

12/29/79 [2]

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THE WHITE HOUSE
WASHINGTON

12/29/79

Secretary Harris
Jim McIntyre
Stu Eizenstat
Fred Kahn

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

Frank Press
Lloyd Cutler
Frank Moore
Al McDonald

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THE WHITE HOUSE
WASHINGTON
DEC 21 1979

cc
all
JC

MEMORANDUM TO THE PRESIDENT

FROM: PATRICIA ROBERTS HARRIS
JIM MC INTYRE
STU EIZENSTAT
FRED KAHN
FRANK PRESS

Patricia Roberts Harris
Jim
Stu
Fred
JP

SUBJECT: Hospital Cost Containment -- Legislative Strategy and Administrative Options

You asked Stu Eizenstat on November 16 to review possible administrative actions that would reduce Medicare and Medicaid outlays, and to reassess our legislative and policy strategy in the aftermath of the House defeat of Hospital Cost Containment. He has worked with us to follow up on your request. This memo recommends proposed legislative strategy and describes certain administrative options, which are being developed for your subsequent review.

Legislative Strategy

Although our Hospital Cost Containment (HCC) legislation was defeated by a wide margin in the House, it remains prospectively alive in the Senate and, if enacted, could perhaps be the basis for a reasonably acceptable compromise with the Gephardt-amended House bill. While the Senate would probably defeat cost containment today, prospects for favorable Senate action during the next year's session may improve. A favorable action by Senate Finance on health insurance legislation may also improve the chances of cost containment next year. Even without Congressional action on NHP, Hospital Cost Containment prospects could be improved next year in the context of the FY 81 Budget Resolution and continued inflation in the economy and in the hospital sector. In reassessing our strategy, however, we should be sensitive to the growing anti-bureaucracy, anti-regulatory sentiment in Congress, as well as the fact that the margin of defeat of HCC in the House was large.

There is another potential legislative proposal available to us: Senator Talmadge's Medicare/Medicaid only approach. However, as currently drafted, the Talmadge proposal is not a cost saver. It is more restrictive than HEW's current

regulatory authority to limit excessively high hospital costs. And it is actively opposed by hospitals, insurers, organized labor, consumers, and the elderly, who for varying reasons all oppose limits on Medicare and Medicaid reimbursements only.

There is some sentiment in both houses of Congress and elsewhere to place greater emphasis on competition to create more efficient health insurance choices for the public and to restructure the health industry. Congressman Ullman in Ways and Means and Senator Durenberger in Senate Finance have each introduced similar legislation aimed at emphasizing competition in the health care industry. Some elements of these bills are contained in our National Health Plan. We will want to consider how both advocacy of strengthened regulation and more vigorous promotion of market forces can be pursued simultaneously as we review our options.

For now, we recommend that your posture should continue to be one of strongly urging the Congress to enact HCC. We recommend that the FY 81 budget continue to call for the \$1.1 billion of budgetary savings attributable to HCC legislation if it were enacted next year.

In addition to pursuing HCC, there is an opportunity both to take cost-saving administrative actions and to intensify our efforts to effect a fundamental structural reform of our entire system of providing and paying for health care. In several important ways the two approaches could complement one another. HCC and other regulatory actions would provide the necessary means of restraining costs, while the process of developing effective competition proceeds. Moreover, the continued possibility of HCC and strengthened regulation could help elicit the cooperation of the interested parties in trying to explore and effect the fundamental reforms. The industry must be made to understand that it cannot simply preserve the status quo, regardless of the effects of their lobbying efforts.

Administrative Actions

The Administrative option which has the greatest potential for reducing outlays substantially is based on section 1861(v) of the Social Security Act (Section 223 of the Social Security Amendments of 1972) which limits hospital reimbursement under Medicare and Medicaid to reasonable cost -- "the cost actually incurred, excluding therefrom any

part of incurred cost found to be unnecessary in the efficient delivery of needed health services." The intent of this section was to eliminate reimbursement for "luxury" items and to reduce reimbursement by that portion of hospital costs which is substantially in excess of costs for comparable institutions. Currently, HEW establishes limits under Section 223 for routine hospital costs only (i.e., room and board and routine nursing care). Hospitals are grouped according to bed size and location. Costs in excess of the 80th percentile within each group are denied.

In place of this limit on reasonable costs based on the costs in comparable facilities, a flat cap on the rate of increase for each hospital in Medicare and Medicaid expenditures (but not private) might be established through Section 223 in the same manner as provided for under HCC, based on the hospital anti-inflation guidelines. This cap would save approximately \$900 million in Federal expenditures in 1981. If imposed, this action could be considered an interim measure to restrain hospital costs pending Congressional approval of HCC.

The legal authority to use Section 223 in this fashion is unclear. We have asked the Department of Justice and the Office of General Counsel at HEW to determine whether HEW has the authority to proceed with a regulatory cap.

Although a Section 223 cap promises substantial budget savings, it might not really induce restraint in rising costs of hospital care, as HCC is intended to do. Therefore, we do not recommend proceeding with it at this time for a number of reasons:

- o We would expect a major legal challenge to any regulatory cap, regardless of the Administration's own legal position. The hospitals might be able to stay the effect of the regulation, resulting in lengthy legal proceedings.
- o The Hill would likely resent any efforts to bypass Congress on the sensitive cost containment issue and could move to eliminate all Secretarial discretion to impose caps or other controls through regulation.
- o Regulatory imposition of a cap would likely arouse unified opposition from hospitals, the insurance industry (because costs would be passed on to them

and purchasers of hospital insurance), and liberal supporters of Hospital Cost Containment, including organized labor, elderly, and consumer groups (because a cap on only Federal payments could foster discrimination against Medicare and Medicaid patients). Announcement of a regulatory cap now could adversely affect the possibility of passing Hospital Cost Containment.

We believe that there are other administrative actions you may be able to announce that would underscore your determination to press for immediate solutions to the high inflation problem in health care, and could neutralize somewhat the adverse public impression of our legislative loss in the House. These administrative initiatives would not achieve the amount of savings of HCC or a Section 223 cap, but would not engender as significant legal and political challenges. There is not now agreement on the merits of each of these possible actions. We are in the process of completing staff work on the following possible actions for your subsequent review:

- o Elimination of Federal support for hospital construction in overbedded areas. This is a policy that you could control through the budget process. While we can follow this policy administratively for most agencies, Treasury's policy of granting tax-exempt status for hospital construction bonds, regardless of the need for beds in the area, can be changed only with new legislation.
- o Expansion and improvement of HEW's current Section 223 efforts (already part of HEW's budget proposals).
 - Current limits on routine costs could be tightened by altering the methodology for determining the level at which costs are considered unreasonable. This could save as much as \$85 million in FY 81.
 - Limits could be extended to cover total hospital costs (i.e., routine plus ancillary). This modification could require that hospitals be grouped according to case mix in addition to size and locality, an administratively difficult undertaking. The target date for extension of limits to cover total hospital costs is October 1, 1980, but this will

depend upon data collection and methodology development on hospital case mix. Assuming an October 1 effective date, application of this methodology could save as much as \$125 million in FY 81.

- o Active monitoring and reporting of hospital costs based on anti-inflation guidelines. Active monitoring would involve joint COWPS-HEW publishing of industry cost increases and added jawboning of industry leaders both nationally and in selected areas.
- o More active auditing of cost reports for final payments and correspondingly reduced Medicare/Medicaid interim payments. HEW notes that implementation of this proposal would require additional staffing and contract funding.
- o A comprehensive strategy, including possibly expanding Federal financial incentives, for strengthening state hospital rate review programs. This strategy should be consistent with HCC legislation and does not depend upon passage of HCC for implementation.
- o Increased emphasis on the Administration's legislative initiative to set a national limit on allowable hospital capital expansion, administered through State Certificate-of-Need agencies.
- o Renewed cost containment efforts through existing authorities in HEW -- i.e., Health Planning PSRO's, stimulation of HMO development, etc.

All of these administrative actions would complement a legislative strategy of pursuing HCC. Aggressive movements in these areas would demonstrate your determination to the public and to the Congress, and could induce greater support for our HCC bill.

Potential actions which could demonstrate a commitment to restructuring the current health care system by attempting to create a more competitive marketplace will also be prepared for your review. Some of these system reforms are contained within the Administration's National Health Plan. An increased emphasis on these reforms at this time could demonstrate to the Congress that you are aware of their concern about too much health regulation and that you are committed to altering the basic health system, and thereby gradually reduce the need for direct regulation.

