for catalytic removal of the impurities in the air which the "Ecologists" talk about.

The owner of Rhenium deposits cannot possibly complete exploration and development to production in three years. The market is controlled by one company (Kennecott), and the availability of resources of the type mentioned will be forever locked up under your bill, until Kennecott is ready.

The Mountain Pass rare-earth mine. 45 miles southwest of Las Vegas is the largest Rare Earth mine in the world. It would never have developed under your bill. Neither would the Climax Molybdenum mine, which has made the U.S. self-sufficient in Molybdenum.

Therefore the provisions of 211(c), as well as being confiscatory, will prevent the development of technology for low grade ores at a time when this is the principal method of American ore-grade improvement. It is also going to prevent development of new metals, and will make us dependent on the advanced technology of the Japanese and the Australians for mineral resources.

It is inconceivable to me that this bill (S. 921) was ever presented or that it would have a chance to pass. On the other hand, I have seen the basic needs of U.S.A. being subverted on every hand by well meaning but uninformed people. Hopefully there will be sufficient voice to stop this before it is too late.

I am sending a copy of this letter to Senator Bible and Senator Cannon. I also ask that you consider what I have said, and that you withdraw the bill from your committee, and even though you are a sponsor, that you vote against its passage if it or any similar bill comes to the floor.

Thank you for reading this letter.

Yours truly,

RICHARD V. WYMAN,
Department of Engineering, Geography, and Geology.

YOUNG'S MACHINE CO.,
Monticello, Utah, October 1, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: Kindly include this letter in the formal hearing record on the above mentioned proposals.

Under provisions of S. 921 the Director of the Bureau of Land Management would control all activities on the public lands. This is contrary to the recommendations of the Public Land Review Commission.

This bill would in effect repeal the General Mining Law and substitutes a mineral leasing system in place of the present location and patent system.

The Secretary of the Interior would be able, if he so desired, to prohibit mining on public lands and deny access to the prospector to search for mineral deposits. Exploration would be confined to areas offered for leasing which would create a very great deterrent to prospecting and locating of the minerals so very necessary to our national interest. Such a system would probably totally eliminate the individual prospector and small miner, thus depriving them of their right to benefits of a free enterprise system. The rights of the individual must not be sacrificed or subordinated to minority Bureaucratic control.

The Mineral Development Act of 1971—S. 2542 which is an alternate to S. 921, introduced by Congressman Aspinal preserves the concepts of freedom to enter public lands for prospecting and exploration, provides incentive by reward to the finder, and security of tenure through a patent of the mineral rights. The bill will safeguard the public interest by preventing abuses of the mining laws by

no-miners in the manner recommended by the Public Land Review Commission.

Congressman Aspinals bill S. 2542 will preserve to the citizens of the United States the heritage of freedom of action and development which has made our nation strong and great.

We must protect this incentive to achievement which is now so urgently needed in our nation.

Very truly yours,

DARROLL P. YOUNG, *President.*

BUTTES GAS & OIL CO.,
Moab, Utah, September 30, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

Congressman Wayne Aspinall (Colorado) and the members of the Public Land Law Review Commission all recognized the importance of domestic mineral development. The public interest requires that continued exploration, development and production of minerals on public lands be encouraged; through incentive by reward to the finder, and security of tenure through a patent of the mineral rights. At the same time, as recommended by the Commission, the protection of all other resources on these lands should be provided.

Therefore, we favor the following: (1) Senate Bill #2542, the Mineral Development Act of 1971, introduced by the Honorable Alan Bible (Nevada), and co-sponsored by Senator Gordon Allot (Colorado) and Senator Frank E. Moss (Utah), and (2) House Bill #10640, introduced by the Honorable Wayne Aspinall (Colorado), co-sponsored by Congressman McClure (Colorado).

The independent prospector often brings his findings to the attention of the small minerals exploration company—such as the one I am affiliated with. Together, we may develop the prospect to a point where it may be attractive to the larger capital investor. A competitive bid leasing or prospecting system would eliminate both the prospector and a medium-size company, such as ours.

If this Nation is to maintain our present standard of living and provide for its National Defense, we must maintain some symbolization of the "incentive plan" in regard to mineral resources. If the prospector or small company, works up the idea for an area to be drilled, he should be able to proceed. On a basis of competitive leasing, the large corporations can afford to acquire and sit on the properties without testing ideas generated by others.

Yours very truly,

ROBERT R. NORMAN,
Manager, Minerals Exploration.

MONTANA BUREAU OF MINES AND GEOLOGY,
Butte, Mont., September 10, 1971.

Hon. MIKE MANSFIELD,
U.S. Senate, Washington, D.C.

DEAR MIKE: Recently we received an inquiry from the State of Washington regarding S. 921. This served to remind us that we should notify our Washington delegation of our studied opinion in regard to S. 921 and all similar bills. Copies of this letter are being sent to Lee, John, and Dick.

Our opinion and position is simply that S. 921 and similar bills in Congress should be deferred from further action and hearings until the chairman of the Public Land Law Review Commission presents a bill based on the results of the committee's work and recommendations. We feel that enactment of legislation prior to a full consideration of a bill based on the Public Land Law Review Commission's multimillion dollar study would likely result in patchwork legislation.

We are opposed to outright repeal of the Mining Laws of 1872, and suggest that a compromise between the lease system and the present claim system is both advisable and necessary. I do not hesitate to point out that it has been the small prospector and his relation to the claim system who has located many of the most valuable mineral deposits in the United States. The Public Land Law Review Commission recognized the value of the prospector. I cannot conceive of any legislation based on the findings of this commission that would eliminate the

prospector by going to a full and complete leasing system. It is, of course, true that the position of the prospector is of less importance than during the period of settling and development of the West, but he is still an important factor—and from the dreams and dedication of a single man, a great industry may grow.

By all of the foregoing we do not mean to imply that S. 921 and related bills are either adequate or inadequate, good or bad, or in any measure in-between. We merely want to give the chairman of the Public Land Law Review Commission his chance to put the committee recommendations into a single complete bill. This may or may not be called The Administration's Bill; I do not know, but in any event it should be one of the most completely researched bills ever to be presented.

Sincerely yours,

S. L. GROFF,
Acting Director and State Geologist.

NATIONAL AUDUBON SOCIETY,
New York, N.Y., October 14, 1971.

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I write to comment on two public land bills not covered in my statement for the National Audubon Society at the hearing over which Senator Bible presided on September 21. I respectfully request that this letter be made a part of the record of the hearing and that it be inserted, if possible, immediately following my statement, in which I discussed S. 921 in some detail with some comments on S. 2401.

My comments herein are on S. 2542, the proposed "Mineral Development Act of 1971", and S. 2450, a measure purported to implement the recommendations of the Public Land Law Review Commission. The National Audubon Society opposes both these bills.

S. 2542 contains some reforms of the 1972 mining law, particularly in procedures, but it retains the two principal give-away, anti-public features of the old law: (1) Neither the Secretary of the Interior nor the administrators of National Forest, Wildlife Refuge, or Public Domain lands would have any power to deny or reject mining claims in areas where protection of environmental values is more important than mining; and (2) through patent, the mining companies would secure fee title to the surface as well as any underground ores.

The proposed payment of $50 per acre upon patent would be totally inadequate compensation to the public. So would the proposed royalty to the United States of 2 per cent of the mine value of minerals extracted. We note that this tiny royalty would be calculated *after* deduction of all the costs the mining industry can think of including taxes.

The 2 per cent compares to 12½ per cent paid by the petroleum industry on minerals extracted from the same federal lands, and to 16⅔ per cent on continental shelf lands.

S. 2450, like the similar H.R. 7211 in the House, would set up an elaborate, complicated and over-lapping structure of coordinating committees, commissions, and advisory boards that could only work to produce confusion and paralysis in the administration of the public lands, and nightmares for the administrators. While the bill says the appointive groups "shall be solely advisory", such boards and commissions have the potential—not merely the potential but the tendency—to become self-perpetuating bodies of vested interests who work their will upon administrators through political channels.

