Mr. Chairman, Governor Clyde, member of the Congressional delegation, and Council members:

I am delighted to be with you in Salt Lake City today. At the last National Advisory Board Council Meeting, I reminded the members that I had been an invited guest, representing Senator Frank Church, for the four previous meetings in Washington, D.C., but this is my first opportunity to attend your Western session.

Senator Ted Moss and I had a sort of grazing advisory board meeting in Twin Falls, Idaho, in early 1959. At least a good deal of advice was offered there concerning governmental policies on both Interior and Agriculture Department lands.

That was an extremely informative session for me. When practicing law in Boise, I had had a little experience with grazing appeals under the Taylor Act, but it was not until the Twin Falls meeting that I got a good picture of the ramifications from the point of view of the user.

This education of mine was valuable when I appeared before the Senate Interior Committee for confirmation as Assistant Secretary. I expressed at that time the conviction that government administrators owe a duty to carry out their regulatory responsibilities from the vantage point of knowledge—knowledge of how their regulations actually affect the members of the public being regulated. This does not mean that the regulation should be any less strict—just that it should be intelligent, and carry meaning and sense to the ordinary individual.

The Bureau of Land Management officials here today will testify that I've tried, and tried hard, to instill that standard into the process of drafting regulations. Many a session has been held in my office where I've demanded of the technicians and solicitors an explanation of proposed regulations which would satisfy a hypothetical country lawyer as being sensible. Undeniably, the technicians and solicitors have their point, too. They have to patch and draft to meet not only the known abuse, but the reasonably-to-be-anticipated abuse. They know that there is in any business a fraction of operators who will find the loophole if one is to be found.
Sometimes my review gets sidetracked. For example, last September 7th I signed proposed rule making which is pending before you today. I had a conference in my office on the portions of the regulations dealing with charges for trespass, but I did not as carefully review some of the other proposed changes in the Range Code dealing with meetings of the Advisory Boards, both the statutory district board, and the creatures of the regulations, the State Board and this National Board.

I've since then given the proposals a further review, and I've determined on my own responsibility as the Assistant Secretary for Public Land Management to withdraw from consideration certain amendments therein proposed:

1. The proposed amendment to section 161.13(d), having to do with the meetings of the statutory district advisory boards is withdrawn from consideration. For the time being, at least the regulations on that board will stay as they are.

2. Those parts of the proposed amendment of section 161.13(f) and (g) which deal with the authority of the governmental co-chairman are withdrawn. In your folders, this would be the balance of Paragraph (g) on page 8 beginning: "All meetings of the board..."; and the balance of paragraph (h) on page 9 beginning"... who shall set its time and place...

You have also before you a proposed procedure directive from Director Landstrom. This should be considered as modified to exclude from discussion the substance of the matters withdrawn from proposed rule making, referred to above.

Other proposed changes in the September 7th publication are open for your comment, whether to concur, modify, or object. We want your views.

The American people periodically focus attention on the use of 160 million acres of public land in 59 grazing districts, by 19,000 permitted range users. As most of you will agree, there is an upsurge in public interest at the present time.

The President of the United States in his Resources Message last February mentioned it. When the proposed changes in the Range Code to broaden representation on the State and National Councils were published, public attention was attracted, and many organizations have evidenced their desire or intention to counsel with you.

It will be no news to you that by and large you haven't always enjoyed a good press. It has been far worse, however, in the past than it seems to be now.

I had occasion a few days ago to re-read a rather famous article by Bernard DeVoto, published in Harpers magazine in January 1947, entitled "The West Against Itself."

I was struck with the radical change which has occurred since that time. DeVoto dwells extensively on the extremity of the position which the cattle and sheep industry were then charged with taking--conversion of Taylor Act privileges into vested rights; distribution of Taylor Act lands to the individual States,
as a preliminary to disposal by private sale; and reclassification of lands in the national forests and removal from the Forest Service of 27,000,000 acres of forest land used chiefly for grazing.

