at once. I recommend the legislative taking of these lands. That is that the Congress enact legislation divesting the claimants of their claims. I believe this could be consitutionally accomplished if adequate arrangements for the payment of the just value of the claims were made. Certainly it cannot be contended that such a taking is unrelated to a valid public purpose, the orderly development of the oil shale resources of the United States.

Such a legislative taking would have a number of advantages:

It would eliminate the clouds on the title to the lands involved immediately. Even if the litigation as to the validity and value of the claims was thereafter protracted it would not occasion a delay in development.

It would destroy the bargaining position of the claimants who have, at least in Mr. Zweifel's case, plainly stated their intention to produce a stalemate. As already indicated, such a stalemate could give decisive leverage to claimants even if the claims are invalid since their invalidity could be proved only after they have been given their day in court. If the only matter to be litigated is the value of the claim, if any, it is likely that the least promising claims will be abandoned by the claimants rather than incur the costs of litigation.

It would be less expensive than government instituted contest proceedings. Since the destruction of the bargaining position of claimants would discourage prosecution of valueless claims, there would be fewer cases to be decided and proportionately fewer costs to pay.

It would prevent any appreciation in the value of the claims. To contest the claims directly would involve inevitable delays. To take the lands by statute would involve one quick stroke preventing any appreciation in the values involved.

I would suggest that the statute encompass all lands included in Executive Order No. 5327 of April 15, 1930. I would further suggest that the claimants be given six months from the effective date of the act in which to file claims for payment of just compensation. If the claimants have made valid discoveries and if they have complied with the mining laws in establishing their claims, it should not be difficult for them to submit the proof of these facts in that time. The claims might be appropriately filed in the Court of Claims, although it is possible that it has too few personnel and too little experience in such matters. If so, the claimants could present their claims to the Department of the Interior itself which surely has the experience and the personnel to process the claims. Appeals from adverse determinations of the Department could be taken to the Courts as is presently done.

Unless some such action is promptly taken, I fear that the Secretary may not be able to locate 30,000 unclouded acres of public land to lease. Even if this much land is available at present, the choice of sites would be narrowly circumscribed unless remedial action to expunge the 1966 claims is taken.

That such action is necessary because of the inexplicable delay of the Secretary to issue the withdrawal order is beyond dispute. I would hope that this Committee would inquire of the Secretary as to the reason for the delay. Such inquiries are not suggested for the purpose of affixing blame for what appears to be a lamentable lapse of vigilance, but rather to assure the Congress and the American people that the Department's procedures are sufficiently thorough to protect the public interest. I confess to some misgiving with reference to the leasing proposals when I consider the lack of prompt and effective response to the greatest flood of placer mining claims in the history of the nation. Everyone interested in minerals in the areas affected knew of the filing of these 1966 claims while they were yet in progress. The Secretary ultimately confessed the propriety of withdrawal by the issuance of the order. Yet, when finally issued, the withdrawal had the same effect as locking the barn door after the horse was stolen.

In his testimony before this Committee on May 12, 1965, Undersecretary Carver properly pointed out:

". . . the oil shale leasing sections of the Mineral Leasing Act, section 241 of title 30 of the United States Code, leave enormous discretion to the Secretary of the Interior. He receives, in that act, no help from the Congress on the size of the lease, save that it must be less than 5,120 acres. That much acreage potentially can be staggering in its reserves. . . . Forty acres on some of these beds . . . could run into the billions of barrels . . ." Page 33.

At the same hearing Senator Gaylord Nelson asked:

"So under this leasing authority the Secretary in his discretion may lease to one lessee the equivalent of what would amount to 18 billion barrels of oil equivalent from the shale on a 5,120 acre plot?