We object to S. 2450 also because it would place in jeopardy some great national wildlife refuges and some important units of the National Park system. It would do this by requiring administrative and legislative review of all major public land withdrawals since 1956. Among the areas affected would be the Arctic National Wildlife Range, the Clarence Rhode National Wildlife Refuge, the Izembeck National Wildlife Range, and the Cape Newenham National Wildlife Refuge, all in Alaska, and the Marble Canyon National Monument in Arizona.

For the reasons explained in our previous statement, the National Audubon Society urges the Committee to act favorably on S. 921. We do recommend

an amendment that would, insofar as prospecting and mining are concerned, extend the same protection proposed by S. 921 for the National Parks to the National Wildlife Refuges, and also to units of the National Wilderness Preservation System, the National System of Wild and Scenic Rivers, and also to units of the National Forests and of National Resource Lands that are classified as primitive, roadless, natural, or scenic areas.

Thank you for permitting us to make this addition to our testimony.

Sincerely,

CHARLES H. CALLISON,
Executive Vice President.

RENO, NEV., *October 29, 1971.*

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

GENTLEMEN: I would like to make some comments regarding possible changes in the Mining Act of 1872.

The controversy seems to center on the past actions of claim locators, which can be divided into the following categories:

1. Surface disturbance of land required by law for valid discovery,
2. Needless surface work and disturbance to meet assesment requirement,
3. Obtaining control of surface for reasons other than mining,
4. Dormant, unpatented mining claims interfere in public land use and confuse land transfers,
5. Patenting of claims does not take into consideration the true value of the surface.

It is my belief that the Mining Act of 1872 provides the best basis for the private sector to meet the national need for minerals. This act provides that both large and small companies and individuals have an equal opportunity to explore for, and develop mineral resources within their capabilities. Rectifying shortcomings in the act will be better for meeting national goals than will a competitive bidding system for leases.

Competitive bidding for leases would eliminate the small prospector entirely as only the larger, well financed companies could afford the high lease prices which would tend to develop. Competition would decrease as the companies form large consortiums to cut costs, leading to mineral resource monopolies. The overall effect would be to slow down exploration, since the cost of leasing will be in addition to the cost of exploration, making less money available for exploration.

The net higher cost of mineral discovery will mean that the grade of marginal ore must be higher. Needed lower-grade resources will be left for development at higher metal or commodity prices, if at all. The elimination of the smaller companies means that only the larger type of deposit, similar to the mines in the southwest, will be mined. Small to medium sized ore-bodies, which the major companies ignore, will not be developed, and an important resource potential may be lost.

The Mining Act of 1872 can be changed to correct the abuses of the past. Following, are some suggested changes:

1. Eliminate the apex and tunnel rights provisions which have caused needless legal difficulties in the past.
2. Provide discovery provisions that do not require surface exposure of minerals, in the light of today's technical state-of-the-art which can detect mineralization or favorable geologic areas far below the surface.
3. Assessment work must meet environmental considerations. (It should be noted that a claim is only a means of obtaining an exclusive expoloration right to a parcel of public land and until it is patented the ownership is still vested in the government. It follows that the government must insure that the land's value, both esthetic and real, is unjustifyingly reduced.)
4. Eliminate placer claims and have just one type of claim for all deposits.
5. To stop locators from obtaining claims for other purposes or holding claims indefinitely, provide—

(*a*) A time limit of, say, 5 years, to prove that some ore-type mineral exists on the claims, otherwise claims become invalid and cannot be restaked by the same person for 1 year.

(*b*) If ore minerals exist, another period of, say, 5 years, should be allowed in order to do additional work and to apply for patenting or leasing.

(*c*) Patenting should insure that claims are paid for at a fair market value of the surface.

(*d*) Establish competent mineral claim examiners and consistent rules and regulations for examinations. Provide a system of appeal of examiner's decisions.

6. Claim recording requirement should include a map of claims tied into some reasonable geographic or survey point. The claim recorder should keep an up-to-date map by county of the unpatented claims.

These are just a few of the possible changes that I feel will make the Mining Act of 1872 conform to public awarness of the environment and to meet a national minerals policy. In this regard, a bill now being considered, S. 2542, conforms closely to my ideas, and should help the mineral industries meet their social obligations while strengthening the economy.

Sincerely yours,

JAMES C. CARROLL, PE,
Mining Consultant.

RESOLUTION VII—TWENTIETH ANNUAL CONFERENCE OF THE WESTERN STATES ASSOCIATION OF TAX ADMINISTRATORS, BOISE, IDAHO, OCTOBER 4–8, 1971

Whereas the Public Land Law Review Commission has recommended that the United States Government make payments in lieu of taxes on federally owned lands without regard to the revenues generated therefrom, and

Whereas numerous bills have recently been introduced into the Congress such as Senate Bill 921 designated the "Public Domain Lands Organic Act of 1971" and its house counterpart, H.R. 9911, which provides that all patents issued on public domain land would hereafter contain a reservation to the United States of all mineral deposits for which lease or royalty payments would be required to be made to Washington when extracted, and

Whereas in the history of the United States such a restriction was never generally placed on patents issued to lands in the Eastern States, it is felt that this restriction would be an imposition on the Western States that will cost them millions of dollars in "reverse" revenue sharing and be a serious deterrent in their future progress: Therefore be it

Resolved, That the Western States Association of Tax Administrators, in its twentieth annual convention held in Boise, Idaho, hereby urges the Congress of the United States to support the position of the Public Land Law Review Commission that the Federal Government should make payments to compensate state and local governments for the tax immunity of Federal lands and that such a Federal-State revenue sharing program should be undertaken before adoption of any program that would change the present public land revenue sharing programs now in effect; and be it further

Resolved, That the President of the Western States Association of Tax Administrators be instructed to convey this resolution to the President of the United States, the Chairman of the Senate Interior and Insular Affairs Committee, the Chairman of the House Interior and Insular Affairs Committee, the Secretary of the Interior and all congressional representatives of the 14 Western states.

WYOMING-UTAH-NEVEDA CHAPTER OF OUTDOORS UNLIMITED, INC.,
Ogden, Utah, October 11, 1971.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: Hearings were held September 21–22, 1971, on Senate Bill S–921, a "Public Domain Lands Organic Act of 1971." With your permission, we should like to have the following statement by the Wyoming-Utah-Nevada Chapter of Outdoors Unlimited be included in the Hearing record:

Senate S–921 is one of many bills dealing with the administration of the public lands. We wish to comment only in a broad way on what we consider deficiencies in this bill.

We are opposed to the following provisions:

1. The broad powers given to the Secretary of Interior. This approach may have been satisfactory a hundred years ago but it is the strong feeling among our members today that the Congress should not abdicate its authority by

granting to an individual almost unlimited power to set policies and management direction for the public lands. The Congress should provide both legislative direction and guidance to the Secretary of the Department managing the public lands.

2. We are unalterably opposed to the provision requiring a study for potential wilderness purposes of all roadless areas of 5,000 acres or more. This is only a repetition of a policy adopted by wilderness advocates who refuse to abide by the decision already made by Congress when it passed the Wilderness Act of 1964.

The fact that there remains many thousands of roadless areas of the size stated in the bill only means that we have major areas of public land that have not been developed for the resources they contain. The Congress should set a policy to develop these areas since it is obvious today our country needs all the resources available.

3. We are not opposed to the marketing of boundaries on the ground but consider this a large expense, a cost that could be reduced considerably if consolidation of ownership were first initiated.

4. The repeal of the "1872" mining law and substitution of another means of locating and development of minerals on the public lands is appropriate and desirable. However, the mineral leasing system proposed under the broad powers granted the Secretary of Interior could result in preventing the development of our minerals resources. A Senate Bill 2542 and companion House Bill 10640 provide a more equitable means of handling the minerals on public lands and should be considered in place of the provisions in Title II of S–921.

Respectfully submitted for the hearing record.

Very sincerely yours,

BERT N. SMITH, *Vice President.*

TEXAS GULF SULPHUR CO.,
Denver, Colo., October 14, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

MY DEAR SENATOR JACKSON: I am writing you as an individual concerned with the proposed S. 921, Public Lands Organic Act of 1971. As United States Exploration Manager for the minerals division of a major American mining company, I am deeply disturbed by some of the ramifications of your proposal. Specifically, I refer to the effect the act would have on exploration by major companies and its effect on exploration by individuals or small companies. My concern stems from the fact that the act would require that all public lands be put up for bidding in order to obtain mining rights.