At the same time, you would recognize that savings from system restructuring cannot alone be relied upon to produce necessary immediate savings and that it is your obligation to propose legislative and administrative cost containment initiatives that are more regulatory in nature although not incompatible with moving to greater marketplace competition and expanded individual choice.

Decisions

Approve Disapprove

Option 1 -- Press for Senate action on HCC early next year and include these savings in the 1981 budget. Prepare a memorandum, by January 25, describing options for interim administrative actions to reduce Federal health expenditures and possible approaches for achieving health system restructuring (Recommended).

✓

✓

Option 2 -- Attempt to impose a cap on Federal hospital expenditures administratively through Section 223 if a legal basis can be established.

✓

↙
Give me
early legal
assessment

THE WHITE HOUSE
WASHINGTON

12/29/79

Jack Watson
Arnie Miller

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

THE WHITE HOUSE

WASHINGTON

December 21, 1979

MEMORANDUM FOR THE PRESIDENT

FROM:

JACK WATSON
ARNIE MILLER

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SUBJECT:

Appointments to the Panama Canal Consultative
Committee and Joint Commission on the En-
vironment

Under the implementing legislation, you are required to appoint the U.S. members of two groups established by the Panama Canal Treaty: the Consultative Committee and the Joint Commission on the Environment. Each will be composed of three members appointed by the U.S. and three members appointed by the government of Panama.

The Consultative Committee members will advise their respective governments on matters of policy affecting the Canal's operation including general tolls policy, employment and training policies to increase participation of Panamanian nationals in the operation of the Canal, and international policies on matters affecting the Canal.

The Joint Commission on the Environment members will periodically review the implementation of the Treaty and recommend ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to the Treaty.

We have consulted with the Departments of State and Defense on these appointments. Both recommend that the following candidates be appointed (a biographical sketch of each is attached):

Consultative Committee:

Ambassador Ambler H. Moss, Jr., U.S. Ambassador to
Panama

Lt. Gen. Welborn G. Dolvin, DOD (Ret.)

David H. Popper, Special Representative of the
Secretary for Panama Treaty Affairs

AMBLER H. MOSS, JR.

Ambassador Ambler Holmes Moss presented his credentials as Ambassador to Panama on October 10, 1978. A lawyer who has practiced private international law in Washington, D.C. and Brussels, Mr. Moss served as Deputy Assistant Secretary of State for Congressional Relations in 1977-1978 when he was Department of State coordinator for the ratification of the Panama Canal Treaties. Previously he had participated in the treaty negotiations for the United States.

During the 1960's, Mr. Moss was a United States Foreign Service Officer, serving in Spain for three years and later on the U.S. delegation to the Organization of American States under Ambassadors Ellsworth Bunker and Sol M. Linowitz. He is also a former naval officer and spent four years in the Submarine Service.

Mr. Moss was born in Baltimore, Maryland on September 1, 1937. He is a graduate of Yale University (B.A., politics and economics, 1960) and the George Washington University (J.D., 1970).

Mr. Moss is a member of the Bar of the District of Columbia, the American Bar Association, the American Society of International Law, the Bar Association of the District of Columbia, and the Army and Navy Club of Washington, D.C. He speaks Spanish, French, and Catalan.

LIEUTENANT GENERAL WELBORN GRIFFIN DOLVIN (RET.)

Lieutenant General Dolvin, a retired U.S. Army officer, has served as the Department of Defense Representative for Panama Canal Treaty Affairs since August 1978. Beginning in October 1975 he served as Deputy Negotiator and the Department of Defense's representative in the negotiation of the Panama Canal Treaties of 1977. He retired from the U.S. Army on March 31, 1975.

Lieutenant General Dolvin was born February 8, 1916 in Siloam, Georgia and attended the Citadel before receiving an appointment to the U.S. Military Academy. He graduated from West Point and was commissioned a Second Lieutenant, Infantry, on June 12, 1939. He also is a graduate of the U.S. Army Command and General Staff College and the Army War College.

General Dolvin began a long career as an armor officer in October 1939. During World War II and the Korean War he commanded a tank battalion and participated in campaigns in North Africa, Italy, France, Germany and Korea. In Korea, General Dolvin saw extensive action during the breakout of the Pusan perimeter, the United Nations drive to the Yalu River and the strategic withdrawal. He commanded Task Force Dolvin which carried the brunt of the Chinese Communist attack in force in November 1950, details of which are described by S. L. A. Marshall in his book The River and the Gauntlet. During the Vietnam conflict, General Dolvin served as Chief of Staff, United States Military Assistance Command Vietnam, and upon promotion to the grade of Lieutenant General, assumed command of the United States Army XXIV Corps. In May 1972, he was appointed commander of the United States Army, Japan.

General Dolvin's peacetime assignments have included a long association with the U.S. Army's Research and Development Office. He served one tour of duty as Program Manager for the M-70 main battle tank. He has also served as Commander of the 3rd Armored Division and the U.S. Army Element, Central Army Group, NATO.

General Dolvin has spent over 70 months in combat, including 20 months as a battalion commander. His awards and decorations include the Distinguished Service Cross, the Distinguished Service Medal with Oak Leaf Cluster, the Silver Star with three Oak Leaf Clusters, the Legion of Merit with Oak Leaf Cluster, the Bronze Star Medal for Valor, the Purple Heart with two Oak Leaf Clusters, and the French Croix de Guerre.

DAVID H. POPPER

Ambassador David H. Popper has been serving since July 1978 as Special Representative of the Secretary of State for Panama Treaty Affairs. A career Foreign Service Officer, Mr. Popper also has served as Ambassador to Chile (1974-77), Assistant Secretary of State for International Organization Affairs (1973-1974) and Ambassador to Cyprus (1969-73).

Mr. Popper joined the Department of State in 1945 as a specialist in international organization affairs, and in 1954 rose to the position of Director of the Office of UN Political and Security Affairs.

In August 1955 Mr. Popper was chosen to attend the National War College. From there he was assigned to Geneva as Deputy U.S. Representative to the international organizations headquartered there. He subsequently served in Geneva as Deputy U.S. Representative to the Conference on Discontinuance of Nuclear Weapons Tests and as Senior Adviser on Disarmament to the United States Mission to the United Nations in New York.

Returning to Washington in 1962, Mr. Popper was appointed Director of the Office of Atlantic Political-Military Affairs in the Bureau of European Affairs. Three years later, in September 1965, he was appointed Deputy Assistant Secretary of State, Bureau of International Organization Affairs.

Mr. Popper was born in New York on October 3, 1912. He received a B.A. degree from Harvard University in 1932 and an M.A. degree from Harvard in 1934. For the next eight years he was a travelling fellow, research associate and associate editor for the Foreign Policy Association of New York. From 1942 to 1945 Mr. Popper served in the U.S. Army, rising to the rank of Captain.

WILLIAM ALSTON HAYNE

Mr. Hayne, a career Foreign Service Officer, has been Deputy Assistant Secretary of State for International Environment, Health and Natural Resources since June 1978. He has led U.S. delegations to the Environment Committee of the Organization for Economic Cooperation and Development (OECD) and to the Governing Council of the United Nations Environment Program. He is U.S. representative to meetings of Senior Advisers to European Economic Community Governments on Environmental Problems.

Born in San Francisco, California, on May 29, 1925, Mr. Hayne received his B.A. degree from the University of California in the Navy V12 program in 1945. He completed his military service as a Lieutenant (j.g.) serving aboard the USS SOUTH DAKOTA. Subsequently he attended Stanford University Graduate School of Business, from which he obtained his MBA in 1949.

Mr. Hayne entered the Foreign Service in 1954 following four years of private industry employment. His Foreign Service career has taken him to Kingston, Lima, Paris and Mexico City. In addition to his foreign assignments he has served in Washington as an international economist in the State Department's Office of International Trade, with the Arms Control and Disarmament Agency, and as a staff member of the The Council on Environmental Quality in the Executive Office of the President.

He speaks Spanish and French.

CHARLES R. FORD

Mr. Ford has served as Executive Assistant and Staff Director to the Administrator of the Environmental Protection Agency since April 1978. A career United States Government employee, Mr. Ford has been associated with resource planning and environmental matters since 1949.

Prior to his present position Mr. Ford was Acting Assistant Secretary of the Army (Civil Works) from January 1977 to April 1978. He served as Deputy Assistant Secretary of the Army (Civil Works) from 1975 to 1978. The office's responsibilities included environmental matters and the operation of the Panama Canal. In March 1978 he received the Army's highest civilian award, the Distinguished Civilian Service Award.

