

concerned about that. As you undoubtedly know, as of January 30, 1967, which is the latest tabulation I have here, there were still 268,430 acres of school land to which the State of Utah is entitled that it has not been able to acquire as yet. Utah has been a State now for nearly a hundred years.

The only State I see on this list I have—Alaska is not on this list—shows Arizona to have more land unselected than does Utah. We two States are far behind all the others; several hundred thousand acres, in fact. Therefore, the problem is particularly pressing for us.

To what extent have you had direct supervision on this selection, the legal problems arising out of the selection process?

Mr. WEINBERG. I hate to begin my testimony before the committee by answering a question in the negative. I am familiar with the Utah selection problem but I did not participate in the legal decisions that were rendered in connection with the produceable question.

Senator Moss. There was a problem about the Cain Creek land selections as to whether the area was producing or produceable.

Mr. WEINBERG. Yes.

Senator Moss. This was finally solved by an opinion of the Attorney General. That part does not concern me quite as much as the policy that has been adopted on comparability of value and this point does concern me greatly. Are you familiar with the legal situation there?

Mr. WEINBERG. Yes; I am. As I recall it, in connection with the opinion on Cain Creek, the Department of Justice indicated that the Secretary had discretionary authority to withhold classification of the lands for selection purposes.

Shortly thereafter it is my recollection that the Department requested legislation to provide a legislative base for meeting this problem of disparate values. The legislation did not pass. I cannot recall now to what extent the committee took action on it. I know the legislation did not pass. It is my understanding that that is where the matter rests at this particular time.

Senator Moss. The problem of classification is also pressing because at the present time the Bureau of Land Management is classifying all of the lands in my State and, as you indicated, some of them by classification are effectively removed from the area from which selection may be made. We still have 268,000 acres to select, so this heightens the problem, of course.

This matter of comparability was presented in legislation and it went before the House Interior Committee and they held hearings on the matter.

Mr. WEINBERG. That is my recollection; yes.

Senator Moss. After the hearings they simply tabled the bill and said in the report, in effect, that they liked the law as it is and they didn't believe that comparability should be required—that is, comparability in classification, mineral for mineral, nonmineral for nonmineral—but the evaluation section is what they set aside. They said this should not be applied, but I know it is still being applied. That is the point that bothers me and it is a matter on which I think you will have to decide for the Department on a legal basis.

What is the administration policy when the Department says it will apply the evaluation criterion anyway?