In the case of the large companies, there is a significant difference between oil and gas exploration and minerals exploration in this regard: we may spend years doing reconnaissance exploration in order to narrow our taget area down to a few acres, possibly in the order of four or five hundred. Within this acreage we would do very detailed work such that it would require title prior to the undertaking of this work. If we were called upon to identify that specific target area in asking that it be put up for bid, any other company or individual could then circumvent the extensive regional work which we would have carried out; they could obtain the same information on that parcel of land as we would have, simply by spending a relatively small amount of money on the area being put up for bid. In essence, only one exploration company would really be required for the entire United States—all others could simply fall in their footsteps.

In the case of the individuals or small companies, they may well find themselves in the position of being out-bid by the major companies on anything that they might discover.

Finally, by putting the right to grant mining title in the hands of a small number of bureaucrats, there exists the danger that we may be creating the possibility that no one will be granted mineral rights, or that very deserving individuals or organizations may be refused mineral rights.

I urge you to consider the recommendations of the Public Land Law Review Commission and the suggestions put forth in the Mineral Development Act of 1971 as more logical alternates to the Public Lands Organic Act.

I ask that this letter be made part of the record of the hearings on the above-mentioned proposals.

Sincerely,

JAMES A. L. WHITE,
Regional Manager.

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COMANCHE MILLING CORP.,
Ohio City, Colo., October 11, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee of Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: The tide is changing, people of all walks are sick of welfare doles. They are sick of totalatarian dictatorship. They want to be self-supporting. They want the privilege of making it on their own if only in a small way.

They want to be able to locate ore on public land and the privilege of mining it, paying a payroll, paying taxes and not having to "Hiel Hiel" any chair warming parasite. I am for S. 2542. I request this letter be read at your next committee meeting.

GLENN BERRY, *President.*

VIA DELTA JUNCTION, ALASKA, *October 1, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Building, Washington, D.C.

DEAR SENATOR JACKSON: I am certain that your Bill, S. 921, is in deep conflict with and highly detrimental to the interests and existence of the American prospector, the small mine operator as well as our nation. Your legislation, S. 921, speaks for itself; it leaves no doubt as to its sad and far-reaching consequences to American mining activities in magnitudes unprecedented in our nation's history.

Should your Bill become law such, then, would represent, clear and simple, a sell-out to the large mining concerns of our prospectors, our small mine operators together with all of the principles, hard work, sacrifices, successes and failures so generously given as well as endured throughout the years by those dedicated men and women all of which helped so very much in making our nation strong, prosperous, and independent.

I cannot understand how anyone could author, sponsor/endorse a monster like S. 921 when there is available a fair, effective, and acceptable alternative in Congressman Aspinall's Bill S. 2542! This Bill is *American* because it does grant those rights and privileges to the American citizen guaranteed in our wonderful Constitution and our Bill of Rights.

Therefore, being a prospector, a miner, and, last but not least, an American, I respectfully but strongly request of you, Senator Jackson, to duly consider the inevitable consequences of your legislation S. 921 and, in fairness to all concerned, in consideration of the future well-being and security of our great nation, to accept and endorse Congressman Aspinall's logic as presented in his Mineral Development Act of 1971 in Bill S. 2542.

Our national economics in general, our entire mining industry in particular and, of course, those few remaining democratic nations representing the residue of a dream of a "Free World" where mankind, at least, can live and die with dignity, have been in the past, are now and certainly will be in the future, perhaps moreso than ever, in dire need of the unselfish labor and good-will of these grand men and women which have been during the past two centuries nearly solely responsible for the successful exploitation of our national mineral resources.

Let it never be forgotten that, until recently, it always was the prospector who found the deposit, it was the small miner who started the ball rolling usually depending on bailing wire & chewing gum after having gathered his "formal education" at the School of Hard Knocks—all of which kept his broken-down wheel-barrow moving. Then, and only then, did the large concerns take over and, in due time, produced exploitation statistics of great importance and consequences. Anyone entertaining the illusion that our of late rather sophisticated geophysical prospecting equipment could fully replace the work of the independent prospector will have a bitter surprise coming his way.

I have realized this truth for some time already; these issues reveal themselves clearer and stronger with every day. I can only hope and pray that I will never have to greet the day when the death sentence of the American prospector and the small mine operator has become final.

I would indeed deeply appreciate your serious consideration of the issues presented in this communication.

Sincerely,

THOMAS STOELTING.

GRAND JUNCTION, COLO., *October 8, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

In order to give you some background information on myself, I graduated from the University of Alaska in Mining Engineering, worked both for the Geological Survey and the U.S. Bureau of Mines. Later, I formed a small exploration company which prospected, explored and developed a number of moderately successful, medium-sized uranium mines. More recently, I have been acting as consultant for medium-sized and some of the largest exploration companies in the United States; as well as carrying on some of my own exploration. I am Secretary-Treasurer of the Western Uranium Association, a member of the American Institute of Mining and Metallurgical Engineers and the Colorado Mining Association. In essence, all of my adult life has been spent in prospecting and mineral exploration and development.

Sincerely,

JOHN I. SCHUMACHER,
Registered Mining Engineer, Colorado and British Columbia.

THE INDEPENDENT MINING MAN'S VIEW OF S. 921 AND S. 2542

In today's world of big business, big Government and big conservation groups, one small segment of our industry which is seldom asked to attend hearings on Government regulations, environment, or controls that affect them, is the individual prospector or small mineral exploration company. This group which contributes much of the raw commodities which affect every facet of our good life, is seldom asked for its opinion on its own future welfare which indirectly is related to the future of our great nation.

Repeatedly, environmental groups, Government agencies, well-meaning politicians and ordinary citizens who without the slightest understanding of the impact that the work of these individual prospectors and small companies have on our everyday life, brand them as being robbers, thieves and despoilers of our times. It has been stated that they have plundered the mountain ranges, speculated on land, and robbed the Government, the citizens, the State and you and I of our rightful share of all the wonderful things by placing four stakes and a notice advising other parties that this is their sole domain. They have been accused of greedily gouging large holes to scar the beautiful mountainsides, destroyed beautiful fishing streams and have even tainted our moral fiber. The lack of understanding of the real purpose, aims and activities of the true prospector and exploration company, make them the most maligned group in the United States. Without realizing the real value of a mineral find, which incidentally is a freak of nature rather than a normal condition, this country of ours would not now be enjoying the prosperity and the good life with all its trimmings.

We, as a group, are first to recognize that some so-called prospectors are in reality land speculators and we recognize that the present law needs some revision. We are cognizant that unsightly messes have been made and not cleaned up. We are also aware that the old mining camps throughout the West are now centers of tourist activities. We are concerned with the land problems involved and are the first to recognize a need to bring the present location laws up to date. We feel among ourselves that these changes have been long overdue but certain legal and political forces have been hesitant to make these changes and we have often spoke of the mining law amongst ourselves as the Lawyer's Full Employment Act. Even though the prospecting fraternity is not satisfied with the present laws, regarding the location of mining claims, we have lived with it rather than being forced into a leasing system. Since most prospectors do not have the time nor the gift of gab for public speaking and we seldom attend social functions such as cocktail parties or Government hearings, we are seldom asked to attend the official meetings at which time decisions are made for us. If those sincerely interested in making the system work could even get down to the level of the parties concerned at a bull session, round table discussion or just a night around a campfire, it would not be long before a real understanding of the problems and a reasonable solution were reached.

