

Identification of the responsibility of each agency to further such development was our goal. In the analyses extensive consideration was given to the place of oil shale in relation to water power, to oil and gas, to fissionable source materials, and to other energy sources.

Very early I forcibly learned that long before my exposure to oil shale problems in 1947, extensive studies and action programs had been developed in that field.

Passage of the Mineral Leasing Act of 1920⁵ recognized extensive prior mining claim activity, and included language allowing prior located oil shale claims to be perfected thereafter "including discovery." There were the regulations for oil shale leasing issued in the 1920's.⁶ There were the records of relinquishments, also in the early 1920's, made by some mining claimants in return for the promise of preference leases as provided by law.⁷ Some relinquishments had been accepted and at least in some cases recorded; the preference leases to this day have not been issued and conceivably may still be pending. There were the *New York World* articles of about 1928 by a General Land Office Regional Field Examiner crying out against the acquisition of oil shale claims by large oil companies as being improperly monopolistic.⁸ The 1930 Executive Order withdrew and reserved designated shale lands, subject to valid existing rights, for investigations, examinations, and classification.⁹ Then came the Interior Department's abortive efforts to cancel hundreds of oil shale claims on the theory that assessment work had to be kept current on such claims or the claims would become invalid.¹⁰ Next came the two Supreme Court cases repudiating the departmental attempt.¹¹ Later there was the Shale Oil Company ruling wherein the Department "reversed" previous rulings that were contrary to the later Supreme Court ruling.¹² I also recall seeing departmental correspondence indicating no reinstatement need be made of claims previously declared null and void for lack of assessment work. Even more directly indicating the significance of the "reversed" ruling was the subsequent issuance of patents to thousands of acres of claims. Many of these claims were of the class which the Department's Solicitor of 1964 was to rule,¹³ contrary to the actions of contemporary officials and, despite the Supreme Court rulings,¹⁴ were null and void at the time of various administrative decisions of the late 1920's and early 1930's. Probably most impressive to me was the large number of dedicated mining men who had sunk every available dollar into developing and retaining and patenting oil shale claims. Even then sons of those original pioneers were succeeding to the struggle as the original pioneers began to die off. Today only a few of those original dedicated working dreamers still survive. Neither they nor we public officials of those days knew nor suspected that their claims were then null and void for procedural reasons and that the revelation¹⁵ would be forthcoming in 1964, notwithstanding the even then "long established administrative practices."

There is no need here to elaborate further on these matters. They are mentioned as background and because it is always a source of amazement to learn one's efforts are not an initiation of new ideas and actions, but only a continuation and only a relatively small part of many extensive contributions by others. Here, as many times before and since, it was impressed upon me how essential is a full factual background for sound decisions.

By April of 1963 it was reported that new oil shale regulations would be issued soon. Newspaper articles attributing such statements to responsible Interior officials appeared in August 1963.¹⁶ Some deterring problems seem to

⁵ 41 Stat. 437, 451 (1920) as amended, 30 U.S.C. § 193 (1965).
⁶ Circ. 1220, June 9, 1920 (53 Interior Dec. 127; 43 C.F.R., part 197 (1965).)

⁷ 41 Stat. 445 (1920), 30 U.S.C. § 241 (1965).

⁸ "Statement of Under Secretary of the Interior, John A. Carver, Jr. Before the Senate Committee on Interior and Insular Affairs concerning Oil Shale, May 12, 1965," mimeographed copy, page 4, referring to 1931 hearings of the Senate Committee on Public Lands and Surveys to Senate Resolutions 379, 71st Congress, and to other historical events regarding oil shale.

⁹ Exec. Order No. 5327, April 15, 1930.

¹⁰ The BLM Land Offices of Colorado, Utah, and presumably Wyoming, may still have the land files and references to the land and file designations of the numerous actions initiated.

¹¹ *Ikles v. Virginia Colo. Dev. Corp.*, 295 U.S. 639 (1935); *Wilbur v. Krushnic*, 280 U.S. 306 (1930).

¹² *The Federal Shale Oil Co.*, 55 Interior Dec. 287 (1935).

¹³ *Union Oil Co. of Cal.*, A-29560 (April 17, 1964), 71 Interior Dec. 169 (1964); later supplemented as to "adequacy of service" elements by the Solicitor's Opinion, A-29560-A (July 3, 1965).

¹⁴ Cases cited note 11 *supra*.

¹⁵ *Union Oil Co. of Cal.*, 71 Interior Dec. 169 (1964).

¹⁶ See e.g., Bernick, *Up and Down the Street: Interior Eyes New Rules for Oil Shale*, Salt Lake City Tribune, Aug. 25, 1963.