No fair-minded observer would now fault you on your present posture concerning such extreme legislative proposals as once were commonplace. Yet you are still handicapped by a lingering suspicion that you believe these were sound measures that ought to be adopted, better late than never.

In this connection, I'd like to tell you an experience. I was in a car once going home from a party, late at night. It could have been a cattlemen's convention, although, in fact, it was a mining convention. It had been a merry party, but the owner and driver of the car was a teetotaller—cold sober. A policeman followed us for a few miles, and then stopped us. We knew he was there, and the driver was obeying the law meticulously. The officer examined the driver's license, checked his signature, searched for a basis to make a charge; and finally the truth came from his own lips—"It looked to me, "he said, "like you wanted to break the speed limit."

Whether the livestock industry deserved to be the whipping boy of the guardians of the public interest, elected or self-anointed, is not at issue in my discussion. The point of my little true story is that the United States Department of the Interior, like that patrolman, ought not to haul you into court for evils we think you want to visit upon the public's resources.

I don't expect you all to be Democrats, or agree with Democratic political philosophy. But I am willing and glad to assume that the livestock industry does not consider the range as a depleting asset; that you, as much as we, want to leave it in better shape than you find it. In that sense, we're all conservationists.

The Taylor Act was passed a generation ago, and a lot of people have forgotten the anarchic situation which existed before 1934 in the management of public domain. There are two or three things I'd like to say about the Act.

The first, of course, is that it is the law, and will remain so until Congress changes it. Those who may feel that the preference it gives to the established operator would do well to remember that in terms of traditional Anglo-Saxon legal theory the Taylor Grazing Act system is built upon trespass. Under it, preferential rights inure to trespassers—to those who brought the range into subjugation at a time when there was no governmental power which would or could say them nay. But I don't make this statement in the nature of critical reflection; I only mention it because in this instance, as in many earlier pre-emption type laws, Congress was recognizing a new and basically American concept of settlement of new land—that first in time is first in right, and that the development of the vacant land was not just a right, but a patriotic duty.

The theory of the Taylor Act may be offensive (particularly, as I've suggested to those who overlook the tremendous social good it accomplished), and it may (as a matter of fact, does) have subsidy built into it. But it is
clearly within the Congress's power to do what it has done, and it is up to the administrators to administer the law, not make it or change it.

The second point about the Taylor Act is that section seven, in spelling out the authority of the Secretary to classify lands withdrawn for grazing "which are more valuable or suitable" for agriculture or for any use other than grazing, or proper for acquisition by State selection or homestead entry, in effect made grazing an auxiliary or subsidiary, rather than primary use of the public land.

My third point concerns the advisory board set-up. The members of the National Advisory Board Council represent the district boards. The process by which this representation takes place is not spelled out in the Act itself, for Congress only created the district grazing advisory boards. But Congress gave to the district boards a democratic base—the members (except the wildlife members) are appointed only after there has been an election at which the electors are "the users of the range" in that district.

Under Departmental regulations, the making of which is authorized by the Taylor Act, the State Advisory Boards are composed of nominees of the district boards, and in turn the National Board is composed of delegates from the State boards. But the basic, keystone organization is the district advisory board, a creature of the Congress.

As I see it, therefore, it is quite natural that this Council should speak for the "users of the range;" they are the constituency, and politicians like the Governor here, the Congressional delegation and appointed officials like me, understand "constituencies."

On the other hand, administrators can't abdicate their responsibilities to advisory boards. Advisory boards advise; in the last analysis, the responsibility is on the man who signs the order. In the nature of your function, if we don't like your advice, we don't have to take it. But the advice and counsel of experienced operators can and ought to be extremely valuable in the administrative process. We want this advantage and you will find that it is used in the overwhelming majority of cases.

This brings me, perhaps a little illogically, to the "multiple-use" concept. Just as we can't abdicate our responsibilities to an advisory board, so we can't solve any of our tough problems by affixing a new label to the process of arriving at a solution.