In this age of computers, rockets to the moon, speeds faster than sound, and impudent red tape, most business men, Government officials and just plain laymen do not realize that 95% of our mineral came from large efficient mines

which started as a prospect as the results of a sincere effort of an individual prospector. The people in this profession whose criteria will seldom be listed in the handbook of any university, have been trained by experience to look for favorable signs whether they be discoloration of the rock, changes of chemical composition by mineralizing solution, associated minerals, or the rarest of all, a mineral outcrop. His science is exacting and is painstaking as an astronaut planning for a moon trip. He seldom today uses a jackass, although he might be referred to as one, and he may in addition to his prospector's pick, have a few sophisticated tools, but generally it's his knowledge to recognize the "signs" or criteria which arouse his curiosity. Once he finds the favorability he is looking for, he proceeds to explore by trenching or drilling and although his chances are about 100 to 1, this may be the start of a valuable mineral deposit. However, before this mineral is funneled into the gapping jaws of industry, he will have had to mortgage his house, car, furniture and wife and then give away about one-half to raise a small amount of capital to get the mineral occurrence to the point of interesting a major company to take a look. After years of intensive exploration by well-informed geologists and engineers, using drills and sophisticated electronic equipment, it may, if he is fortunate, develop into a commercial ore deposit. This whole process probably averages about ten years in time.

In summary, it should be stated that the independent prospector or exploration group will not survive under a federal leasing system as proposed in S. 921. If this law is enacted, it will mean that within 20 years we will be totally dependent on foreign sources for almost all of our minerals and although some of the environmentalists would have it this way, it is not good sense or logical reasoning to go this route. "Let us not be conquered by the ruling passion" (Alexander Pope), but let reason guide our decisions.

Although we see a considerable amount of problems in the Mineral Development Act, Proposal S. 2542, particularly in regard to the royalty payments, we feel it would still give the incentive necessary to look for minerals in this country.

In general I think it would be well to have additional meetings at the ground level, a study of other types of mineral location methods such as in Ontario, Canada and arrive at a reasonable conclusion based on common sense.

E. J. LONGYEAR CO.,
Minneapolis, Minn., October 8, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Office Building, Washington, D.C.

DEAR SENATOR JACKSON: Consideration of this letter in the formal hearings on the above-named proposals and inclusion of it in the records of the hearings would be much appreciated.

PROPOSAL S. 921

This proposal is not favored for the following reasons:

(1) The proposal would provide for the leasing of public lands in lieu of staking and eventually patenting of mining claims which has served so well since the 1880's.

(2) The leasing system would place undue power in the hands of the Secretary of the Interior and/or the Director of Land Management, who would dictate the awarding of mining or other rights and would control all activities on public lands.

(3) The Secretary and/or the Director would have unfettered power and could deny access to the prospector and his right to exercise his traditional role as a pioneer and finder of the mineral deposits needed to maintain a healthy national economy.

(4) Competitive bidding for leasing or prospecting systems would eliminate all but the most financially able, but not necessarily the most diligent and technically qualified mineral developers.

PROPOSAL S. 2542

As an alternative to the above-described S. 921 proposal, is the Mineral Development Act of 1971—S. 2542 introduced by Congressman Aspinall of Colorado. This proposal preserves freedom of access to public lands for prospecting, exploration and development. It adds the incentive of security of tenure to those

venturers expending time, energy and money in efforts to find and develop new sources of mineral wealth.

Thanking you for your attention to this matter, I am

Sincerely yours,

LEE C. ARMSTRONG,
Chief Geologist and Mining Engineer of the Longyear Co.

SEPULVEDA, CALIF., *October 6, 1971.*

Hon. HENRY M. JACKSON,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I am opposed to this proposed act for the following reasons:

S–921—PUBLIC LANDS ORGANIC ACT OF 1971

1. The proposal is counter to the recommendations of the Public Land Law Review Commission, which recommended establishing Congressional statutory guidelines and encouraging public participation, as opposed to an extension of broadening of administrative authority.

2. The authority of an individual such as the Director of the Bureau of Land Management to control all activities on public land is subject to far too much discretion to be placed in the hands of one individual.

3. There is an inherent danger in the Bill that at some point in time the Secretary of Interior could prohibit access or mining on public lands should be pressured by groups such as the current activists involved in the pollution activities.

4. The leasing system would impose strict limitation which would be detrimental to the planning required in exploration and locating mineral deposits. Such exploration activities require long-range forecast of demand, supply, cost of development, and organizational structures.

5. Under this Bill, exploration would be confined to those lands offered for leasing. I should like to remind the Committee that exploration is the phase which determines the location of an orebody.

6. This Bill would be detrimental and serve as an impediment to the activities of acquiring the necessary capital to explore and develop mineral deposits.

7. I should like to call to the attention of the Committee that most orebodies that have been located and developed in recent times were not found by the major mining companies who currently produce them, but were originally discovered by small mining operation, individual prospectors who had a very high level of incentive to undertake the hardships and high risk attendant to his prospecting endeavors. A system offering prospecting permits, but coupled to a leasing program, whether or not subject to competitive bidding, would certainly hamper, if not entirely destroy, the incentive of the small prospector or the small miner, since the meeting of all the requirements imposed under a leasing program are most often beyond his financial capabilities.

8. Any bureaucratic administrative bid-leasing system will ultimately eliminate the small business operator, just as it very successfully spelled the demise of the small operator in the case of the off-shore oil lands.

S–2542—MINERAL DEVELOPMENT ACT OF 1971

I should like to take this opportunity to go on record as proposing this Act as an alternative to S–921, which was introduced by Senator Bible to preserve the concepts of freedom to enter public lands for purposes of exploration, provide incentive by reward to the finder, and security of tenure through a patent system of the mineral rights. It also provides prevention of abuses to the mining law by non-miners consistent with the recommendations of the Public Land Law Review Commission. I should like to call to the attention of this Committee that this Bill has been endorsed by the American Mining Congress and other mining associations.

Very truly yours.

H. J. MCGARR.

EASTERN WASHINGTON STATE COLLEGE,
DEPARTMENT OF GEOLOGY,
Cheney, Wash., October 5, 1971.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.

MY DEAR SENATOR JACKSON: Please make my remarks a part of the record of the hearings on bills to revise public land laws.

I wish to confine my statements to those parts of bills which would modify existing laws governing mining on public lands. As a geology teacher in the Northwest, I am well aware of some of the abuses which occur under the Mining Act of 1872. For example, I have had students who had already established claims taking my beginning classes, and in some cases these students were incapable of identifying even the commonest minerals in the laboratory. Yet under existing mining laws, these students have the right to poke around on the public's land, harming it as they see fit, in their ignorant quest for riches.

Most of the easy-to-find deposits, the kind found by the prospectors of yesteryear, have already been found. Today geologists must rely upon sophisticated geochemical and geophysical techniques for finding minerals deep within the Earth. Our lands are too valuable to keep open to the abuses of the weekend prospector.

Of the several bills before the Committee, my preference is for S. 921. However, this bill allows the Secretary of the Interior too much power in setting and changing mining regulation. I would much prefer to see Congress spell out a specific system of production leasing in a way that prevents companies from retaining rights to vast areas of dubious discoveries.

Yours very truly,

W. K. STEELE,
Assistant Professor of Geology.

LAKEWOOD, COLO., *October 4, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I would appreciate inclusion of this letter in the formal hearing record on the above mentioned proposals.

If this bill is passed, The Bureau of Land Management could control all the land as they see fit. It would discourage the prospector and small miner as anything they find would be taken and put out on bids, which would put them out of business. It still takes the prospector and small miner to find and make the large mines and production.

It looks like you educated people would know that everything you eat, live, and sleep comes in some form from mining, yet you let a housing project or skiing project move in and tear up the country and condemn the mine that tries to open near the same area.

Yours very truly,

ELZIE RAY.

LAKEWOOD, COLO., *October 7, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I am writing as an individual and not for my company; and I would appreciate if you include this letter in the formal hearing record of the referenced bills.

It is disturbing to me that Senate Bill S. 921 does not follow the recommendations of the Public Land Law Review Commission. This commission spent 5 years and $7,000,000 studying policies and practices of the administration of public lands before presenting their findings and specific recommendations in June 1970 ("One Third of the Nation's Land").

Senate Bill S. 2542 introduced by Senator Bible and co-sponsored by Senators Allott and Moss more closely follows the Public Land Law Review Commission recommendations and does not repeal the Mining Law of 1872 and in turn substitute a mineral leasing system administered by the Secretary of the Interior.

