Their theory as to the above-quoted language is that as the policy of the agencies prior to the Wilderness Act was to not permit leasing in wilderness areas, the Wilderness Act perpetuates this policy.

There is nothing in the history of the act to support this theory, and it is perfectly clear that the Wilderness Act was intended to change this leasing policy and to authorize exploration to either develop or condemn wilderness areas for mineral values during a limited period of time.

In answer to the executive agencies' theory, the only logical interpretation of the quoted language is that it has reference to areas within the wilderness areas in national forests that were subject to specific withdrawals from the mining and mineral leasing laws by act of Congress or otherwise prior to the date of the Wilderness Act.

In order to prevent section 4(d)(3) from being construed as restoring such specifically withdrawn areas to the operation of the mining or mineral leasing laws, it was necessary to add the above quoted language.

An example of this type of withdrawal is found in the proposed San Rafael Wilderness in which about 25 percent of the area is subject to a withdrawal from location or entry under the mining laws by the act of April 20, 1936 (Public Law 526, 74th Cong.) for the purpose of conserving water resources.

If the above quoted language had not been included, section 4(d)(3) could have been constructed to have restored this water resource area to location and entry under the mining and mineral leasing laws.

This is the natural interpretation of the above quoted language. The agencies' interpretation is a strained one, and is contrary to the intent of section 4(d)(3) to allow meaningful oil and gas exploration for a limited period of time.

The arbitrariness of the agencies' position is demonstrated by the resulting different treatment of the application of the mining laws in wilderness areas as opposed to the mineral leasing laws.

Operation of the Wilderness Act on wilderness areas since 1964 has seen the permitting of the filing and location of mining claims and mining activities under section 4(d)(3) whereas there have been no oil and gas leases issued during this period.

This results in complete discrimination in oil and gas development as opposed to mining development. There is nothing in the history of the act to indicate any difference of intent in Congress as to wilderness and primitive areas in permitting mining versus oil and gas development under the mineral leasing acts.

This unusual case of discrimination is brought about by the differences in procedure under the mining laws and the mineral leasing acts.

The agencies have no power to prevent the location and filing of mining claims, and under the Wilderness Act can only prescribe reasonable regulations for mining operations within wilderness areas—whereas the procedure under the mineral leasing acts requires an express grant from the Department of Interior of an oil and gas lease, which in every case has been refused.

It is difficult to understand the agencies' discriminatory application of section 4(d)(3) since mining activities affect surface and wilderness values as much or more than development of oil and gas.