

1. Secretary Udall refused to guide us to pre-determined conclusions. He invited and incited diverse opinions. He deliberately forced us to open any new problems we found necessary.

2. It is remarkable that as much was accomplished as was. The delineations of basic conflicting philosophies was an accomplishment. Reconciliation of them might have been possible with more time.

3. Had members of this Board been willing to lend their names to a staff study prepared for them, a less controversial report might have resulted. Not one would have done so, and Secretary Udall and Assistant Secretary Kelly were not parties to any pressures in that direction.

4. Joseph Fisher, in the unenviable job of chairman, did a tremendous job in gaining as much consensus as was obtained. Without his firm conference guidance and unflagging efforts to reduce our discussions to written form acceptable to us, there might have been no consensus report at all.

5. All of us, and probably the chairman most of all, would have welcomed several "head-knocking" sessions, beginning where we ended, to factor out facts and issues.

6. Such sessions could have hammered out "findings-of-fact" and "definitions." Such "definitions" clearly stated would have minimized differences arising from words apparently common but actually pregnant with different meaning to each of us. Such "findings-of-fact" would have restricted the reliance and emphasis by each of us on the beliefs and half-truths not agreed upon but drawn upon from the widely divergent backgrounds of the six board members. Without these common grounds of understanding and the limits fixed by them, no agreement could be reached.

7. No group could have been more unalterably dedicated to our national public interest, nor more concerned with an effort to be fair toward all segments of our society. We differed on methods, on some factual conclusions, on time-tables of urgency—they were honest differences. No one could be more privileged than was I in testing my principles and beliefs against such fine minds, splendid gentlemen, and principled Americans. My appreciation of the need for and the importance of the democratic process is reaffirmed; my respect for those with whom I differ is enhanced; my desire to continue exploring those differences in search of fundamental truths is burning even more brightly.

8. But even had we been able to "head-knock" in to common recommendation, we still were only "Advisory." The burden of decision and the full responsibility rest directly on the Secretary of the Interior. His concerns are multitude, the pressures of a many-faceted public interest unending. As one of us six majority opinion writers said to Stewart Udall after the report had been made public: "Each of us had definite views on what you should do, but not one of us was certain that he would follow that advice were he sitting in your place."

Consistent with all those conclusions and specifically without necessarily dissenting from the last, my mind turns to an old and wise sailor's remark: "Even the best pilot and navigator can not steer a drifting ship." My views in the separate "majority" opinion remain the same:

No proven public interest precludes development. There is a national urgency requiring that we commence. To wait too long may waste all or part of the vast oil shale reserves as its place in energy history is passed by and we go on to other energy sources. Ample precedents for protecting all aspects of public interest are available and workable. Failing to give private capital a chance to try is wasting three great resources: The ingenuity of private enterprise, revenue from rentals and from the tax base of new capital assets, and possibly the shale resource itself."

Development of a viable oil shale industry faces many problems. Until we face them, those problems will not be solved. Objections to every proposed solution will continue to proliferate. Positive losses from delay are far more damaging to our national interests than possible losses from mistakes in proceeding.

The Oil Shale Advisory Board had to stop before it finished. At least it found that opening federal oil shale reserves need not be detrimental to the national interests and that keeping them locked up may be.