Therefore, I endorse Senate Bill S–2542 for reasons above and also for reasons specifically presented by David Cole for the Colorado Mining Association at your Committee Hearings in Washington, D.C. on September 21 and 22, 1971.

Respectfully,

PAGE EDWARDS.

BLAINE, WASH., *October 17, 1971.*

Hon. HENRY M. JACKSON,
U.S. Senate Building, Chairman, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR JACKSON: Thank you for your prompt reply regarding S–921 and mailing Title II Amendment. After studying your Amendment, reading and analyzing the 1920 Mineral Leasing Act and studying your statement made on the floor of the Senate, I would like to again emphasize my objection to the entire Bill and Amendment.

I have been in the mining business since 1958 and involved in full-time exploration since 1968, from experience, the very individual you are trying to eliminate the industry relies on very heavily. I'm referring to the old, solitary prospector with pick and shovel who has been responsible for the initial findings and discovery work on approximately 90 per cent of all recent major mining operations. The sophisticated exploration methods you speak of are very costly and not fool-proof, by any means. A talk with people in the business who use prospectors would help you to understand why it is necessary to allow continued location under the Mining Laws of 1872. The individual prospector who receives no pay and has limited funds will not be able to compete with major oil and mining companies for title to mineral lands. You are, in effect, weakening our mining industry.

I will agree with you regarding the statement made in your Floor presentation, "Abandoned mining claims dot the public domain, casting clouds upon the title to property which belongs to all the people". Our law is very weak in this area. Better legislation should be enacted along these lines. Those individuals who do not do assessment work annually definitely should lose title. Those who file assessment but do no work should likewise lose title. This latter group are by far the worst offenders.

According to my interpretation, I see very little difference between the original Title II and the Amendment. The main difference, it seems to me, concerns a one-year's time to record with the Department all prior valid mining claims instead of trading them for a lease or license.

A conflict arises from Page 9, Lines 15–16–17 versus your statement discussing indiscriminate disposal through the patenting procedure. One statement seems to encourage patenting and your statement on the Floor of the Senate discourages this practice.

I would still like an answer to a direct question asked in my first letter, and would hope for an answer made in good faith. "Do the major oil and mining companies support this bill?", and more especially, the repeal of the Mining Laws of 1872? This was one of the questions left unanswered in my letter of September 2, 1971. Also, with respect to the prospecting permit you mention, who and what are the requirements to be a *qualified applicant?* In reading all sections of the Amendment I fail to see any assurance that the individual or small mining concern will have an equal opportunity.

As before, I would like to offer my thoughts and suggestions so that your committee may consider our great needs. Please give consideration to granting of incentives to prospectors, tax benefits, schools sponsored by government agencies to train these people. It is extremely difficult to find a person to hire to do prospecting work who is qualified in this field. I would also like to suggest that only qualified people be allowed the continued use of the privilege of staking a mining claim under the Mining Laws of 1872. These individuals should either be a trained, licensed prospector or someone with experience or training; for example, 25 hours of geology in college. Others would be allowed to lease as per S–921 or similar legislation. This, I feel, would limit the staking to only a

few sincere and legitimate operators. Such a system—together with my previous proposal of a revised department with respect to an up-to-date mine records office would definitely make for a more efficient operation all around.

Thank you for your consideration.

Sincerely,

WALLACE W. VAUX,
Mining Engineer.

HAYFORK, CALIF., *September 18, 1971.*

Senator HENRY M. JACKSON,
U.S. Senate, Washington, D.C.

DEAR SIR: I am writing this letter in regard to the 1872 Mining Laws. We understand that many of our good Senators' are for changing this good law. Why change a good law that has been in effect for 100 years, especially now when our country is in such economical trouble with so many people on the relief roll.

Do you realize how many more people especially old folks that are trying to make ends meet on a small Social Security this would effect? Well I would not be able to tell you, but we know that in Trinity County alone it would be a disaster, not for us old folk's alone but for the whole county's economic affairs.

One thing alone Trinity county would stand to lose over $900 in taxes alone. Then what would happen if all those old folks had to go on relief?

Most of the mining claims up here are old claims, worked by others but not worked out by a long shot. It maybe us older men sixty-five years or older are not as prudent as a man in his thirty's or forty's. But where would a man sixty-years old get a job these days?

We do not hope to get rich, some will find more gold or other minerals than others, but we all have to eat and keep a roof of some kind over our heads until the Good Lord calls us. Why does the Government want to kick us out of our little homes where we are trying to make our living and minding our own business?

They say they want the land free of buildings so the city folks can walk around on it and look at the trees, well we do not cut the trees down or spoil the scenery in any way. There are miles and miles of beautiful spots to put camp grounds on. They do not need every foot of the land for camp sites.

The Forest Rangers up here told us at a mining Counsel meeting that they did not mind us mining our claims but we would have to let them burn our houses down, so we asked them where did they expect us to live, our claims being some of them many miles from any town, and they told us we could put a tent up and live in it. Can you feature us poor old sick people living in a tent in the cold winter weather with snow six feet or more in places?

I think if I were a wealthy man that could ride around in my fancy car and look at the trees and scenery I would rather look at a cute little neat cabin in the forest than an old couple trying to exist in a tent alongside the road.

If one would stop to think, it is the poor man's labor that makes the rich man rich. So why pick on the poor man. Everyone cannot be rich. If so, the rich man would have to do his own labor.

So I would say let the poor miners alone, even if he is not so prudent, as long as he is trying to make his own living and staying off the welfare. Besides our country needs the gold and other minerals. What would we do without them?

Hoping you give this letter some thought and consideration.

Sincerely,

CLARENCE E. ANGST.

REXBURG, IDAHO, *October 2, 1971.*

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: The purpose of this letter is to express to you my views as a resident of Idaho, regarding the Public Lands Organic Act of 1971 (S. 921) as proposed by Senator Jackson, Chairman of the Committee on Interior and Insular Affairs, and the Mineral Development Act of 1971 (S. 2542). We in Idaho will be very much affected by any decision made along these lines, since Idaho contains large tracts of potential mineral bearing land that is presently administered by the Bureau of Land Management and the Forest Service.

It has traditionally been the small miner that has developed and operated the small mines and has done most of the grass roots mineral exploration. Small miners and prospectors make the initial discoveries in many of the large ore bodies that are acquired and developed by the major mining companies. The effect of Senator Jackson's bill will do away with the present system of prospecting and location of mining claims and will essentially eliminate the small miner and prospector. First of all, he won't have the financial capacity to enter a competitive bid situation, on his own discovery, and will not have the financial resources for the long negotiations with government agencies that will be required to obtain mineral leases. For example, at the present time it usually takes one year or longer for the State of Idaho to issue a mineral lease on Idaho State lands. Also, time restrictions on lease terms may interfere with long term financing of new mines, which is essential to the orderly development of mineral deposits.

The S. 921 bill runs counter to the recommendations of the Public Land Review Commission which recommends maximum public participation rather than a broadening of administrative authority.

Senator Church, please consider the position of those of us that work in the minerals industry. Sometimes it seems that we are under assault from every direction. Some of this is good, since long needed improvements are now being made industry-wide regarding land restoration and ecology. However, this bill of Senator Jackson is destructive since it strikes at the basic framework of the mineral industry, and that is the acquisition of land upon which to mine new ore bodies.

Here in Idaho we need new jobs, and greater income into the state. A healthy mining industry can contribute greatly toward Idaho's overall prosperity. This also applies to the U.S. as a whole. Please be understanding toward the problems of the mining industry and give your support to Congressman Aspinall's bill (S. 2542) and oppose Senator Jackson's bill (S. 921). Congressman Aspinall's bill is based on the public land law review commission recommendations and is supported by the American Mining Congress, and the mineral industry generally.

Yours truly,

SPENST M. HANSEN.

DENVER, COLO., *September 28, 1971.*

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SIR: I wish to voice my strong objection to Senate Bill 921 and would appreciate the inclusion in the record of this objection.

It would appear to me that one of the many distasteful parts of this bill is the continued expansion of governmental bureaucracy. Surely there is enough evidence in the record of government-controlled activities to convince even the toughest skeptic of the folly in this particular case.

