

University of Colorado Law School

Colorado Law Scholarly Commons

Federal Lands, Laws and Policies and the
Development of Natural Resources: A Short
Course (Summer Conference, July 28-August 1)

1980

7-30-1980

The Legal Aspects of Oil Shale Development [outline]

David E. Brody

Follow this and additional works at: <https://scholar.law.colorado.edu/federal-lands-laws-policies-and-development-of-natural-resources>



Part of the [Administrative Law Commons](#), [Energy and Utilities Law Commons](#), [Energy Policy Commons](#), [Environmental Law Commons](#), [Environmental Policy Commons](#), [Legislation Commons](#), [Litigation Commons](#), [Natural Resources and Conservation Commons](#), [Natural Resources Law Commons](#), [Natural Resources Management and Policy Commons](#), [Oil, Gas, and Energy Commons](#), [Oil, Gas, and Mineral Law Commons](#), [Water Law Commons](#), and the [Water Resource Management Commons](#)

Citation Information

Brody, David E., "The Legal Aspects of Oil Shale Development [outline]" (1980). *Federal Lands, Laws and Policies and the Development of Natural Resources: A Short Course (Summer Conference, July 28-August 1)*.

<https://scholar.law.colorado.edu/federal-lands-laws-policies-and-development-of-natural-resources/12>

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.



William A. Wise Law Library
COLORADO LAW
UNIVERSITY OF COLORADO BOULDER



Getches-Wilkinson Center Collection

David E. Brody, *The Legal Aspects of Oil Shale Development* [outline], in *FEDERAL LANDS, LAWS AND POLICIES AND THE DEVELOPMENT OF NATURAL RESOURCES: A SHORT COURSE* (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 1980).

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.

OUTLINE

THE LEGAL ASPECTS OF OIL SHALE DEVELOPMENT

BY

DAVID E. BRODY
RIO BLANCO OIL SHALE COMPANY
DENVER, COLORADO

FEDERAL LANDS, LAWS AND
POLICIES AND THE DEVELOPMENT
OF NATURAL RESOURCES

THE UNIVERSITY OF COLORADO SCHOOL OF LAW

THE LEGAL ASPECTS OF OIL SHALE DEVELOPMENT

David E. Brody

OUTLINE

I. INTRODUCTION

- A. Description and Location of Resource
- B. Historical Background of Oil Shale Development
 - 1. Crude oil shortages in Twentieth Century
 - 2. Bureau of Mines Anvil Points -- Naval Oil Shale Reserve

II. OWNERSHIP OF RESOURCE

- A. Private Ownership -- General Mining Laws
 - 1. Andrus v. Shell Oil Co., ___ U.S. ___, 100 S. Ct. 1932 (1980) -- Whether pre-1920 oil shale claims are "valuable mineral deposits"
 - 2. Tosco cases -- Whether assessment work was properly performed
 - 3. U.S. v. Eaton Shale Co., 433 F. Supp. 1256 (D. Colo. 1977) -- Whether patent procedure was proper
- B. Patented tracts
- C. Public ownership

III. OIL SHALE DEVELOPMENT TECHNOLOGY

- A. Mining Methods
 - 1. Open pit
 - 2. Room and pillar
- B. Retorting Methods
 - 1. Surface retorting
 - 2. Pure in situ
 - 3. Modified in situ

IV. FEDERAL PROTOTYPE LEASING PROGRAM

- A. Mineral Leasing Act of 1920, 30 U.S.C. § 181, et seq.
- B. History of Program
- C. Development of Tracts C-a and C-b
 - 1. Suspension of Operations (September 1, 1976 to September 1, 1977)
 - 2. Significant Provisions of Oil Shale Lease
- D. Present Status of Operations on Prototype Leases

V. LITIGATION

- A. Andrus v. Utah, ____ U.S. ____, 100 S. Ct. 1803 (1980)
(In lieu lands suit)
- B. Environmental Defense Fund, et al v. Andrus, et al, 619 F.2d 1368 (10th Cir. 1980) (EIS suit)
- C. Environmental Defense Fund, et al v. Kleppe, et al, (U.S. Dist. Court, D.C.D.C., C.A. No. 76-2324) (Suspension suit)
- D. Gulf and Standard v. Andrus, et al, (U.S. Dist. Court, D. Colo., C.A. No. 77-F-811, decision September 22, 1977) (DDP approval suit)
- E. Gulf and Standard v. EPA, (U.S. Court of Appeals, 10th Cir., C.A. No. 78-1323, decision October 6, 1978) (Non-attainment suit)

VI. PERMITS AND REGULATORY MATTERS

- A. Generally
- B. Air
 - 1. PSD
 - 2. State air emissions permit
 - 3. Fugitive dust
 - 4. ACEN

- C. Water
 - 1. NPDES
 - 2. Subsurface Disposal -- UIC
 - 3. Water Quantity Matters -- Water rights -- Ground water
- D. Reclamation
 - 1. Colorado Mined Land Reclamation Board
 - 2. Surface Mining Control and Reclamation Act -- Section 709.
- E. Hazardous Waste -- RCRA
- F. Safety -- Mine Safety and Health Administration; Colorado Division of Mines.
- G. Area Oil Shale Supervisor -- 30 C.F.R. Part 231
- H. County Matters
 - 1. Generally
 - 2. Ventura County v. Gulf, 601 F. 2d 1080 (9th Cir. 1979), aff'd ____ U.S. _____, 10 S. Ct. 1593 (1980)
- I. Colorado Joint Review Process -- Local Answer to the Energy Mobilization Board

VII. THE FUTURE

- A. President Carter's Goals, July 19, 1979
- B. U.S. Department of the Interior Oil Shale Decision Document, May 27, 1980
 - 1. Expand Prototype Leasing Program
 - 2. Implement Permanent Leasing Program
 - 3. Increase Acreage Limitation
 - 4. Off-tract Siting and Disposal
 - 5. Multi-Mineral Leasing
 - 6. Exchanges

- C. Non-Nuclear Energy Research and Development Act, 42 U.S.C. § 5903, et seq.; Energy Security Act (Synthetic Fuels Corporation, 42 U.S.C. §8701) (P.L. 96-294, 94 Stat. 611) -- Financial incentives to oil shale developers
- D. Energy Mobilization Board -- Streamlining the regulatory process
 - 1. Status of legislation
 - 2. Constitutional issues
- E. Commercial Production on Tract C-a
- F. Other Federal Leases: C-b, U-a and U-b
- G. Developers of Privately Held Tracts
 - 1. Colony Development Corp. (Exxon and Tosco)
 - 2. Union Long Ridge Project (Union Oil Company)
 - 3. Superior Oil Company
 - 4. Geokinetics, Inc.
 - 5. TOSCO Sand Wash Project (Utah)
 - 6. Paraho (Utah)
 - 7. Exxon
 - 8. Phillips
 - 9. Sohio
 - 10. Chevron
 - 11. Multi-Minerals Corp. (U.S. Bureau of Mines Horse Draw Shaft)
- H. Socioeconomic Impacts

VIII. CONCLUSION