

CONCLUSION

The requisites for the development of oil shale are clearly present. Capital, technology and manpower await the "go-ahead." Only the formulation of a national oil shale policy is lacking, and now Congress should provide for that lack.

Today the federal government holds a "monopoly" in leasable oil shale lands. The legislation of leasing procedures for these lands will, in effect, be a description of the terms by which this monopoly will be exercised. The federal government in its capacity as oil shale landlord has the present potentiality for becoming "Big Government" in the ugliest sense of the word.

But this need not be the case. Congress, with the cooperation of the Department of the Interior and interested representatives of private enterprise, has the authority and the ability to balance carefully the best interests of all parties to the present oil shale controversy. If the balancing is properly done, a policy will be forthcoming which is "national" rather than "federal" in character to the extent that it best provides for the "national interest."

The basic question which confronts those who would attempt to formulate a national policy for the development of oil shale should not be whether the federal government should reserve oil shale lands for public, as opposed to private, development. The capital expenditure for research and commercial production by the Colony Development Co. is evidence that private enterprise is already committed to the economic feasibility of private development. Further, in the light of the traditional technological superiority of private industry in this country, future shale oil production will best be done by our private mining, chemical and petroleum industries. To argue otherwise would be to make a basic departure from the principles of capitalism.

The first basic policy question which must be answered is, "When and under what terms for the distribution of revenues (*i.e.*, income taxes, rents, royalties, bonuses, etc.) will private industry be allowed to compete for the leasing of publicly owned oil shale lands?" Boiled down, the question becomes one of timing and of dollars. Ultimately, it is the market place which will best determine the adequacy of the answers given to this first policy question. For if the revenue terms are set so as to prohibit the competition of shale oils in the market place, or if leasing is not allowed at a time when there is a market demand for the product, then the value of this resource will have been lost and the national interest defeated.

The second basic policy question concerns government control. Assuming that the first policy question has been answered by the implementation of competitive leasing procedures and fair revenue distribution terms, then the remaining policy question asks, "Under what forms and degrees of government control will the production of oil shale be allowed?" Here the national interest is not so susceptible to testing in the market place. For here government controls will affect such areas as conservation, national security, social well-being and world peace—areas where an economic evaluation is often impossible. The success or failure of the national policy touching these areas will only ultimately be tested by historical judgment.

The days of the free-miner tradition have passed. In 1935,¹³¹ the last of the public domain in the United States was closed to entry prior to classification under the homestead laws. Thus was marked the passing of the American Frontier, an institution which had been celebrated by Frederick Jackson Turner and his disciples as the "world's greatest instrument of democracy." To others, its passing was a sign that "America had come of age."¹³²

The formulation and carrying forward of a national oil shale policy could well evoke like reactions in the days ahead. To some, it may spell the end of "freedom" within the oil industry. Others may recognize it as a new industry's "coming of age." But no matter what the reaction to that policy may be, its determination is best left to the legislative forum. While it can be said that a political and economic climate favorable to the development of oil shale has been lacking in the past, it is hoped that such a climate is now improving. No one of the numerous administrative problems confronting the development of

¹³¹ By Executive Orders of Franklin Roosevelt, Nov. 26, 1934, and Feb. 5, 1935, based upon authority for such withdrawal found in the Act of June 25, 1910, established a National Conservation Program (36 Stat. 961 (1910)). Coupled with the above mentioned Executive Orders was the Taylor Grazing Act of 1934 (48 Stat. 1269 as amended (1934), 43 U.S.C. § 315 (1964)).

¹³² ROBBINS, OUR LANDED HERITAGE 423 (1962).