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SLIDES: Chapter 7 of the Commission Report

David L. Bernhardt

Brownstein | Hyatt
Farber | Schreck

Chapter 7 of the Commission Report

Martz Summer Conference 2010

Presented by
David L. Bernhardt
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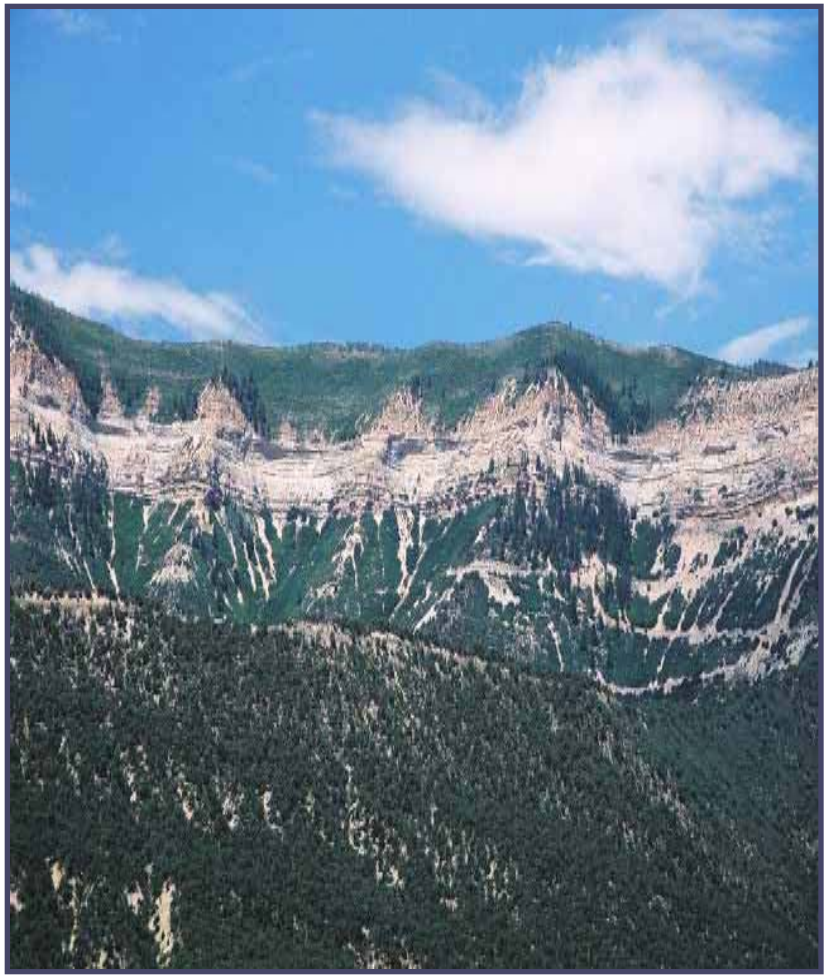
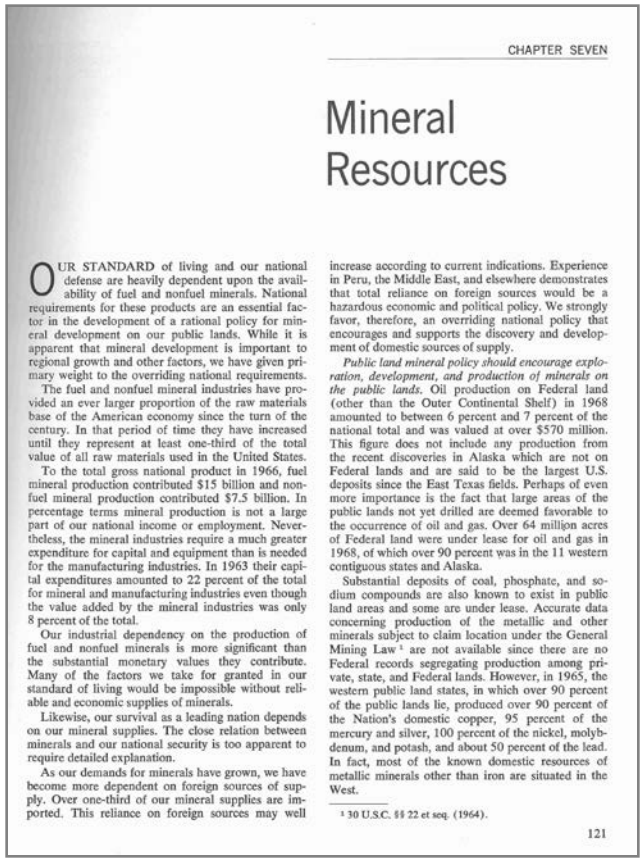
Overview



