Under the Multiple Mineral Development Act of 1954, mining operations pursuant to rights under any patented or unpatented claims must "be conducted, so far as reasonably practicable, in a manner which will avoid damage to any known deposit of a Leasing Act mineral."

The problem is that there may be no "practicable" manner in which the claimants can do this. Geological evidence appears to indicate that the dawsonite and other minerals which form the basis of these claims is interspersed within the oil shale deposits and that there can be no exploitation of the one without a disturbance of the other. While this fact may prevent the claimants from disturbing the oil shale, it may also prevent the government from granting leases which would disregard the rights of the claimants to the other mineral substances. Mr. Zweifel has clearly put the government on notice that this is his position. Whatever the legal merit of this position, it is another matter which could occupy the Courts for years to come to the detriment of prompt advancement in the development of oil shale technology.

One tempting possibility might eliminate these problems. Responsible applicants for leases under the Secretary's proposed leasing policy could purchase the claims of Mr. Zweifel or other of the 1966 claimants, or they could enter into a cooperative association with such persons in the submission of leasing proposals. The absence of the possibility of legal controversies which would attend such an application might make it more attractive to the Department than alternate propoals which would involve the probability of extensive litigation. Thus, these claims, which the Department apparently feels are largely invalid could form the basis of an unfair advantage in securing a lease. Since one of the announced purposes of the leasing proposals is to prevent speculation and windfall profits, this possibility ought to be prevented by prompt and effective action against the 1966 claims. Even more important, the primary purpose of the regulations is to foster improved oil shale technology, and the inclusion of such extraneous factors as the avoidance of litigation cannot but blur the focus on this primary goal.

Action to eliminate these 1966 claims as clouds upon the title to public lands must be taken now!

It must be taken in order to facilitate the Secretary's leasing proposals, if they are to be issued, but even more important, because a failure to take such action could result in the loss of evidence, the death and departure of witnesses and perhaps, in the ultimate grant of patents to claimants or their ultimate assignees in instances where such issuance is unjustified and could be prevented by prompt action.

The action must be such as will permanently bar the claimants from further consideration.

This Committee is fully aware that in the past apparently final departmental action has proved to be not final at all, and that claims long regarded as defunct have been revived to plague the Department, the Congress and the Courts and to delay the making of necessary decisions regarding the development of oil shale.

If a program is undertaken by the Department to determine the validity of the new claims and to eliminate those which are not valid, it is forseeable that it will cost a considerable sum. The effort would involve salaries of mining engineers to make field examinations of claims, the cost of assays, the cost of legal review, stenographic costs and the costs of hearing, including salaries of court reporters, hearing examiners and other personnel. If the claimants are adequately financed, the costs will inevitably rise as appeals are taken. Assuming a cost in round figures of $300 to $500 per claim, the possible costs of such a program could involve millions of dollars. The cost of service alone would be staggering as compared to almost any other kind of litigation.

And yet, unless something is done, the Secretary's leasing proposals and the whole future of orderly oil shale development may be stalled. If it is true that metalliferous substances forming the basis of the new claims are intermixed with the oil shale deposits, the new claimants, even on unpatented claims, will be in position to assert that they are full partners in the oil shale deposits with the United States. Pursuant to the Chairman's instructions, I shall not venture an opinion on the validity or invalidity of these claims. Whether valid or not, however, they constitute a cloud until eliminated which may force the Department to delay development or to grant claimants a priority of consideration in leasing arrangements or to force responsible applicants into cooperative arrangements which they would not otherwise enter.

I suggest that there is an alternative to contesting these claims, although if this suggested course is rejected, the claims should be contested vigorously and