Mr. Ford was born in Rome, Georgia on October 22, 1925. He lived in Gainesville, Florida prior to military service with the Army Air Corps from 1943-45. In 1949 he received a B.S. degree in Civil Engineering from the University of Florida at Gainesville and after graduation began work with the U.S. Corps of Engineers in Jacksonville, Florida. He was transferred to Washington, D.C. in 1965 and joined the staff of the Secretary of the Army in 1968.

ROBERT O. BLAKE

Ambassador Blake has been active in environmental activities since his retirement in 1977 from the U.S. Foreign Service. He is a director of the Natural Resources Defense Council, a member of the Board of Trustees of the Nature Conservancy, a member of the International Committee of the Sierra Club and a senior fellow of the International Institute for Environment and Development. During the 1977-79 period encompassing the Senate debate on the Panama Canal Treaties and congressional enactment of implementing legislation, Mr. Blake served as Chairman of the Panama Canal Environmental Task Force, a coalition of environmental groups which supported the Treaties and the Administration's proposed legislation.

His last Foreign Service assignments were as Deputy Chief of Mission in the U.S. Embassy in Paris (1968-70), Ambassador to Mali (1970-73), Deputy Assistant Secretary of State for International Organization Affairs (1973-1976), and Senior Advisor to the Administrator of the Environmental Protection Agency.

Mr. Blake entered the Foreign Service in 1947 and held positions in Managua, Moscow, Tokyo, Tunis, the U.S. Mission to the United Nations, and Kinshasa. During his career he had Russian language training at Columbia University and attended the Naval War College and the Department of State's Senior Seminar in Foreign Policy.

Mr. Blake was born in California on April 7, 1921. He graduated from Stanford University in 1943 and served with the U.S. Navy abroad during 1943-46. In 1947 he received an M.A. from the John Hopkins School of Advanced International Studies. He speaks Spanish, French and Russian.

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THE WHITE HOUSE

WASHINGTON

Mr. President: 12/29/79

Have you agreed to announce
your budget decisions on
general revenue sharing and
youth employment programs
publicly in conversations
with Stu and Jim McIntyre?

___ yes ___ no

*I told them to
orchestrate it - Phil
I need to approve
first
J*

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THE WHITE HOUSE
WASHINGTON

12/29/79

Mr. President:

Stu and Jim plan to invite a group of 25 - 30 Governors and Mayors to a Cabinet Room briefing on general revenue sharing. After the initial briefing you would enter the room and with press pool coverage make the official announcement. Afterwards the Governors and Mayors would make statements to the press. This would be scheduled on Jan. 3.

A similar event would take place for the Youth Employment Program on Jan. 10 with labor, minority and education representatives present.

Your time involved with each event would be 10 - 15 minutes.

approve disapprove

Phil

J Jan 3 - recc shar
Jan 10 Youth emp

THE WHITE HOUSE
WASHINGTON

12/29/79

Frank Moore

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

Ambassador Askew

NAME Senator Robert C. Byrd

TITLE _____

CITY/STATE _____

Phone Number--Home () _____

Work 224-3954

Other () _____

Requested by Frank Moore

Date of Request 12-28-79

INFORMATION (Continued on back if necessary)

At the ITC hearings, Senator Byrd testified in favor of the import relief recommended by Governor Askew. If you decide to follow Governor Askew's recommendation, the Senator would be very pleased to hear that and we recommend that you call him in that event. If you decide against Governor Askew's recommendation, the Governor himself should call Senator Byrd. White House Congressional Liaison recommends you approve the import relief recommended by Gov. Askew.

NOTES: (Date of Call 12-28)

(over)

Done. Not all that interested

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TALKING POINTS:

1. I heard of your interest in the import relief case on porcelain cookwear in order to reopen the plant in Moundsville, West Virginia.
2. I have decided today to provide four years of substantial tariff relief to this industry.
3. In addition, I am requesting the Economic Development Administration to pursue discussions with the firm involved in order to develop possible financial assistance.
4. Governor Askew has told me that he has talked with the company and what I am providing should do the job.

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National Aeronautics and
Space Administration

Washington, D.C.
20546

Office of the Administrator

December 20, 1979

061532

The President
The White House
Washington, DC 20500

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Dear Mr. President:

The enclosed report on the Space Shuttle covers the period between November 9 and December 18. No significant new technical problems have been encountered during the past month. We have thoroughly analyzed the problems which we encountered in the November 4, 1979, engine test, have taken corrective action and, as I wrote you earlier this week, have successfully restarted the engine firing program.

We have had to expand our Thermal Protection System proof testing and tile replacement activity at the Cape. This aspect of the preparation of Orbiter 102 for first flight, coupled with the completion of engine certification, is pacing the schedule. Although we continue to work on a schedule which would lead to a first flight on June 30, 1980, I now believe that this date is virtually unattainable and that August or September is a realistic estimate for first flight. I am keeping the Department of Defense current with my assessment of schedule, so that the planning and budgeting of both organizations can be appropriately responsive.

Many of the management actions which I discussed with you are now completed, and personnel assignments are being made. The FY 1981 Shuttle budget, along with the request for an FY 1980 supplemental appropriation, is consistent with my assessment of the work to be done.

Although I certainly cannot say that all of our Shuttle problems are solved, we are beginning to see beneficial results from the technical, financial and management reviews and actions which we have been carrying out during the past six months. I expect this improvement to continue.

Respectfully,

A handwritten signature in black ink, appearing to read 'Bob Frosch', with a long horizontal stroke extending to the right.

Robert A. Frosch
Administrator

Enclosure



National Aeronautics and
Space Administration

Washington, D.C.
20546

Office of the Administrator

December 18, 1979

061316

The President
The White House
Washington, DC 20500

Dear Mr. President:

When I met with you on November 14, 1979, we were still assessing the cause of a premature shutdown and fire which had occurred during a Shuttle Main Propulsion System test firing at our test complex in Mississippi on November 4, 1979. The assessment has been completed, engines reworked and reinstalled, and yesterday, we completed a full duration run on the three engine system. Although we are still evaluating the data, it appears to have been a very successful test. I shall advise you further if the analysis reveals any significant anomalies.

Respectfully,

Robert A. Frosch
Administrator

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THE WHITE HOUSE
WASHINGTON

December 21, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*

Attached is a letter which we have just received from Lane Kirkland regarding the budget. I thought that you should see it as you are making your final decisions. I have provided a copy to Jim McIntyre and Secretary Miller.

It is difficult to understate the importance of having Lane Kirkland and the AFL structure "on board" on your budget. First, it would indicate that we had honored the labor accord and our commitment to make them "full partners" in our key economic and budget decisions. Second, it would provide enormous protection from any criticism from the liberal wing of the party with respect to your fiscal '81 budget. Third, it would avoid what would be an endless stream of criticism from countless groups of constituent unions during their frequent meetings and conventions throughout 1980, directed at you and your budget, during a year we know will be difficult economically in any event.

From the tone of Lane's letter and from the meeting I held with high-ranking staff members of the AFL last night, they are attempting to be quite reasonable in their requests.

I hope you and your family will have a pleasant holiday season and wish you the very best in 1980.

P.S. If you have the chance, I think that it would pay great dividends if you could give Lane Kirkland a call acknowledging receipt of his letter and wishing him a Merry Christmas.

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AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

EXECUTIVE COUNCIL

LANE KIRKLAND
PRESIDENT

THOMAS R. DONAHUE
SECRETARY-TREASURER

GEORGE MEANY
PRESIDENT EMERITUS



815 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

(202) 637-8000

PAUL HALL
THOMAS W. GLEASON
S. FRANK RAFTERY
MARTIN J. WARD
ALBERT SHANKER
EDWARD T. MANLEY
WILLIAM H. McLENNAN
DAVID J. FITZMAURICE
ALVIN C. HEAPS
FRED J. BRILL
WAYNE E. GLENN

JOHN H. LYONS
FREDERICK C'NEAL
GEORGE HARDY
WILLIAM SIDELL
GLENN E. WATTS
ANGELO FUSCO
J. C. TURNER
KENNEIH T. BLAYLOCK
WM. W. WHIPPSINGER
JOHN J. O'DONNELL
ROBERT F. GOSS

PETER DOMMARITO
JERRY WURF
AL N. CHESSE
MURRAY H. FINLEY
SOL C. CHAIKIN
CHARLES H. PILLARD
LLOYD MCBRIDE
EMMET ANDREWS
WILLIAM M. WYNN
JOHN DeCUNCIH
DANIEL V. MARONEY

December 21, 1979

The President
The White House
Washington, D.C.

Dear Mr. President:

The AFL-CIO would like to bring to your attention certain fundamental concerns that we have about the 1981 budget.

* We believe that overall social programs need to be maintained at least at their current real-dollar level, with no reduction from current services, to address the formidable social problems facing the nation.