The concept I have of "multiple-use" can be summed up in the term "prudent management." If two or more uses can be accommodated of the public's resources, consistent with sustained yield and conservation, then they should be accommodated. It is when the accommodation breaks down and a decision has to be reached as to who prevails that the term "multiple-use" fails. Then it is the umpire who begins to catch the brickbats.

Mostly, the umpire ought to be the Congress. If you will study the matter you will see that it was to recapture the umpire function from the Executive
Branch over what should go into or come out of "wilderness status" that so many Westerners voted for the Wilderness Bill. Sometimes the Congress leaves the umpire function to the Executive Branch, providing that the Secretary of the Interior, for example, may allow or reject entries "in his discretion."

When the Secretary has to decide as against two incompatible uses, "multiple use" ceases to be of help. Up until that point, he doesn't need the label "multiple use" because the principle has always been there.

Finally, I'd like briefly to tell you where the Department stands on user fees. You are all well aware that the President in his Resources Message charged the Bureau of the Budget with the responsibility of developing a set of "general principles for the application of fees, permits and other user charges at all types of Federal natural resources projects or areas."

Over a period of years strong sentiment has been building up to require that all those who are rendered direct and personal services by the Federal Government will pay a fair price for the property or service received. In response to a requirement imposed by the Bureau of the Budget, the Department submitted to the Bureau a list of suggested principles which it felt would enable the Department to discharge its responsibilities in this field. They are as follows:

User fees and charges for grazing including privileges and forage consumed on Federal lands shall correspond to the fair market value as established by appraisal or competitive bidding in the open market, except as otherwise provided by law. Where competitive bidding would result in destroying established ranching operations dependent upon Federal grazing lands as provided by law other methods of determining fair market value consistent with the circumstances shall be used.

In accordance with contractual arrangements user charges will be adjusted to compensate users for actual out-of-pocket costs in the application of approved permanent type conservation, rehabilitation, and land improvement measures applied to the land which enhance its value. Such measures are not to include those carried out as part of a normal ranching operation.

Where pasturage or limited grazing is permitted as part of special user permits within such areas as those administered by the National Park Service or the National Wildlife Refuge System such use will be considered a part of the overall use. User charges to reflect fair and equitable value based on the plan of operation shall be adopted.

To implement the above principles executive communications should be submitted to the Congress for the repeal or amendment of those laws which depart from such principles as related to public policy.

The responsibility for Federal policy in this matter is ultimately in the Congress. The responsibility for formulating the administration's policy has been given by the President to the Bureau of the Budget.
As you can see from the principles I've just read, the Department of the Interior will endeavor to see that proposals for changes in the grazing fees take account the economic structure which has been built upon the present system. There is no vested right to keep the present system, but there is a duty to make changes in an orderly and understanding way.

I've already mentioned your interest in leaving the range in better shape than you found it—our mutual claim to be conservationists. In this connection, I want to tell you also that in soil and moisture conservation work, which is so critically important in the accomplishment of this result, this Department is striving to fire up a better program.

We want to insure rehabilitation of those areas needing treatment and to decrease the current accelerated rate of deterioration with efficiency and dispatch. As a first step in this direction we are going to try to make the local Soil Conservation District a mainstay and key unit in getting a conservation needs inventory.

Through this approach, range users and members of the district grazing advisory boards will be able to cooperate in gathering information on the land's needs, rather than on a bureau's needs.

It is highly important that we integrate the efforts of the Interior Department into the total soil and water conservation and development picture. I've had discussions with representatives of the National Association of Soil Conservation Districts and that organization will assist in the joint effort to compile a total needs inventory. Cooperation by the Government land managers will be a new dimension in the composite picture developed.

To summarize: This is a highly important meeting of this Council. An atmosphere of friendliness based upon mutual understanding each of the other's problems is requisite if we are to come out of the meeting with meaningful results.

I've tried to demonstrate that we won't try to amend the Taylor Act by regulation; that we respect the National Advisory Board; and, I hope, that we understand some of the problems of the industry. From everything I've seen of the preparation for this meeting, you understand our position, and are willing to meet us halfway at least.

I'm sure we are going to get a great deal done in the next two days.

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