The alternative to S. 921 (S. 2542) would seem to me a more equitable plan, and I urge your committee to consider this alternative. Thank you for your consideration.

D. R. WATKINS.

THE MINING INDUSTRY'S CLEAR AND PRESENT DANGER

(By Allen L. Hearst, Western Mining Council, Inc., Sparks, Nev.)

In June of 1959 the sub-committee on Mines and Mining of the House of Representatives of the United States Congress held five days of hearings concerning what they plaintively called "The Depressed Mining and Mineral Industry."

During these five days of public hearings many competent men of the mining industry, at their own expense, gathered in Washington, D.C., to testify as to the conditions in their own particular field of mining.

This Committee, after much soul searching and probably quite a few cocktails, came up with the following statement:

"The great national importance of minerals arises from the fact that they provide the sinews of war and literally the foundation and framework of our industrial structure. Notwithstanding greater efficiency in their use and improved

conservation practices our mineral requirements expand faster than our economy as a whole. Minerals are the source of job opportunities in other industries. Only by guaranteeing the continuing supply of mine products can we hope for full employment needed for National defense. It has been estimated that minerals alone, by reason of the work performed in getting them out of the ground and in transporting and processing them for ultimate consumption, furnish about two-thirds of our national wealth. For example, the iron content of iron ore for which the miner gets only a few cents may be worth dollars a pound by the time it is converted into vital automotive equipment, airplane parts or business machines.

"Historically, the prices of minerals and other basic raw materials have risen rapidly as business activity expanded. Today, although the general economic outlook is favorable and consumption is rising to record levels, the prices of most of the products of the mining industry remain relatively low. When surplus stocks are used up, the facts of excess productive capacity tend to prevent prices from rising above the point at which any but the lowest cost mines can operate economically. Many of our domestic metal mining industries have not benefited at all from the vigorous upturn in the economy.

"The United States, although relatively self-sufficient as recently as 20 years ago, now imports fully half of its mineral requirements. Effective tariffs have been reduced from ad valorem rates of 60 to 80 per cent in the Tariff Act of 1930 to less than 10 per cent. Hourly wage rates have jumped from 65 cents to $2.50 or more.

"Foreign mineral production has expanded greatly. Part of this expansion was generated by American stockpile buying and when this slowed down or was cut back the surplus over current free world requirements continued to seek a market in the United States. Consumption in Europe and other parts of the free world is expanding but has not yet caught up with the large increase in mineral productivity."

The foregoing statement was a good analysis of the problem; the cause of the depressed condition of American mining were concisely outlined; the remedies were clearly inferred. Since this Committee was a duly constituted body of the House of Representatives and fully authorized by the Rules of the House to draw the necessary remedial legislation to correct the conditions, and the members of the Committee delegated to the responsibility to do just that by the Consitution, *why did they not do it?* Why? Why? What reason or force could be so powerful that the selected representatives of our great nation did not even attempt to correct a situation so clearly and forcefully brought to their attention?

From 1775 until 1913 our Nation had given more people more freedom and greater wealth than had any other nation in the history of the world. The rulers of Old World nations looked enviously at the bountiful farm lands stretching from the Atlantic to the Pacific, which produced in such abundance that it supplied the normal trade requirements for over half the world in grain, hides and tallow; the industrialists marveled at a nation which had sufficient copper-lead-zinc-iron-manganese-chrome-tungsten-mercury and all other minerals including coal and oil so that they could at reasonable prices supply the necessities of a better life to all nations; the bankers wondered at a nation that could produce sufficient gold and silver so that its coins commanded premium respect in the markets of the world from Shanghai to London. They wondered, then envied, then sought for ways to acquire that bounty for their own.

New words soon found their way into the American language. Communist and International Bankers were to be found on the printed page. The works of Karl Marx were extensively distributed.

The International Bankers did not seek the limelight and seldom did their names or deeds appear except in the pages of the Congressional Record. By 1896 William Jennings Bryan and others were hinting at a possible rapport between the International Bankers and the Communists, but it was not until 1905 that they learned that while the Kuhn, Loeb and Company, the New York branch of the House of Rothschild was lending money to both the Russians and the Japanese to keep their war going, that Jacob Schiff, the head of Kuhn, Loeb and Company was financing an abortive Communist revolution in Russia to the tune of five million dollars. In 1917 Schiff financed Lenin's revolution against Kerensky at a cost in excess of twenty-eight million dollars.

By 1909 the House of Rockefeller and the House of Rothschild were working together to get the Karl Marx scheme of conquering the United States by a graduated income tax, passed into law by way of the 16th Amendment to the

Constitution. By 1913 they had their men Felix Frankfurter and Colonel E. Mendell House as such close advisers to President Wilson that in December of that year he signed the Federal Reserve Act within 45 minutes after the Speaker of the House had taken the final vote on the matter. The courier down Pennsylvania Avenue from the Capitol was another Rothschild man, Bernard Baruch, another adviser to Presidents.

From the profits gained from the Federal Reserve system during World War I these two monopolies decided to take the World as their oyster but they needed an international organization to do it. The League of Nations was Jacob Schiff's personal triumph, ably abetted by Justice Brandeis, Felix Frankfurter and others. While still at Versailles the Rockefellers and the Rothschilds formed the Foreign Relations Council, in 1919.

By 1950 the United States had gone through three depressions; its citizens had lost their gold; its miners had lost their gold mines, it had given Russia at least fifteen billion dollars in Lend-Lease; had fought World War II; had let Russia steal the secret of the atom bomb; staked the individually owned World Bank to six billion dollars, with much more to come; joined the United Nations; etc., ad infinitum.

In spite of all these troubles and hardships our Nation could "point with pride" to the fact that for the last quarter of a century every Secretary of State and almost all Cabinet members and policy makers in our government had been members of the Foreign Relations Council. In its report for 1949–50 the Foreign Relations Council boasted that it "trains and indoctrinates our Public Officials," (pgs. 39–40, and further on, pgs. 40–43) brags that it "dictates their policies." In 1960 a Superior Court in Atlanta, Georgia, ruled that the Foreign Relations Council was subversive and prohibited any of its published material from being used in school class rooms.

Here are the names of some of the early members of the Council on Foreign Relations:

Bernard Baruch; Sidney Weinberg; Herbert Lehman (the Chicago Tribune of May 29, 1950, stated that these three men were the most powerful men in the United States in that order. Weinberg replaced Baruch after Baruch retired); C. Douglas Dillon; David Rockefeller; Averill Harriman; Alger Hiss; General Lucius Clay; David Lilienthal: Owen Lattimore; Henry Luce; Eugene Meyer; Dean Acheson; Alexander Sachs; John M. Schiff; Robert Oppenheimer; Ralph Bunche; Edward R. Murrow; James B. Conant; Dwight D. Eisenhower; Eugene Black; Eustace Seligman; John Foster Dulles; Benjamin J. Buttenweiser; John J. McCloy; Lewis L. Strauss; plus many others. To find the connection of several of these men with the Communist conspiracy was the object of several Congressional investigations, but of course such investigations have been discontinued and disregarded.

The opening statement from the 1959 Congressional Committee report dealt with mining in general. Now let us look at five specific minerals of our mining economy:

Manganese, so necessary for our steel industry and defense needs;

Zinc, which has earned its way into the strategic category by its use as an alloy in the die casting field;

Lead, a prime necessity in the plumbing, battery and motor fuel industries;

Uranium, a relative newcomer in mineral economics; and

Gold, whose use as a monetary metal has never been challenged except in the United States.

Mr. Marling J. Ankeny, Director of the U.S. Bureau of Mines, while testifying before the House Committee on Appropriations for 1958 stated: "Manganese is perhaps the most critical of all strategic materials. Steel in quantity cannot be made without it; yet the United States normally must import over 90% of its needs." Again in 1959 before the same Committee he spoke out strongly: "Because of its essential use in the production of virtually all steel, manganese is fundamental to the economic and strategic strength of the United States."