* We believe that programs in the 1981 budget that form the basis of anti-recessionary programs need to be strengthened and fortified so that they provide a firm base on which to build when an economic downturn raises unemployment levels.

* We believe that no new tax initiatives should be taken at this time, either raising or lowering any tax burdens.

* We support your announced efforts to improve the U.S. defense capability by increasing the defense budget in real terms.

In the light of the projected recession, we urge that counter-cyclical programs be planned and authorized so that they can be rapidly expanded and engaged to counter rising unemployment. Certainly such programs should be pinpointed to provide jobs for the unemployed and include public service, public works, public transportation, and housing.

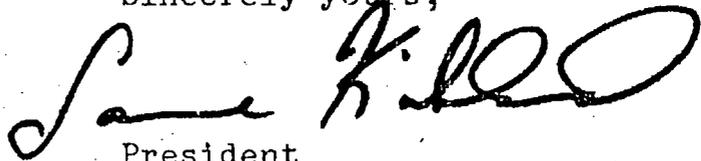
The President
December 21, 1979
Page 2

Changing economic, social and political conditions require a change in budget emphasis. To safeguard America militarily, the defense budget needs to be expanded; to provide for energy independence, the commitment to new energy development needs to be enhanced; but these new initiatives need to be achieved without sacrificing the nation's drive to meet the underlying social problems facing the country.

Budget cuts will not necessarily reduce inflationary pressures, and may well worsen some of those forces both in the short run, as well as in the years to come. Reducing federal support for housing will aggravate the housing shortage and drive up housing prices even further. Cutbacks in funds for training and educating the nation's labor force will worsen our ability to raise the productive capability of the nation. The deferment of needed public works and community development puts off the needed substructure for development.

We urge these budget proposals in keeping with the spirit of the National Accord, and the principles of the Full Employment and Balanced Growth Act of 1978. We appreciate the opportunity of meeting with members of your staff including Secretaries Miller and Marshall, as well as Mr. Eisenstat, Mr. Schultze and Mr. McIntyre, to detail a number of our specific concerns and we urge your consideration of the issues raised in this letter and in those discussions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James G. Hill", written in a cursive style.

President

9

CHARLES L. SCHULTZE, CHAIRMAN
GEORGE C. EADS
LYLE E. GRAMLEY

December 20, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: CEA, OMB, Treasury, and DPS

Subject: Decision on a Supplemental Appropriation for the
Brooke-Cranston Program

Background

Housing starts have dropped 20 percent in the past two months, and they are likely to decline significantly further in early 1980. The Administration's task force on housing and housing finance forecasts a decline in the annual rate of housing starts from the November rate of 1.5 million to a range of 1.2 to 1.4 million in the second quarter of next year; total 1980 starts are forecast at 1.4 to 1.5 million. That forecast is based on a number of considerations, including a survey of builders' plans that shows a substantial decline in planned construction. It is in line with others by private economists, but there is a great deal of uncertainty about the outlook for housing. A sample of permit-issuing places covering the first 15 days of December suggests that residential building permits, which declined almost 30 percent from September to November, may have risen slightly this month.

There is disagreement among your economic advisers about the need for a housing stimulus, and especially about whether you should seek a supplemental appropriation for this purpose in January. A final decision should be made with your other major economic and budgetary decisions on Friday.

The principal action the Administration could take to mitigate a likely decline in housing construction would be to activate the GNMA tandem program (Brooke-Cranston). Under that program, GNMA can purchase both single-family and multi-family mortgages on new homes at below market rates. The resulting interest rate subsidy is passed on mainly, although not necessarily entirely, to the homebuyer. Section 313 of the Act establishing the program permits the Secretary of Housing and Urban Development to determine when, and if, the program is activated once congress has appropriated the funds.

The mortgages GNMA buys under this Program are packaged and sold in blocks at a discount from the original purchase price. Budget outlays occur when GNMA purchases mortgages; the outlay is partially offset when the mortgages are sold.

The ultimate budget cost is determined by the difference between the purchase and sale prices, historically about \$150 million per \$1 billion of mortgages purchased.

The Brooke-Cranston program was enacted in 1974 and was used to cushion the decline in housing then underway. We have already decided to seek a modification of the authorizing legislation to make the program useable in 1980 if it is needed, and this has been communicated to the Congress. However, these are merely technical changes that do not commit us in any way to use of the program. The issue for decision is whether to seek a supplemental appropriation, and if so, when.

Your advisers agree that if a January supplemental is requested, the size of the appropriation should be \$10 billion. If Congressional appropriations action released the \$1 billion of offsetting receipts expected to be available in 1981, only \$9 billion of new budget authority would be required.

If the Congress acted favorably on a supplemental appropriation request by March, assistance to the housing industry could begin in the second quarter, when it is most likely to be needed. With a total funding level of \$10 billion, the annual rate of housing starts could probably be increased by about 120 to 130 thousand units in the second and third quarters. However, the net effect on total 1980 housing starts would be around 65,000 units, and since most of these additional starts are moved forward from the future, there would be little or no significant impact on the housing stock in the long run. Actual net budget outlays are estimated at \$1.5 billion, none of which would occur in fiscal 1980. Assuming that all mortgages purchased are resold by the end of fiscal 1981, the full budget outlay would occur in the fiscal 1981 budget.

120,000/house

*120,000
\$1.5 B.1*

*120,000
8,000*

Options

- Option 1. Defer a decision on requesting a supplemental appropriation until late winter or early spring.
- Option 2. Ask for a supplemental appropriation in January, and include outlays of \$1.5 billion in the FY 1981 budget.
- Option 2(a). As a suboption of Option 2, ask for a supplemental appropriation in January, but indicate to Congress that the Administration does not intend to use it unless conditions warrant, and therefore do not include any outlays in the FY 1981 budget.

Pros and Cons

Option 1.

Pros

- o The outlook for housing is still uncertain. While housing starts may decline sharply further by next spring, they are expected to pick up thereafter because of declining interest rates, and average 1.4-1.5 million units for 1980 as a whole. This does not suggest a need for special support for housing.
- o The two Budget Committees, and especially the Senate Budget Committee, are likely to oppose a request sent up in January. Senator Muskie, in particular, would be expected to fight the appropriation.
- o Deferring the decision need not delay the release of funds materially. An emergency supplemental request in February or March, if housing starts were down significantly further, would likely be acted upon by the Congress very quickly, with a delay of no more than a few weeks.
- o Politically, you may get more credit for a decisive response in February or March than for a January request that could be seen as premature and indecisive. A supplemental request will receive little attention in the context of the entire 1981 budget. The 1975 experience bears this out.

Cons

- o Failure to seek a January 1980 supplemental would risk deferring the impact beyond the point of greatest need.
- o Initiatives to support housing may develop in the Congress if we do not request a supplemental in January. In that case, it might appear that the Administration was dragged into support for housing, rather than taking the lead.

Option 2.

Pros

- o Senate and House Banking Committee staff directors believe that an April 1 startup, which would bolster starts in the second quarter, would require a January supplemental.

- o Support for a supplemental in January does not commit the Administration to release the entire appropriation. While there would be strong pressure to release the funds, the Administration would not be required to release the full amount. The statute provides for release of appropriate funds only if the Secretary of Housing and Urban Development finds that emergency conditions exist. Hill staff regard that trigger as meaningful.
- o A decision on Brooke-Cranston can be kept separate from other economic stimulus decisions. The purpose of Brooke-Cranston is not primarily to strengthen the economy, but to assure that the housing sector is not put through a wringer.
- o If the Budget Committees offer no opposition, the Congress could act quickly and favorably to create an April 1 startup.

Cons

- o The need for housing stimulus is not yet established.
- o A January request for a supplemental appropriation will undermine the credibility of a budget presented as a policy of fiscal restraint.
- o The budgetary cost of \$10 billion release and a \$1.5 billion outlay is an extremely costly way (\$23,000 in budget outlays per additional start) to achieve a smoothing of the housing cycle.
- o Adding \$1.5 billion in outlays to the 1981 budget will mean either a larger budget deficit or squeezing that amount out of budget programs of greater economic or social merit.
- o The Budget and Appropriations Committees are opposed to premature stimulus actions. The Budget Committees will oppose a supplemental vigorously, since there is no provision for it in the Second Budget Resolution.

Option 2(a).

Pros

- o Additions to budget outlays in fiscal 1981 are avoided, while still keeping open the option to move quickly if conditions in the housing market require it.

- o Pressures to utilize the full amount of the supplemental appropriation would likely be less than under Option 2.

