

is if the States want to move in and have a vigorous active program they would run the program and we would merely provide some review and oversight from time to time. That would be the effect of it.

Senator FANNIN. Mr. Secretary, when you say vigorous active program—

Mr. UDALL. An adequate program.

Senator FANNIN. Yes, but you want a balance. From the standpoint of economics just a certain amount can be spent on a program this size and still make it possible for a mining company to operate and be successful. We have an obligation to do everything we can to permit these mining companies economic stability.

Mr. UDALL. Senator, when I say vigorous adequate program, what I mean is that the States have to be honest with us, if they are going to pass enabling legislation to vest authority in some agency or create a new agency to run this program the way Kentucky is doing right now, for example. I happen to be familiar with what Kentucky is doing.

The State has to have a qualified staff of people who are knowledgeable and who can carry out the State function and will do so honestly and vigorously and efficiently. We have found that the essence of the national approach in water pollution or in surface mining, or anything else, is that we do put industry on equal footing where industry can spend whatever money is necessary for reclamation and for storing and protecting these other resource values. This then becomes a common cost of doing business to all segments of the industry and somebody doesn't say, "Well, the heck with you. We are not going to mine our coal in Wyoming. We will go on down here where there are no conditions." With our proposal you get away from runaway industry and a double standard, at it were.

Senator FANNIN. Well, of course I have been concerned about the wholesale condemnation of some of the companies for their mining methods when in many instances it was necessary for them to mine on that basis.

I think a further study should be made of just what can be done in the different areas because if we adopt regulations that would fairly apply to one State it could be very derogatory to others.

Thank you.

Senator METCALF. Mr. Secretary, you have made a splendid presentation, I believe, of the problem. When I was in the legislature of Montana in 1937 I introduced a bill for restoration of the overburden on areas that were being dredged for gold.

Now in the gold dredging business you go up a valley and had we had such legislation as this I perhaps would have been successful in restoring that because I think some of those people argue very persuasively and probably correctly that the amount of gold in the area was such that they couldn't compete.

We now have of course one of the great open pits in America which is an entirely different situation. As I read the bill I was concerned, as was Senator Hansen, about the constitutionality and the validity of moving in on private land under a police power which is traditionally an area of State activity and so I hope that you will very carefully brief that for all of us who are concerned about the constitutionality of this legislation.