Domestic production of commercial manganese was begun in the middle 1880's in Virginia and gradually spread out across the Nation until in 1918 there were 247 producing mines located from New Jersey to California and Alabama to Montana. The following year, 1919, there were only 44 of the 247 manganese producers still mining. The big problem, then as now, was the inability of American producers to compete with the slave labor of Russia and the peon labor of India and Brazil.

As our production of steel increased with our population during the 1920's and 1930's, so did our manganese mines, until by 1934 we had over 200 individual manganese producers in the United States.

On November 17, 1934, President Roosevelt recognized Communist Russia. During December, 1934, and the first three months of 1935 representatives of Amtorg Trading Corporation, a Russian firm, offered American steel manufacturers 50% Mn manganese ore for $1.00 per ton less than they could buy it elsewhere. By October, 1935, Russia was delivering manganese ore to the Pittsburgh and Gary mills for $4.80 per ton, freight and duty paid. The FREIGHT RATE ALONE from either of the ports of Boston or Baltimore to Pittsburgh was $4.96 per ton! There were no Amercian manganese mines producing after July of that year.

When Hitled moved into Russia in the summer of 1940 shipments of Russian manganese were abruptly halted and the cry went out to American miners to get their caved shafts dug out, their drifts retimbered and their mills refurbished in order that they might again supply the American steel industry with an essential ingredient of its process.

During the years 1941–45 over mines in 27 states supplied the needs of our Country and the outlook was favorable for the development of a stable manganese industry in the United States. The Masters of our elected officials said "No." In October, 1944, the War Production Board decreed that after January 1, 1945, there would be no more purchases of manganese ore that carried less than 52% manganese. In spite of the fact that we were still at war with Japan, and needed all the boats available to carry on that war, and that Russia was the only available source of ore of the specified grade and tonnage, the War Production Board enforced the decree.

By March of 1945, only seven manganese mines were still producing in the United States.

In 1947 the 81st Congress passed Public Law 520, the Stockpile Act, and included manganese in the stockpile list. In 1948 they amended it with the BUY AMERICAN clause, which said simply that if the Government of the United States could buy the same grade of material at the same price, then 25% of the stockpile requirements should be purchased from American sources. Up to December 31, 1951, not one pound of American produced metal had been placed in the stockpile.

On June 26, 1950, the North Koreans moved into South Korea. On July 7 of that year Russia notified the United States that there would be no further manganese available. Again the clarion call went forth to American miners. The grade was dropped to 48% and by the time American mines had gotten into production, Brazil was also able to deliver ore of that grade and again American producers were caught in the squeeze of cheap foreign labor.

Another Stockpile Act, of July 7, 1952, was a shot in the arm for the industry, but like a shot in the arm it soon wore off. Domestic producers were allowed to produce for the stockpile only sufficient manganese to fill the rapacious maw of our steel mills for 120 days, and the Stockpile Act was allowed to die before the completion of its assigned grade and tonnage.

The 1969 Statistical Yearbook of the United Nations does not include the United States among the ten leading producers of manganese; but the manganese is still there to be mined.

From the foregoing history of manganese mining in the United States since 1900, do YOU believe that it was just bureaucratic carelessness that that has allowed our domestic manganese production to "wither on the vine?"

Mr. Carson Adkerson, President of the American Manganese Producers Association for many years issued the following statement on July 20, 1960.

"International control of minerals which means 'conservation' or no mining of certain minerals in the U.S. and development of foreign deposits has long been advocated and is now being pressed by a deep-seated group of advisers within the Administration.

"Manufacturers and consumers want raw materials as cheaply as possible. Through Reciprocal Trade Agreements, tariffs on mineral raw material are being traded away and advantages given certain favored companies in the U.S.

"The advisers originally named manganese, oil, tungsten, graphite, chrome, antimony, quicksilver and vanadium as subject to this policy and it is now being extended to include a growing list of other minerals in so-called 'backward' countries.

"This policy plays directly into the hands of international communism. Increasing dependency upon foreign countries for our essential mineral raw materials leads us into increasingly dangerous situations relative to our economic and strategic security.

"Administrations may change and Presidents may come and go but advisers within the agencies, advocating shut-down of domestic mines and development of foreign, continue to shape our domestic and foreign trade policies. If allowed to continue they will mould our destiny."

Mr. Howard I. Young, President, American Zinc, Lead and Smelting Company; in testifying before the Committee on Interior and Insular Affairs of the House of Representatives on June 24, 1959, said in part as follows: "Our Company is currently mining zinc in the United States at the rate of approximately 40,000 tons of recoverable zinc content per year, which is approximately 10% of the U.S. Mine production of zinc. We do not own any foreign mines or smelters.

"The U.S. Tariff Commission in the past few years has twice unanimously found that the lead and zinc mining industry of the United States was suffering due to excess imports of foreign material. . . .

"The problem arises from the fact that with higher costs of labor and materials in this country, most American mines cannot operate at a world price level for their products. . . ."

The story of lead is intermingled with that of zinc because of their metalliferous affinity and the following items taken from the Congressional Record gives a blow by blow description of the so far unsuccessful fight the lead and zinc operators of the U.S. have had with the international communists.

"Early in 1951 the lead-zinc industry advised the Committee on Reciprocity Information against cuts in duty at the forthcoming Torquay meeting. Despite this, the duty on both lead and zinc was cut at Torquay, effective June 6, 1951."

"On September 14, 1953, the lead-zinc industry asked the Tariff Commission for 'escape clause' action under Section 7 of the Trade Agreements Extension Act of 1951."

"On May 21, 1954, the Commission unanimously found for the lead-zinc industry and recommended maximum increase in duties."

"On August 20, 1954, the President declined to implement the recommendations of the Commission." (Dwight D. Eisenhower was President.)

"Three United Nations meetings have been held concerning lead-zinc: in London in September, 1958; in Geneva in November, 1958; and in New York in May, 1959." No affirmative action resulted from any of these meetings.

It was notable in the last quotation that the international communists had been able after eight years to force an American industry to sit down in a United Nations poker game where as we all know the cards are consistently stacked against Americans.

Uranium is a newcomer to the field of economic mining, but probably more research has been directed to the uranium atom and its uses than to all of the rest of the atoms put together. The Atomic Energy Commission was set up in 1946 to handle all fissionable materials. In 1947 it offered a bonus for the discovery of new deposits of uranium ore of a stated grade. This bonus stimulated a search for the ore in some ways comparable to the early gold rush. So much ore was discovered that by 1954 the bonus offer was withdrawn. Beneficiation plans to handle and process these ores were set up at several points in the Nation. In 1958 a cautious statement from the A.E.C. indicated that we had mineable reserves of uranium ore to meet all foreseeable demands for the next two or three hundred years.

During 1960 the Commission failed to renew and in some cases cancelled all production contracts for uranium ore except a very few whose total output would not exceed 3% of our annual requirements.

Shortly after Admiral Lewis L. Strauss resigned as Chairman of the Atomic Energy Commission it was announced that contracts had been signed for 97% of the anticipated production needs of uranium products for the next forty years, with Rothschild controlled mining companies in Canada and Africa. Mr. Strauss before coming with the government had been head of Kuhn, Loeb and Company, the Rothschild branch in New York City; he is also a member of the Council on Foreign Relations. In 1959 the U.S. Senate failed to confirm him as Secretary of Commerce.

Uranium is not even mentioned in the minerals section of the New York Times Encyclopedic Alamanac of 1970.

The last metal to be considered here is gold. Few people in the mining and the business world are ignorant of our monetary gold problem. A few are familiar

with Limitation Order No. 208 issued in January, 1942, by which gold mines in the United States and its possessions were denied the priorities necessary for the men and materials to operate. For the first time in history a nation shut down its gold mines in time of war. And many people are unaware that Order P–56 was issued on September 21, 1941, three months before Pearl Harbor, shutting down the placer mines of the Nation.

That gold has been used for countless centuries as a medium of exchange in commerce and as the principal asset in personal fortunes has been well recorded. The popularity of this yellow metal for these purposes was due in large measure to its physical characteristics of being relatively immune to change by fire, freezing, or immersion in ordinary acids. The rarity of its occurrence in the earth's crust in comparison to other native metals like silver, tin, or copper, enhanced its value as a medium of exchange.

