

timately mixed with oil shale." While the trona beds are relatively clean there do appear, however, to be oil shale seams immediately adjacent to trona seams. Even if these are of poor quality and not commercially significant, it cannot be said that trona mining "would not adversely affect in any significant way the oil shale values of the lands".

It may be suggested that the quoted language should not be as narrowly construed as we have suggested; that it really is intended to safeguard the Wyoming trona development; that it places the matter in the hands of and at the discretion of the Department of the Interior; and that we should be satisfied to rely thereon.

The answer to this is several fold:

(1) While we might have the assurances of this administration of the Department of Interior, subsequent administrations might take a different view;

(2) Prudent management dictates that multi-million dollar investments should not be made in the face of known legal uncertainties, particularly when, as here, those uncertainties could be eliminated now;

(3) The present state of technical knowledge covering oil shale is too uncertain to sustain the burden of proof, imposed by the proposed withdrawal, that trona mining "would not adversely affect in any significant way the oil shale values of the lands".

(4) The United States Supreme Court has warned: "Men must turn square corners when they deal with the Government." (*Federal Crop Ins. Corp. v. Merrill*, 332 U.S. 380 at 385 (1947), per Mr. Justice Frankfurter quoting from an earlier decision by Justice Holmes.) If the farmer who was advised by a government agency that his crop was insured couldn't win the sympathy of our highest court when his crop was destroyed and he sought to collect on his insurance because the particular type of insurance violated a Department of Agriculture regulation, then we doubt whether a major corporation—in somewhat analogous circumstances—could do so.

It is suggested, therefore, that sodium leasing in the limited Sweetwater County, Wyoming trona area should not be affected in any way by the proposed oil shale withdrawal but should be explicitly excluded therefrom. In that small area the development of the oil shale should only be permitted if it "would not adversely affect in any significant way the sodium (trona) values of the lands." This would put the relative values in proper order and would not put the development of an existing and commercially significant industry at the mercy of a speculative future industry. If oil shale development is performed in the Wyoming trona area even in oil shale beds at levels not immediately adjacent to the trona beds, retorting and blasting in connection therewith might seriously adversely affect the development of the trona resources. Conversely, the conventional mining methods used to recover trona would not seriously interfere with future oil shale recovery of deposits at levels not immediately adjacent to trona beds.

The effect of our suggestion would be to permit the continuation of the burgeoning natural soda ash industry in Wyoming without penalty to the oil shale development. Experimentation could be carried on in Colorado, Utah and even in Wyoming, and at the same time the oil shales in the limited Wyoming trona area to the extent not permitted to be exploited because it might interfere with the trona development would be reserved to the federal government and preserved except to the minor extent that trona mining would interfere with the probably non-commercially significant oil shales immediately adjacent to the commercially operable trona beds.

Finally, it should be noted that the proposed exclusion: (1) only concerns trona and not the other sodium minerals such as dawsonite; (2) is limited to the narrow area of Sweetwater County, Wyoming and does not include Colorado or Utah; and (3) embraces only the prime trona area in Wyoming, not the entire trona area.

Such an exclusion would thus not interfere, for example, with the Piceance Creek basin in Colorado where dawsonite is intimately mixed with oil shale.

CONCLUSION

We trust that this letter demonstrates that with only slight modifications the proposed oil shale withdrawal program can be fully achieved without interfering with the commercially successful production of natural soda ash in Wyoming.