Cons

- o The accounting treatment proposed under Option 2(a) may be regarded by some elements of the Congress as budget gimmickry.
- o It would be difficult to convince Congress that the Administration does not intend to use the supplemental appropriation unless conditions in the housing industry worsen. Furthermore, it would be awkward if, between the time we make the request and the time it was approved by the Congress, we decided to use the funds because of changed economic circumstances.
- o Congress is not likely to act quickly on a supplemental request which the Administration may not use. The Budget Committees will require that the additional budget authority be scored against their Second Budget Resolution for FY 1980. Since the Resolution has no room for it, they can be expected to resist the supplemental until the need for stimulus is obvious and the Administration indicates a clear intention to use the funds.

THE WHITE HOUSE
WASHINGTON

12/29/79

Stu Eizenstat

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

12/28/79

Mr. President:

Watson concurs.

OMB has no comment.

TWO SIGNATURES REQUESTED.

Rick

THE WHITE HOUSE

WASHINGTON

December 28, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu* /SANDY HAMILTON

SUBJECT: Your Floodplain Management Executive Order

One of the worst examples of agency foot-dragging on the water policy implementation needs your attention. In May 1977, you signed E.O. 11988 requiring agencies to encourage good floodplain management and thereby reduce flood losses. Agencies were to modify programs and promulgate procedures to comply with the Executive Order. These actions should have been completed fifteen months ago. To date, only 15 of the 31 affected agencies have promulgated procedures. Of the 16 out of compliance, 8 have apparently totally ignored the E.O. Many subunits are out of compliance. These statistics do not even indicate whether agencies with procedures have effectively applied them to their programs.

This situation has become embarrassing (see attached National Journal article). Secretary Andrus, as Chairman of the Water Resources Council, wrote to the laggard agencies in May and requested firm schedules for compliance. Adequate progress has not been forthcoming, though a few agencies did act.

I recommend you:

- o Sign the attached memoranda directing the agencies and their subunits to comply with the E.O. These two memoranda differ only in the length of time for compliance. Agencies with proposed procedures can promulgate final procedures more quickly than those which have not yet even published a proposal.
- o At the next Cabinet meeting, emphasize your expectation that rapid progress will be made in promulgating procedures by those agencies and subunits which do not now have them.

3800H JUNE 1971

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THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR

THE SECRETARY OF STATE
THE SECRETARY OF LABOR
THE SECRETARY OF HEALTH, EDUCATION,
AND WELFARE
THE CHAIRMAN OF THE ADVISORY COUNCIL
ON HISTORIC PRESERVATION
THE DIRECTOR OF ACTION
THE DIRECTOR OF THE COMMUNITY
SERVICES ADMINISTRATION
THE CHAIRMAN OF THE FARM CREDIT
ADMINISTRATION
THE CHAIRMAN OF THE FEDERAL DEPOSIT
INSURANCE CORPORATION
THE DIRECTOR OF THE FEDERAL EMERGENCY
MANAGEMENT AGENCY
THE CHAIRMAN OF THE FEDERAL HOME LOAN
BANK BOARD
THE ADMINISTRATOR OF THE NATIONAL CREDIT
UNION ADMINISTRATION
THE CHAIRMAN OF THE WATER RESOURCES COUNCIL

On May 24, 1977, I issued Executive Order 11988 on Floodplain Management. The Order's purpose was to reduce loss of life and property due to floods and to diminish environmental damage due to imprudent planning and development. The Order required that each agency involved issue implementing regulations.

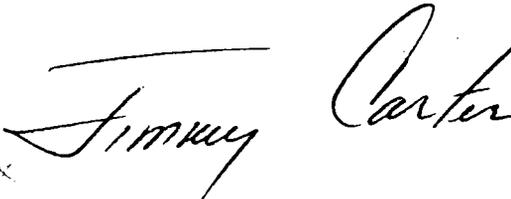
On July 12, 1978, I directed all agencies to expedite implementation of the Order, and I asked the Water Resources Council and the Council on Environmental Quality to monitor progress. Their report to me indicates that compliance is unsatisfactory. Several Cabinet-level agencies have not issued final procedures. And within many agencies, detailed procedures have not been completed by a majority of subunits.

My visit to the coastal areas devastated by Hurricane Frederick confirmed my belief that the provisions of this Executive Order are critical.

I recognize that we have made significant progress in some areas, but we must increase our efforts. Implementing the Floodplain Management Order is a vital part of my water policy, and I expect you to give it your immediate and continued attention. I also expect you to make certain that implementation of Executive

Order 11990 on Wetlands Protection is well underway and is coordinated with your efforts for floodplain management. In addition, you are required by both of these Executive Orders to give particular emphasis to floodplains and wetlands in all of your other planning and decision-making.

To expedite compliance with Executive Order 11988, I direct all Cabinet level agencies that have not issued final regulations to do so within five months. I also direct you to make certain that each of your subunits has issued final procedures within the next seven months. I expect you to devote sufficient agency resources to these procedures to insure that they are promulgated on schedule and to make certain that your agencies meet the requirements of the Order while your procedures are being completed.

Jimmy Carter

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR

THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE SECRETARY OF HOUSING AND
URBAN DEVELOPMENT
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
THE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY
THE CHAIRMAN OF THE NUCLEAR REGULATORY
COMMISSION
THE ADMINISTRATOR OF THE SMALL BUSINESS
ADMINISTRATION

On May 24, 1977, I issued Executive Order 11988 on Floodplain Management. The Order's purpose was to reduce loss of life and property due to floods and to diminish environmental damage due to imprudent planning and development. The Order required that each agency involved issue implementing regulations.

On July 12, 1978, I directed all agencies to expedite implementation of the Order, and I asked the Water Resources Council and the Council on Environmental Quality to monitor progress. Their report to me indicates that compliance is unsatisfactory. Several Cabinet-level agencies have not issued final procedures. And within many agencies, detailed procedures have not been completed by a majority of subunits.

My visit to the coastal areas devastated by Hurricane Frederick confirmed my belief that the provisions of this Executive Order are critical.

I recognize that we have made significant progress in some areas, but we must increase our efforts. Implementing the Floodplain Management Order is a vital part of my water policy, and I expect you to give it your immediate and continued attention. I also expect you to make certain that implementation of Executive Order 11990 on Wetlands Protection is well underway and is coordinated with your efforts for floodplain management. In addition, you are required by both of these Executive Orders to give particular emphasis to floodplains and wetlands in all of your other planning and decision-making.

To expedite compliance with Executive Order 11988, I direct all Cabinet level agencies that have not issued final regulations to do so within three months. I also direct you to make certain that each of your subunits has issued final procedures within the next five months. I expect you to devote sufficient agency resources to these procedures to insure that they are promulgated on schedule and to make certain that your agencies meet the requirements of the Order while your procedures are being completed.

Jimmy Carter

Carter Issues an Order, But is Anybody Listening?

President Carter two years ago ordered federal agencies to adopt regulations implementing his new floodplains policy. So far, only a few have complied.

BY RON DUHL

In 1977, President Carter told federal agencies to use whatever authority they could muster to discourage the development of low-lying areas in danger of damage by flooding.

Twenty-five months later, much of the bureaucracy has ignored his order. Of the 75 agencies that received the directive, only 15 have prepared final regulations spelling out how, for example, they would deny grants to localities that seek federal aid to construct buildings or highways in flood-prone areas. And 46 of the agencies have not even taken the first formal step toward adopting regulations.

"The government is so goddamn unwieldy," said Joseph Coughlin, a flood insurance specialist for the Federal Emergency Management Administration. "It takes forever to get anything done."

Coughlin's office, along with the Council on Environmental Quality and the Water Resources Council, has responsibility for monitoring the bureaucracy's compliance with executive order 11988, issued by Carter on May 24, 1977. The order embodies the President's reversal of the long-standing federal policy of building ever-higher dams and levees to try to hold back floodwaters.

To Carter, no amount of concrete or earthen protection can guarantee the safety of buildings constructed on floodplains—low-lying areas susceptible to flooding by nearby bodies of water. He would rather provide flood proofing for existing buildings—and simply not build any more in areas where the risk of flooding is great.

That is an approach that meets with the approval of environmentalists, but not of a great many federal, state and local officials who have grown comfortable with tradition.

In Congress, many Members have scored points with their constituents by acquiring funds for dams and levees back home. Among the supporters of this kind of construction are Sen. J. Bennett Johnston Jr., D-La., and Rep. Tom Bevill, D-Ala., chairmen of the Appropriations Subcommittees on Energy and Water Development.

"These legislators are maintaining pork-barrel traditions of federal construction funds into their home districts," charged Brent Blackwelder, Washington representative of the Environmental Policy Center.