Gold's ability to give its owner personal power over people and nations, as well as its ability to procure any desired material comfort has caused a parade of infamous characters to wind their way on and off the ever-changing stage of history. From Jason, with his cutlassed crew of the famed ship Argo, pillaging the gold filled fleeces of the sluice boxes of the Soanes in the Valley of the Colchis, to Pizarro's emasculation of the Empire of the Incas by the removal of their golden treasures, to the twenty-seven men that seated themselves around the conference table at Bretton Woods, New Hampshire, on July 1, 1944, and planned world domination by the control of the world's supply of gold, we have witnessed the evil that comes from man's desire for physical control of the destinies of other men.

From the beginning of recorded history until late in the 18th Century, the major portion of all gold in circulation had been recovered from primitive placer operations. There is no record, barring the Alchemists of the Middle Ages, of the smelting of ores to recover its gold content or securing it from the furnaces of ancient copper and lead smelting operations. We read in the writings of Heredotus of the recovery of gold from lake mud by virgins using hawk feathers daubed with pitch. Early sanskrit writings speak of the recovery of gold from the sands of Moab.

Mint records show gold production in North Carolina as early as 1793; gold mining as a productive enterprise in the modern world may be said to have its inception with the finding of a fair sized nugget at the Reed Mine in North Carolina in 1799. Until 1828, North Carolina is the only state listed by the United States Mint as a producer of gold, and the total production in that 30 year period was limited to $100,000. However, gold had been discovered in Alabama, Georgia, and Virginia, and by 1833 their total production was approximately $1,000,000 a year.

In 1836, it became apparent that the United States would become a gold producing nation and Congress that year directed the erection of mints at Dahlonega, Georgia, Charlotte, North Carolina, and New Orleans, Louisiana. The mint at Dahlonega became the first mint (1837) established in the United States for the sole purpose of minting gold coin.

In the West, apparently the first American to mine for gold was Jeddediah Smith in the Mono Lake Basin of California in 1825, from which he took gold ". . . in quantities, and brought much of it to the encampment on the Green River." Actual commercial mining of gold in California was begun in the Santa Feliciana Canyon outside Los Angeles, on March 9, 1842. By December, 1843, Manuel Castanares, the California Deputy in the Mexican Congress reported, "There are in circulation in Los Angeles above two thousand ounces of placer gold, most of it destined to go to the United States." By 1860, more than half a million men were working on the hills and in the gluches of the Western States. The outpouring of gold from the east slope of the Rockies to the Mother Lode in California, from Confederate Gulch in Montana to the Comstock in Nevada, not only made possible the Union victory in the Civil War but also established the value of the United States dollar in World trade.

The goldsmiths of the Old World looked askance at the brash young nation producing more gold each succeeding year than the World had ever known. To add insult to injury the nation was issuing its own currency and coining its own money!

But there was more to come. In a rather orderly procession the gold producing areas of our great country began adding their wealth to the young Nation. Improvement in metallurgical processes allowed the recovery of gold contained in base metal ores. The recovery of this value brought added reserves of copper, lead, and zinc to the mineral wealth of the Nation. From 1929 through 1934 the

State of California alone produced more ounces of gold than all other gold producing areas of the World outside the United States and her possessions.

In 1933, forces inimical to our great Nation and its freedoms for the individual moved into the gold picture of our Country. The treason committed by Executive Decree in 1933, which wrested from individuals their precious right of ownership of gold and the security it offered, was overlooked by the increase in the World price of gold. But the value of the increase was short lived, for on January 17, 1942, the United States government did something that no other nation in history has ever done, before or since. Under the guise of conserving essential steel and manpower the War Production Board, after consultation with Harry Dexter White, Under Secretary of the Treasury and a self-admitted communist, issued Limitation Order No. 208, which denied priority ratings to all mines whose principal product was gold. Within 90 days gold production in the United States dropped to 15% of its 1941 production rate.

In spite of the hue and cry about saving steel and manpower by closing down our gold mines, in the year 1942 the United States government shipped to Russia over 35 million dollars worth of gold mining and milling equipment.

With the end of World War II in 1945, inflation had taken its first cut out of the $35.00 per ounce price of gold. Their shafts filled with water, their experienced miners and mill men scattered to the four winds, only a few miners made the abortive effort to reopen the treasure houses so ruthlessly stolen from them by their own government.

As an industry, mining has never received subsidies. As long as the miners remained free, they had met every challenge put to them. Originally they set up their own rules and for seventy years the Mining Law of 1872 represented the simple codification of these rules. They do not want subsidies or bureaucratic controls now.

The first and only statement of policy for mining on public lands up to 1945, was made in 1850 by General R. F. Smith, Commander of the Pacific Division, when he said that "While the mines were on public lands and belonged to the government of the United States he deemed it neither the policy of the government nor the wish of the people of the United States to eject the diggers, because of the benefit done to general trade by the diffusion of the precious metal."

There does not seem to be a reasonable doubt that a conspiracy of major proportions exists, spawned by alien ideologists, augmented by the tax free wealth of the great foundations, and espoused in public by so-called intellectuals that seem to be without intellect, to destroy gold mining in particular and at least restrict if not completely eliminate the mining of other metals from known deposits in our Nation.

In the opinion of many this conspiracy has been carefully planned to prevent the discovery of new ore bodies or their development, except by the privileged. Since 1949 there has been a spate of so-called Wilderness Bills. Most of the authors and many of the sponsors of these bills either are now or have been members of the Council on Foreign Relations.

It has long been an accepted economic fact that there is only one source of wealth in the World. That is the production of natural resources from the farms, the timberlands or the mines. The creation of wilderness areas removes immediately these areas as sources of wealth and economic growth. The counties involved suffer from the lack of payrolls to support the citizens, and from the lack of the taxable base of industries, any propaganda by government agencies notwithstanding.

In 1951 the Rothschild-Rockefeller controlled Ford Foundation got into the act by holding a plush conference at the Shoreham Hotel in Washington, D.C., which they grandiosely called "The Mid Century Conference on Resources of the Future." About 150 mining men were invited to attend the Non-Fuels Minerals Section of the Conference. The problem they were given to solve was how to correct the depressed condition of American mining. But they were told quite frankly that they could not suggest either the use of protective tariffs or an increase in the price of gold. A few of the men simply walked out of the conference at that point.

As a result of that conference one of the most diabolical laws ever passed by our Congress was placed upon the books. It was Public Law 167, known even to several Congressmen today as the Grab Act. By the use of ex post facto Administrative Orders it has proceeded rapidly to destroy the mining industry on the public domain.

The miners are not the only ones that have been hurt by Public Law 167. Ask the cattlemen about their problems with permits for summer grazing. Ask the lumbermen what their troubles have been with Public Law 167.

Some years ago Judge Learned Hand, in sustaining a conviction secured against a group charged with subversive activity, said in effect that the Government could move against such activity BEFORE an overt act was committed, provided that the Government could prove a clear and present danger.

We the people are the Government, and if a majority of us feel that there is now a clear and present danger to our Nation, to our State and to our community we should take action. As Americans it is our privilege, and as Americans it is our duty.

The members of Western Mining Council insist that Congress recover its assigned obligation to levy tariffs and duties on imported material.

The members of Western Mining Council insist that Congress retrieve the United States from the grasp of the United Nations, the World Bank and International Monetary Fund, and further that Congress forthwith assume its assigned Constitutional duty "to coin money and regulate the value thereof."

All laws affecting mining that are in conflict with Title XXX of the U.S. Code as of January 1, 1930, must be repealed; and the adoption of further restrictive legislation aimed toward changing the Mining Laws of 1872 must be prevented.

Recent claims that gold is only a "political football" bring into sharp focus the fact that the struggle in the World arena today is between two conflicting ideologies; and that the key to control is the ability of the United States to produce its own sustenance. Let us not throw away our key to freedom.

It is well known that the mining industry of our nation for the most part lies dormant. It must be revitalized. This revitalization can be brought into being if the Congress will honor the Mining Laws of 1872 without change or deletion.

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