- A perspective on the policy anchors contained in Chapter 7
- A perspective on current and future opportunities or challenges
- Highlight a few of the “Items of Special Concern” contained in Chapter 7

A Few Policy Anchors Contained in Chapter 7



CHAPTER SEVEN

Mineral Resources

OUR STANDARD of living and our national defense are heavily dependent upon the availability of fuel and nonfuel minerals. National requirements for these products are an essential factor in the development of a rational policy for mineral development on our public lands. While it is apparent that mineral development is important to regional growth and other factors, we have given primary weight to the overriding national requirements.

The fuel and nonfuel mineral industries have provided an ever larger proportion of the raw materials base of the American economy since the turn of the century. In that period of time they have increased until they represent at least one-third of the total value of all raw materials used in the United States.

To the total gross national product in 1966, fuel mineral production contributed $15 billion and nonfuel mineral production contributed $7.5 billion. In percentage terms mineral production is not a large part of our national income or employment. Nevertheless, the mineral industries require a much greater expenditure for capital and equipment than is needed for the manufacturing industries. In 1963 their capital expenditures amounted to 22 percent of the total for mineral and manufacturing industries even though the value added by the mineral industries was only 8 percent of the total.

Our industrial dependency on the production of fuel and nonfuel minerals is more significant than the substantial monetary values they contribute. Many of the factors we take for granted in our standard of living would be impossible without reliable and economic supplies of minerals.

Likewise, our survival as a leading nation depends on our mineral supplies. The close relation between minerals and our national security is too apparent to require detailed explanation.

As our demands for minerals have grown, we have become more dependent on foreign sources of supply. Over one-third of our mineral supplies are imported. This reliance on foreign sources may well increase according to current indications. Experience in Peru, the Middle East, and elsewhere demonstrates that total reliance on foreign sources would be a hazardous economic and political policy. We strongly favor, therefore, an overriding national policy that encourages and supports the discovery and development of domestic sources of supply.

Public land mineral policy should encourage exploration, development, and production of minerals on the public lands. Oil production on Federal land (other than the Outer Continental Shelf) in 1968 amounted to between 6 percent and 7 percent of the national total and was valued at over $570 million. This figure does not include any production from the recent discoveries in Alaska which are not on Federal lands and are said to be the largest U.S. deposits since the East Texas fields. Perhaps of even more importance is the fact that large areas of the public lands not yet drilled are deemed favorable to the occurrence of oil and gas. Over 64 million acres of Federal land were under lease for oil and gas in 1968, of which over 90 percent was in the 11 western contiguous states and Alaska.

Substantial deposits of coal, phosphate, and sodium compounds are also known to exist in public land areas and some are under lease. Accurate data concerning production of the metallic and other minerals subject to claim location under the General Mining Law [1] are not available since there are no Federal records segregating production among private, state, and Federal lands. However, in 1965, the western public land states, in which over 90 percent of the public lands lie, produced over 90 percent of the Nation's domestic copper, 95 percent of the mercury and silver, 100 percent of the nickel, molybdenum, and potash, and about 50 percent of the lead. In fact, most of the known domestic resources of metallic minerals other than iron are situated in the West.

[1] 30 U.S.C. §§ 22 et seq. (1964).

