

IV. HISTORY OF THE WILDERNESS ACT

A number of wilderness bills were introduced in Congress between 1957 and 1964, of which the major bills were S. 174 (1961), H.R. 776 (1962), S. 4 (1963), and H.R. 9070 (1964).

Throughout the history of wilderness legislation, there was considerable conflict as to the treatment of mineral development within primitive and wilderness areas.

Some conservationists desired a complete prohibition against mineral development, whereas commercial interests recommended the multiple-use concept of utilizing the resources of wilderness areas.

Wilderness bills previously referred to presented two compromise solutions to this question:

(1) Section 6(c)(2) of S. 174 would have allowed the President to authorize prospecting, mining, and mineral leasing in wilderness areas if he thought such use would better serve the interests of the United States and the people thereof than would its denial, and

(2) Section 4(d)(3) of the final form of the Wilderness Act permitted the application of the mining and mineral leasing laws to wilderness areas for a 20-year period.

After conference on S. 4 the present section 4(d)(3) was agreed upon, and the Wilderness Act became effective on September 3, 1964. The conferees rejected the concept of a complete prohibition against mineral development and leaving mineral development to Presidential discretion, and chose to permit mineral leasing and mining development for a period terminating December 31, 1983.

V. DISCUSSION OF THE ACT

Section 4(d) of the Wilderness Act was designed to allow the executive agencies and private industry sufficient time to explore primitive and wilderness areas and either develop substantial mineral values or condemn the areas for mineral development, so that after December 31, 1983, wilderness areas which had not demonstrated mineral potential would be absolutely withdrawn from the application of mining laws and the mineral leasing acts.

The current interpretation by the executive agencies of the provisions of section 4(d)(3) will result in wilderness and primitive areas never being tested or meaningfully explored for oil and gas by private industry as Congress intended.

The agencies have interpreted the Wilderness Act as if the above mentioned section 6(c)(2) had remained in the Wilderness Act and not section 4(d)(3).

The discretionary power which section 6(c)(2) would have given to the President to allow or not to allow mineral leasing is now being exercised by the agencies.

This leads to the untenable result that the Secretaries of Agriculture and Interior are exercising the same authority which Congress had expressly refused to grant to the President.

We have been advised that the agencies are basing their discretionary authority on the language in section 4(d)(3) which states that the laws pertaining to mineral leasing shall extend to those national forest areas designated by the act as wilderness areas to the same extent as applicable prior to the effective date of this act.