Johnston and Bevill, however, feel otherwise. Johnston said in an interview that dams and levees are "appropriate most of the time," and Bevill called them "wise investments."

"The people who make these attacks all have one thing in common: they just don't know anything about these projects," Bevill added.

Many state and local officials object to Carter's approach for another reason: they don't want the federal government to tell them where they can build. They resent the notion that bureaucrats might deny them federal aid for construction projects on floodplains.

"We don't feel they should be telling us how to zone our city," said Bill LeCompte, mayor of Cassville, Mo., whose business district is located on the floodplain of Flat Creek.

INERTIA

But for Carter, the most frustrating resistance to his approach to dealing with floodplains comes from his own subordinates within the bureaucracy. So far, he has not been able to get most of the agencies even to draft regulations implementing his executive order.

"Progress [is] reported as unsatisfactory," said Frank H. Thomas, the

representative of the interagency Water Resources Council on the task force that is monitoring compliance with the order.

Timothy Maywalt, the representative of the Federal Emergency Management Administration's flood insurance and hazard mitigation section, said examples of compliance with the order are isolated. He said the agencies are responding "at their own pace, which for a federal agency is very slow."

"Let's see, this is executive order No. 11988," Maywalt said. "That's the President telling them what to do 11,988 times." It's no wonder, he suggested, that the agencies do not always respond promptly.

Some of the agencies—those that are responsible for federal dam and levee projects—disagree with the direction that Carter's policy has taken. Among them are the Army Corps of Engineers, the Interior Department's Bureau of Reclamation, the Agriculture Department's Soil Conservation Service and the Tennessee Valley Authority.

The Corps of Engineers published its final regulations in May, but the regulations of the other three agencies remain in preliminary form. And the task force monitoring compliance with the executive order is hardly satisfied with them. For example, it declared the regulations proposed by the Soil Conservation Service to be "consistently bad," partly because they were not specific enough.

The task force found that the Soil Conservation Service, like many other agencies, did not tell its field officers precisely how to factor floodplain management considerations into their activities, nor who should be responsible for them. Nor did it mention in notices to the public that it would now consider floodplain management principles before accepting requests from farmers to

deepen streams to reduce the likelihood of flooding on their property.

Many of the agencies that do not have a direct stake in flood control projects also have delayed drafting regulations implementing the executive order. For many of them, prohibiting construction on floodplains would disrupt one of their chief activities: construction grants to state and local governments.

The Housing and Urban Development Department (HUD), for example, awards thousands of grants a year, some of them for construction on floodplains. So far, HUD has resisted responding to the executive order, complaining that, among other things, it would drive up the cost of housing in many cities.

Francis Haas, deputy director of HUD's Office of Environmental Quality, said the department has completed a draft of its regulations implementing the order. But the draft has been circulating through the department for comments for fully nine months, and housing officials are talking about preparing an environmental impact statement before putting its regulations into effect.

The task force monitoring implemen-



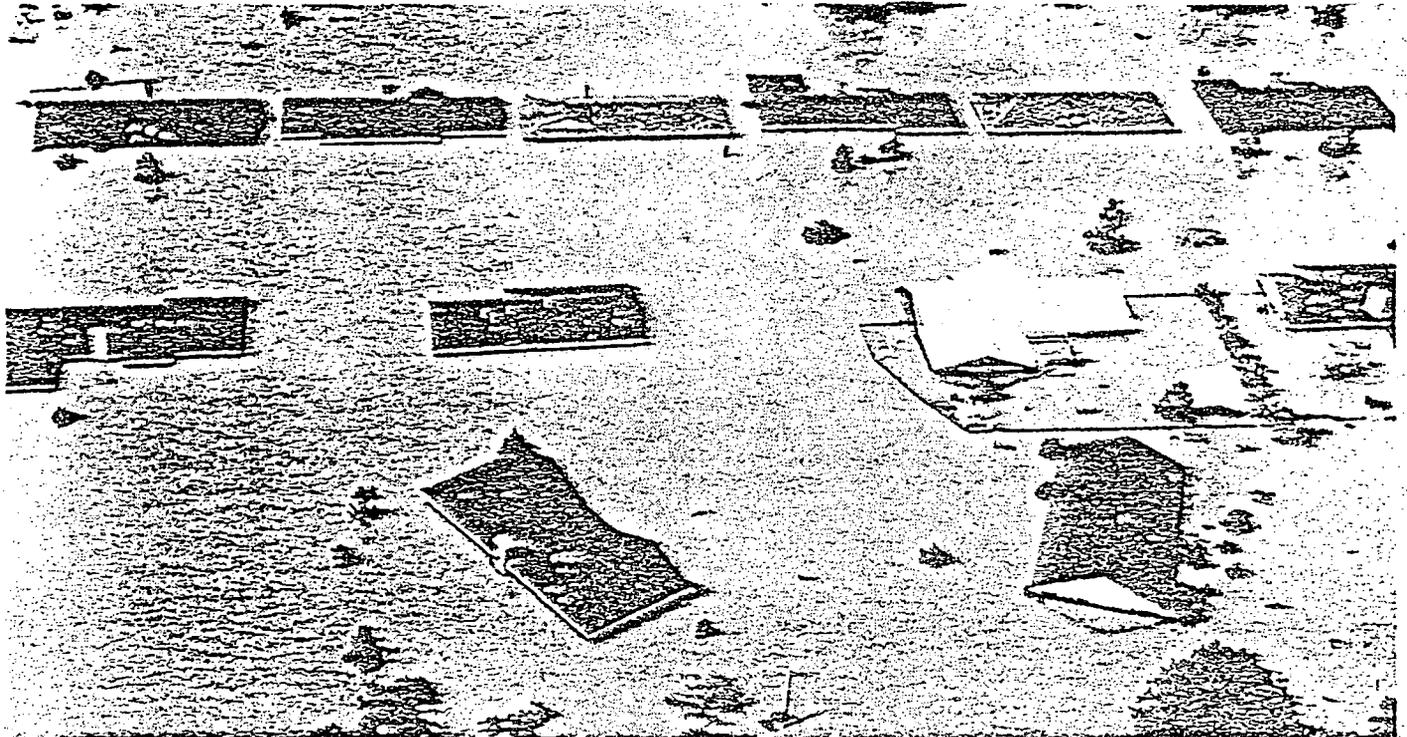
Frank H. Thomas of the Water Resources Council said the bureaucracy may need to be jarred into action by more and costlier floods, such as the one in Jackson, Miss., this year.

Ironically, the three agencies represented on the monitoring task force—the Water Resources Council, the Council on Environmental Quality and the Federal Emergency Management Administration—are among those that have yet to publish preliminary regulations.

Officials of the Water Resources Council and the Council on Environmental Quality said regulations were not entirely necessary for their agencies because they do not administer any programs. "The order applies to action, not advice," said Robert B. Smythe of the Council on Environmental Quality.

The Federal Emergency Management Administration is required to publish regulations because it administers the national flood insurance program. But Maywalt called the agency unique because it deals with floodplain management on a daily basis. Besides, he said, "we are short on staff."

Even the agencies that have published final regulations generally took longer than the 12 months Carter gave them when he issued his executive order in 1977. The Environmental Protection



tation of the executive order is reluctant to accuse HUD publicly of stalling. But Robert Kutler, an attorney with the Council on Environmental Quality, said, "Some people would say that."

"A lot of HUD's missions are to build and develop," added Thomas. When the department is asked to adopt regulations that seem to inhibit its ability to pursue its mission, he said, "some of the developmental people there say, 'The hell with that.'"

The Health, Education and Welfare Department (HEW) is another that has shown signs of dragging its feet. When it received an admonition from Interior Secretary Cecil D. Andrus, in his capacity as chairman of the Water Resources Council, HEW Secretary Joseph A. Califano Jr. responded that the department would issue its regulations by the end of July. His letter was the first communication from HEW to the Water Resources Council in more than a year.

Agency (EPA), which might be expected to be foremost among the supporters of the order, produced its regulations only in January of this year, about eight months late.

An EPA source said the agency, while it has a mandate to clean the environment, also operates as a traditional federal construction agency when it makes grants for sewage and waste-water treatment plants. Like HUD and the Transportation Department, he said,

Bureaucratic Scorecard on Executive Order 11988

Of the 37 federal agencies most directly affected by President Carter's executive order 11988, fully 25 have yet to publish final regulations implementing the order. Thirteen of them have taken a formal first step toward issuing regulations, while 12 have not even published proposed regulations.

although some of these have at least begun to develop regulations internally. Following is a list of the 37 agencies, with Cabinet departments listed first, followed by bureaus within Cabinet departments and finally by independent agencies.