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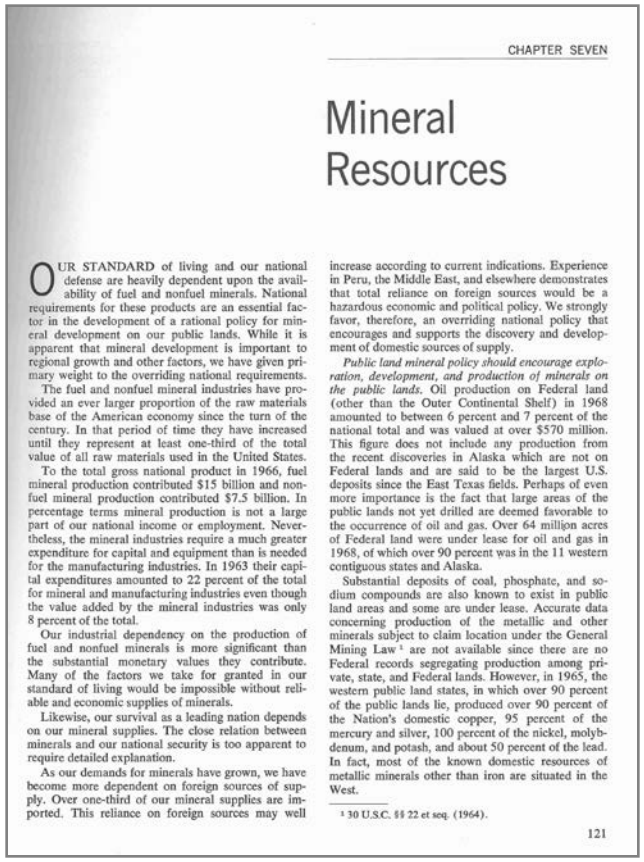
- "Our standard of living and our national defense are heavily dependent upon the availability of fuel and nonfuel minerals."
- "Public land mineral policy should encourage exploration, development and production of minerals on public lands."
- "Mineral exploration and development should have a preference over some or all other uses on much of the public lands."
- "We are satisfied that the private enterprise has succeeded well in meeting our national mineral needs, and we see no reason to change this traditional policy."

A Few Policy Anchors Contained in Chapter 7



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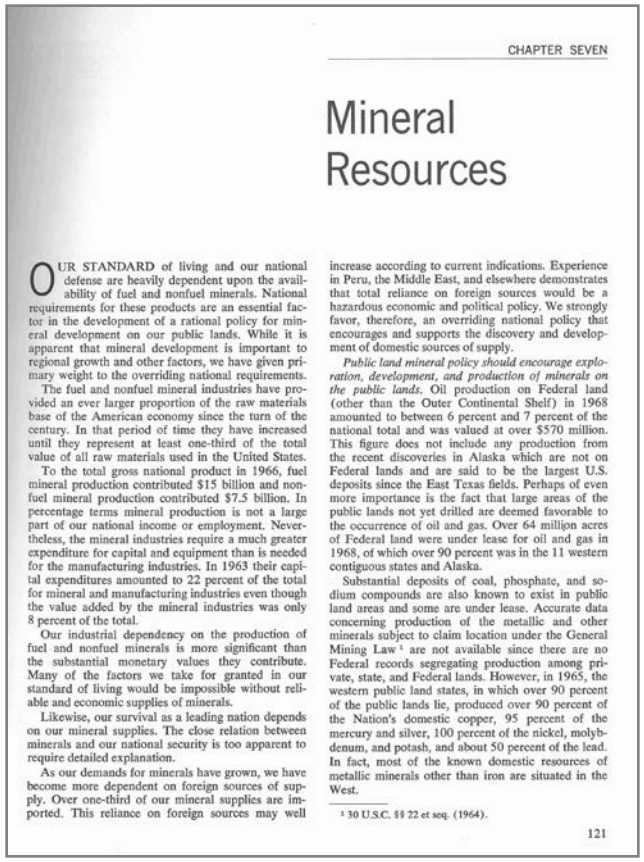
- "These Federal programs should serve to identify general areas favorable to mineral occurrence with detailed exploration and development left to private enterprise."
- "[W]e believe the environment must be given consideration, but regulations must not be arbitrarily applied if the national importance of the minerals is properly weighed."
- "While an administrator should have no discretion to withhold a permit, he should have authority to vary these restrictions to meet local conditions."

