

COMPETITIVE OR GOVERNMENT CONTROLLED TECHNOLOGY

The proposed regulation, if it ever became effective would tend to vest control of oil shale technology in the Federal government. Is this intended? If so, we are unalterably opposed because we do not believe it to be in the public interest.

If the purpose of the clauses relating to disclosure and patents is to provide government with the knowledge to administer the Federal oil shale lands there are other better ways this can be accomplished. Holders of mineral leases routinely make confidential disclosures of information to the Geological Survey. If research results and other data obtained by the oil shale lessee should be required by the government a similar procedure should be followed.

If the objective of government control of the technology is to promote competition by providing everyone with the same processes on an equal basis, this logic is questionable and ignores other important factors in establishing competition. Perhaps the most significant is the competitive aspect of technology itself. Proprietary technology arising from independent research by competing organizations probably is the most powerful competitive force in our economy today. To eliminate or dull it, to remove the fear that a competitor may devise a "better mousetrap" makes for a complacent technology.

The coal and cement industries today and synthetic rubber under government ownership are classical examples of industries without strong proprietary research. The amazing improvement in the competitive position of synthetic rubber after the establishment of private ownership also is classic.

There is no fear in our minds that any one inventor or any one company will obtain a technological hammer-lock on the oil shale industry. The history of the petroleum industry has been one of successive invention and innovation. Seldom has one process or method been supreme for more than a few months or at most a few years. There is no reason to expect this pattern to change in the oil shale industry if competitive forces are allowed to act.

We have mentioned previously that financially strong technologically oriented companies will form the oil shale industry. There should be no concern that such organizations will need Federal assistance to acquire technology. And if an operator chooses not to develop his own technology he can buy it. Many research-minded companies derive significant income from licensing patents and know-how. In the case of oil shale the processes now being developed are available under license.

We hope those parts of the regulation dealing with disclosure and patents will be changed to promote a proprietary competitive technology. If changes are not made the regulation will not be effective for any purpose because it will not be used. We do not believe any company or group of companies will finance research under terms that require complete disclosure and the assignment of patents for use by competitors. As we interpret the regulation, the lessee could not even practice his own technology without authorization from the Secretary of the Interior.

Even if the research contemplated were financed by the government as has been proposed by Galbraith the technology so developed is likely to be mediocre and certainly less viable than that resulting from competition. And there is no cause for the government to spend tax money for such a purpose until and unless it is established that private funds are not available.

The following are specific recommendations regarding the various aspects of research, disclosure, patents and technology:

1. Limit government ownership of patents to instances where direct government expenditures are involved; however, aim government-sponsored research at subjects of industry-wide concern such as conservation, waste disposal resource studies, and chemical-physical data.
2. Provide in the lease for the confidential disclosure of research results and other data needed by the Department for the wise administration of the resource.
3. As noted previously give the lessee wide latitude in the planning and execution or research.

ROYALTY—THE CASE FOR MODERATION

The royalty provision of the proposed leasing regulation is unique and discriminatory—it will discourage shale oil production from the Federal lands. If a graduated net profit royalty has merit it should be applied uniformly to all minerals, especially to the fuel minerals with which shale oil must compete.