A Few Policy Anchors Contained in Chapter 7



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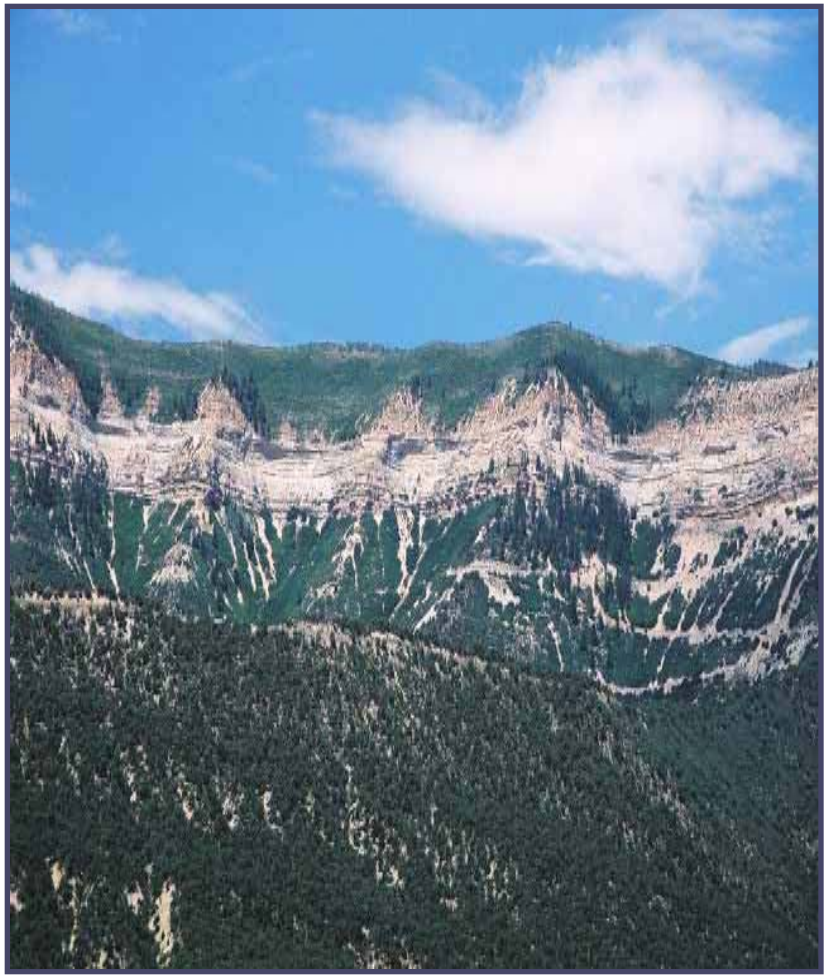
- "It is our view that protection of the environmental values must cover all phases of mineral activity from exploration though development and production, to reasonable postmining rehabilitation."

- "Up to the time commercial production commences, exploration development and production plans should be reviewed by the land management agency for consideration of environmental factors, but administrators should be required to approve or disapprove plans within a reasonable time."

The Present and Future?



- Are today's policymakers likely to embrace the policy anchors included within Chapter 7, or something different?
- Scandals and crisis tend to drive what might be considered bold Congressional action otherwise tends to be incremental.
  - 1987 Reform Act
  - Deepwater Royalty Relief Act of 1995.

Congressional Action

- "Virtually all interested parties, including the Members of Congress, the mining community, the PLLRC, the Administration, the environmental organizations, and others, have proposed changes in the Mining Law of 1872, as amended, to alter, or mitigate the adverse impacts resulting from, the present position of hardrock mining on the public lands. The Committee expects to initiate the legislative process with hearings early **next year** on the various legislative proposals to alter the 1872 Mining Law."

  - Committee on Interior and Insular Affairs Report, December 18, 1975, Legislative History of the Federal Land Policy Management Act of 1976.

Items of Special Concern

ELIMINATE OUTDATED RESTRICTIONS - Restrictions on public land mineral activity that are no longer relevant to existing conditions should be eliminated so as to encourage mineral exploration and development and long standing claims should be disposed of expeditiously. (Coal, Geothermal, Alien ownership).

DOI LEAD AGENCY - The Department of the Interior should continue to have sole responsibility for administering mineral activities on all public lands, subject to consultation with the department having management functions for other uses.

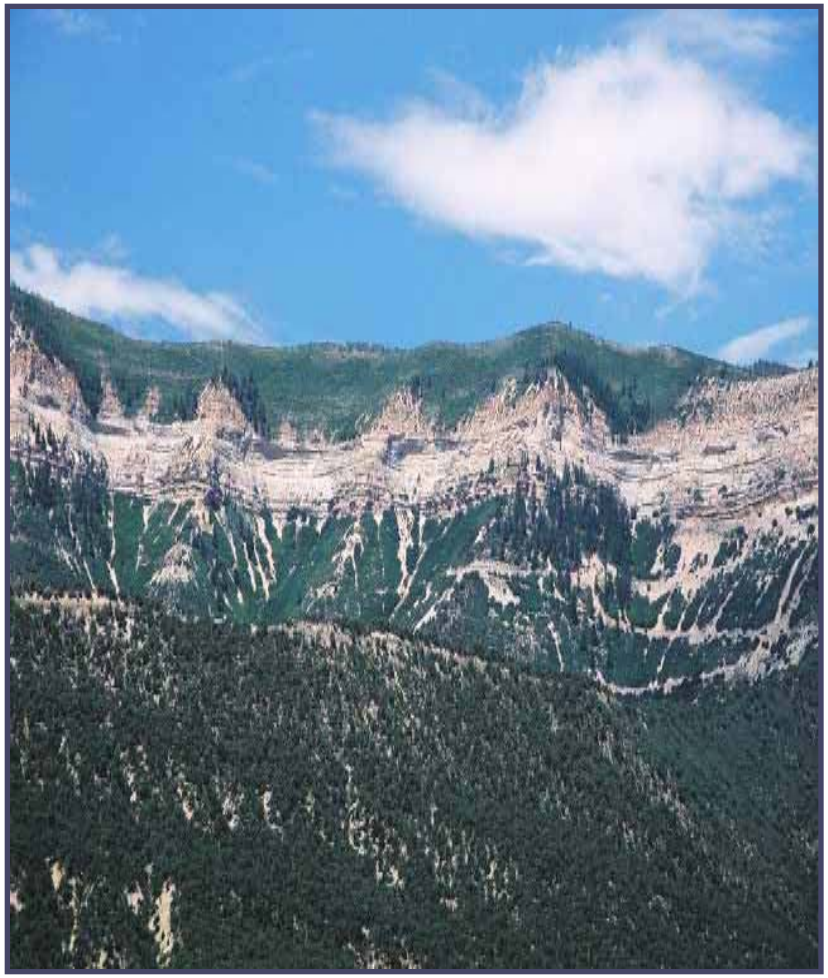
DISPOSAL POLICY - In future disposals of public lands for nonmineral purposes, all mineral interests known to be of value should be reserved with exploration and development discretionary in the Federal Government and a uniform policy adopted relative to all reserved mineral interests.

HOBBY COLLECTING - Statutory provision should be made to permit hobby collecting of minerals on the unappropriated public domain and the Secretary of the Interior should be required to promulgate regulations in accordance with statutory guidelines applicable to these activities.

BUY OIL SHALE CLAIMS - Legislation should be enacted which would authorize legal actions by the Government to acquire outstanding claims or interests in public land oil shale subject to judicial determination of value.

EXPERIMENTAL OIL SHALE - Some oil shale public lands should be made available now for experimental commercial development by private industry with the cooperation of the Federal Government in some aspects of the development.

Oil Shale Experimental Program



- Offer lease tracts sufficiently large to permit amortization of investments required for development.
- Consider industry's input regarding size of tracts, lease duration, and size of plant.
- Allow test lease holders chance for commercial lease
- Experiment with bonuses, fees, royalties.
- Provide fixed terms
- Avoid other conflicts

June 2005 – Bush Administration Proceeds with the Research Development and Demonstration Program

- The Bush Administration determines that it is “worthwhile” to initiate steps to help facilitate oil shale research and development efforts, and begins a phased, or staged approach to oil shale development.
  - **Step One**: Develop a research, development and demonstration leasing program. (Administration believed this effort would significantly enhance the collective knowledge regarding the viability of innovative technologies for oil shale development on a commercial scale).
  - **Step Two**: At some point in the future, the Administration would develop a regulatory framework for a commercial oil shale leasing program to ensure that any commercial development of oil shale on BLM lands is both environmentally and fiscally responsible.
- By initiating a research, development and demonstration leasing process, the BLM could provide itself, state and local governments, and the public, with information that can be utilized to develop strategies for managing any environmental effects and enhancing community infrastructure.
- The BLM intends to ensure that a commercial oil shale development program demands rigorous technological and environmental oversight, requires the best available practices to minimize impacts and ensures that states and local communities have the opportunity to be involved in the development of a commercial program.
- Believed that if the research and development efforts are sub-economic, the small research, development and demonstration projects will be more easily dismantled. Lands may be reclaimed with minimal adverse environmental impact.

Energy Policy Act of 2005 (H.R. 6)

	House (Passed 4/21/05)	Senate (Passed 6/28/08)	EPACT (Passed 7/29/05)
RD&D Program	**No**	**Yes**	**Yes**
Programmatic EIS	**No**	**Yes**	**Yes**
Commercial Program	**Yes**	**Yes (but only after EIS and Report to Congress)**	**Yes ("shall publish a regulation establishing" program within 6 months of PEIS)**
Vision of Development of Resources	**"accelerated basis"**	**"deliberate pace"**	**"should occur"**
DoE Led Task Force	**No**	**Yes**	**Yes**
Interagency Cooperation on Permitting	**No**	**No**	**Yes – DoE as the lead agency**
USGS Assessment	**No**	**No**	**Yes**
Royalty Rate Setting	**No**	**No**	**Determination is left up to the Secretary, "encourage development" and "fair return"**
DoD Fuel	**No**	**No**	**Yes**

RD&D Lease Terms in June 2005, January 2009 and February 2010

	2004 Request for Comments	June 2005 Solicitation	January 2009 Solicitation	November 2009 Solicitation
Criteria for award	**Seek Comments**	**1- Potential of proposals to advance knowledge of effective technology** **2- economic viability** **3- means of managing the effects of oil shale development**	**Same criteria as 2005 plus "potential environmental, social, economic impacts on the site or the region"**	**Same criteria as 2005 plus additional information required in nomination relating to water, GHG, carbon capture, and minimizing wildlife and surface impacts.**
Limits on # RD&D Leases	**-**	**-**	**-**	**One applicant per entity**
Term of Lease	**Seek Comments**	**10 yrs.**	**10 yrs.**	**10 yrs.**

RD&D Lease Terms in June 2005, January 2009 and February 2010 (continued)

	2004 Request for Comments	June 2005 Solicitation	January 2009 Solicitation	November 2009 Solicitation
Diligence	-	Plan of operations, schedule of activities, and methodology; subject to annual review	Same as 2005	Plan of development in 9 mos., obtain local and state permits within 18 mos.; deployment of infrastructure within 24 mos.; quarterly progress reports
Size of Lease	40 acres	160 acres	640 acres	160 acres
Size of Conversion Right	5120 acres	5120 acres	0 acres	480 acres
Application Fee	-	$2000	$4000	$6500

Questions