Regulations adopted:	Action in progress:	No action:
Commerce Department Defense Department Energy Department Interior Department Transportation Department Treasury Department Economic Development Administration (Commerce) Army Corps of Engineers (Defense) Bureau of Land Management (Interior) Heritage Conservation and Recreation Service (Interior) Environmental Protection Agency Veterans Administration	Agriculture Department Soil Conservation Service (Agriculture) Farmers Home Administration (Agriculture) Rural Electrification Administration (Agriculture) Fish and Wildlife Service (Interior) National Park Service (Interior) Bureau of Reclamation (Interior) Federal Highway Administration (Transportation) General Services Administration Nuclear Regulatory Commission Small Business Administration Tennessee Valley Authority Federal Disaster Assistance Administration	Health, Education and Welfare Department Housing and Urban Development Department Justice Department Labor Department State Department Forest Service (Agriculture) National Oceanic and Atmospheric Administration (Commerce) Federal Energy Regulatory Commission (Energy) Geological Survey (Interior) Federal Emergency Management Administration Council on Environmental Quality Water Resources Council

SOURCE: Water Resources Council

EPA resisted efforts to retard its construction work. But Tom Sheckells, legal adviser for EPA's environmental review office, argued that the agency merely needed extra time to integrate its floodplain management guidelines into its existing environmental reviews.

Sheckells said he is satisfied with the guidelines as written, but admits the agency is at least a year away from evaluating the compliance of its regional offices. "Our procedures are good" said an EPA official who asked not to be named. "But compliance is spotty."

RELOCATION

Carter issued his 1977 executive order in response to a 1968 law, the National Flood Insurance Act (82 Stat 476), which applies federal land use controls to public and private development on floodplains.

To the Carter Administration, continued construction on floodplains, no matter how high the protective dams and levees, makes little sense. As the Administration points out, property damage from floods reached \$3 billion in 1978, up from about \$300 million just 10 years before.

Federal disaster assistance officials estimate that more than 20,000 communities covering approximately 7 per cent of the continental United States will be hit by a major flood at least once every 100 years. They are especially concerned

about 801 counties that have been declared flood disaster areas by the President at least twice in the past 10 years alone.

The environmental lobby shares that concern. Blackwelder said construction of dams does more harm than good because it encourages development on floodplains.

Dams are never so high that they provide guaranteed protection, Blackwelder said. "When the rare flood comes along, damages are far in excess of what they would have been had nonstructural approaches been taken."

The Administration's favorite non-structural solution is the relocation of housing and commercial development onto high ground. William H. Wilcox, who heads the government's federal disaster assistance program, cited recent experiments in relocation undertaken by Robindale Heights, Pa. (which had been simply Robindale before it was moved), Rapid City, S.D., Baltimore County, Md., and Soldiers Grove, Wis. (*For more on Soldiers Grove, see NJ, 10/14/78, p. 16-18.*)

Unfortunately, the costs of such moves can be almost prohibitive. After the 1972 Rapid City flood, which claimed 238 lives, homes and businesses were moved from the floodplain at a cost of \$400 million—about \$10,000 for each of the city's residents. The cost of moving just 75

families in Robindale Heights exceeded \$3 million.

When the Pearl River overflowed its banks earlier this year at Jackson, Miss., most of the city's 300,000 residents lived on or near the floodplain. But no one has proposed moving them all to higher ground, and federal disaster assistance is being used to repair homes on the floodplain.

Tom Hawkins, a Federal Emergency Management Administration official on the scene, said few Jackson residents wanted to abandon homes valued at more than \$100,000, the price range of many of the houses damaged by the Pearl. "More people would be interested in relocating if they could get the full dollar amount for their homes," he said.

If the federal government cannot provide the resources to relocate homes and businesses from floodplains to higher ground, it can at least discourage new construction in low-lying areas. But even this more modest approach cannot go forward, even though it has Carter's endorsement, until the bureaucracy complies with his executive order.

Thomas of the Water Resources Council said the bureaucracy may need to be jarred into action by more and costlier floods. "Unfortunately," he said, "most of the adjustments [in flood control practices] come after the disaster." □

ID 795683

THE WHITE HOUSE

WASHINGTON

DATE: 13 DEC 79

FOR ACTION: AL MCDONALD

JACK WATSON *aman*

JIM MCINTYRE - *AC*

RICK HERTZBERG *done & styled
a Hachid*

INFO ONLY: THE VICE PRESIDENT

*12-18
PARTY is
getting OMB's
comments added
to SE draft
memos*

SUBJECT: EIZENSTAT HAMILTON MEMO RE YOUR FLOODPLAIN MANAGEMENT

EXECUTIVE ORDER

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM SATURDAY 15 DEC 79 +

+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

file

file

file

file

TO THE HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES

AND SENATORS OF THE SENATE

AND MEMBERS OF THE JUDICIAL BRANCH

OF THE STATE OF NEW YORK

IN SENATE, JANUARY 15, 1906

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE

THE WHITE HOUSE
WASHINGTON

12/29/79

The First Lady

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

Last Day - Friday, January 4

THE WHITE HOUSE
WASHINGTON

December 29, 1979

ae
Forsberg
J

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: Enrolled Resolution H.J. Res. 462
White House Preservation Fund
(Sponsored by Rep. Levitas and Rep.
Johnson of California)

THE BILL

The enrolled bill expresses the sense of Congress that the White House Preservation Fund deserves the encouragement and support of the public in its efforts to raise an endowment of \$25 million for the preservation of White House furnishings.

VOTES IN CONGRESS

Voice vote in both chambers.

AGENCY AND STAFF RECOMMENDATIONS

OMB recommends approval; the White House Curator has no objection. I recommend signature.

DECISION

Sign H.J. Res. 462 (recommended)

Veto H.J. Res. 462

**Electrostatic Copy Made
for Preservation Purposes**

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 28 1979

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Resolution H.J. Res. 462 - White House
Preservation Fund
Sponsor - Rep. Levitas (D) Georgia and Rep.
Johnson (D) California

Last Day for Action

January 4, 1980 - Friday

Purpose

To encourage public support for the activities of the White House Preservation Fund.

Agency Recommendations

Office of Management and Budget

Approval

White House Curator

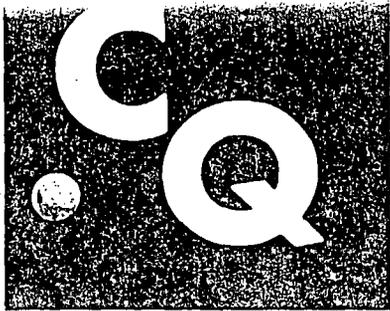
No objection

Discussion

The enrolled bill, which passed both Houses by voice vote, expresses the sense of Congress that the White House Preservation Fund deserves the encouragement and support of the public in its efforts to raise an endowment for the preservation of White House furnishings. The Fund is a private, nonprofit organization chartered in the District of Columbia to work with the White House Historical Association and the Committee for the Preservation of the White House to assure the existence of a permanent collection of White House furniture, paintings, decorative art, and quality craftsmanship and the perpetual care of these items. To achieve this end, the Fund hopes to raise \$25 million.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures



CONGRESSIONAL QUARTERLY
Weekly Report

Vol. 37, No. 52

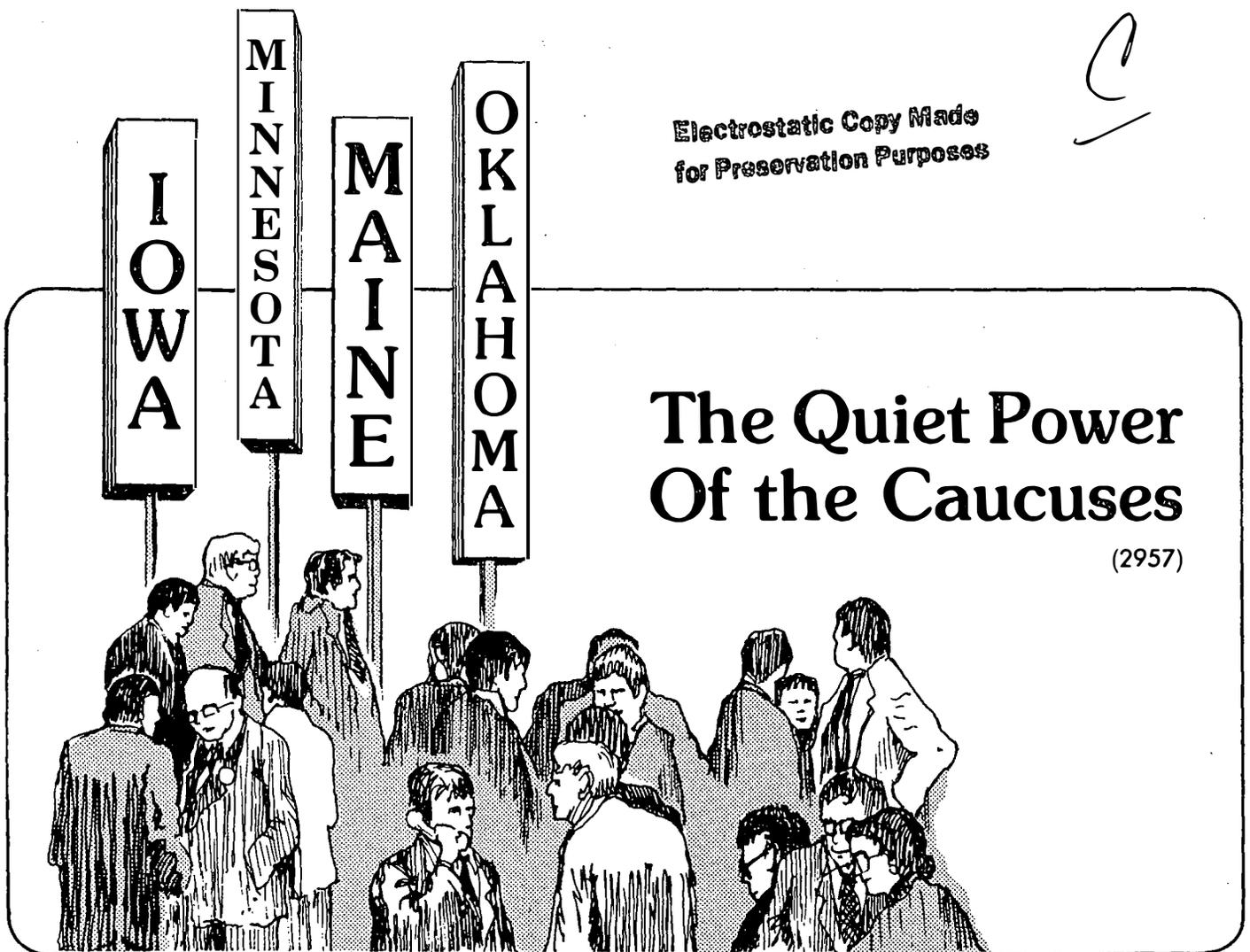
Pages 2937-2972

Dec. 29, 1979

Key Votes

(2942)

Electrostatic Copy Made
for Preservation Purposes



The Quiet Power Of the Caucuses

(2957)

THE WHITE HOUSE
WASHINGTON

12/29/79

Hamilton Jordan

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

Arnie Miller

PHILIP H. ALSTON, JR.

APO San Francisco 96404

December 18, 1979

To Ham
Info
J

Mr. President:

In the strongest terms I urge that a place be found in your Administration for William F. (Bill) McSweeney. I think in terms of a "Special Assistant", or "utility infielder".

When we were home I spoke with The First Lady about Bill and she made an inquiry. But I am not at all certain she understood what I had in mind or why my recommendation.

1. Bill does not need a job. In fact, he is prepared to make a significant sacrifice - in dollars - if he is invited to join you.

2. A look at Who's Who in the World will tell you that Bill now works for Armand Hammer as President of Occidental International. That reference will also list some of his accomplishments which are impressive.

3. Who's Who will not tell you of Bill's personal qualities which, in my judgment, you would find up to your standards.

4. Bill has had a very wide experience and enjoys a broad understanding of government and business; among other endeavors he has been an author and a newsman; but I expect the most important assets he would bring to the table, aside from the basic requirement of integrity and hard work, is "a knowledge of the players". I speak not just of those players who want your job but of those who influence events.

The President
The White House
Washington, D. C. 20500

**Electrostatic Copy Made
for Preservation Purposes**

5. Presently, Bill is helping Bob Strauss and Lee Kling raise money. He is good at that but in my judgment he would be infinitely more effective if he were closer to you.

6. Mr. President, let me request that you and Hamilton call Bill in for some conversation and hear from him just how he feels he can be helpful to the cause. He is a good man and a strong and loyal friend. You may accept at face value any statement that he makes. I will underwrite that proposition.

This all has to do with a second term which will not come easy. Should you decide to ask Bill McSweeney to be close at hand in the upcoming months, you will be well-served.

Affectionate good wishes from the Alstons to the Carters.

As ever,



Philip H. Alston, Jr.

P.S. - Here in Australia you enjoy about a 95% favorable rating. It is too bad these people can't vote in the primaries.

P.H.A., Jr.



THE WHITE HOUSE
WASHINGTON

12/29/79

Frank Moore

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

Jody Powell
Secretary Duncan

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

12-31-79

To (Congressman/Senator)

The President asked me
to send to you a copy
of a summary of our
efforts to increase the
production and consumption
of coal. We are eager to work
closely with you in the realization
of these goals. J Moore

(Frank - Just send Xerox
cc of Charles's letter to
members from coal producing
districts & states. Expedite)

J



Department of Energy
Washington, D.C. 20585

December 20, 1979

*Frank-
Send cc to key
Members of Congress for
information -
J.C.*

MEMORANDUM

061445

TO: The President
FROM: The Secretary *CWS*
SUBJECT: Our Coal Program

The actions we have taken to increase coal consumption are as follows:

The Coal Conversion Program

Since August 20, 1979, the effective date of the regulations under the Fuel Use Act of 1978;

- We have selected conversion candidates by reviewing the Coal Commission's list of 117 coal capable utility generating stations to determine those conversions that would be easiest to accomplish and would displace the greatest quantity of oil by coal.
- We have allocated additional resources to double the number of prohibition orders in process during Fiscal Year 1980. As of December 31, 1979, we will have issued proposed prohibition orders on 20 powerplants. As of September 30, 1980, we will have issued 40 additional proposed prohibition orders. When complete, conversions of all 60 powerplants will save 340,000 bbl/day, increase coal demand by 31 million tons/yr. and create 11,600 miner jobs.
- We are working to resolve coal transportation problems and, with DOT, will sponsor a Coal Transportation Conference with concerned governors.

The Research and Development Program

- There has been a five-fold increase over last year's funding to accelerate development of technology to burn coal cleanly. We have extensive programs to commercialize coal-oil

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mixtures, fluidized bed combustion, coal gasification and coal liquefaction.

- Under the ESC, billions of dollars will be committed to the development of alternative fuels from coal.

The Utility Oil and Gas Backout Legislation

This legislation, which will be ready to submit to Congress in January, will:

- Mandate zero growth in the use of oil and gas by utilities between now and 1985, saving 200,000-500,000 bbl/day.
- Requires 50% reduction in oil and gas use by utilities by 1990, saving at least 1 million bbl/day by 1990.

The DOE Coal Budget

- DOE's coal budget will, for the first time, exceed \$1 billion.
- The 1980 budget is triple the 1978 level.

THE WHITE HOUSE
WASHINGTON

12/29/79

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

December 26, 1979

*Stu -
Did I approve
this?
J*

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
SUBJECT: Agent Orange/FYI

Last May, just prior to Vietnam Veterans Week, we announced that the Air Force would conduct a comprehensive, epidemiologic study on the long-term health effects of exposure to Herbicide (Agent) Orange, the defoliant used during the Vietnam War. As you know, this is a controversial subject among veterans and is causing them great concern.

There have been delays in launching the Air Force study due to complications in the approval process of their protocol by various outside bodies, including the National Academy of Sciences. Congressional pressure has been building for some time to cancel the Air Force study and direct HEW to conduct all such studies. A recent GAO report, requested by Senator Percy, accused the Department of Defense of covering up the possible exposure of thousands of non-Air Force personnel and thus has further complicated this issue. Senator Cranston and Senator Percy stepped up their campaign to cancel the Air Force study.

An alternate Administration proposal was developed over the summer. We proposed the establishment of a broad inter-agency work group, under HEW direction, to oversee all Federal and non-government research on the suspect herbicides and their toxic contaminant dioxin. We have worked out agreements with all agencies involved and announced the formation of this work group Tuesday, December 11. Senator Cranston's veterans health bill, through which he attempted to cancel the Air Force study, has been altered in Conference and is essentially consistent with the approach we have taken.

Under the work group agreement, each agency will pursue its own dioxin research in accordance with a research

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agenda established by the work group. The work group will oversee and coordinate all such research and will have the responsibility of regularly reporting to the Congress and to the public on the progress of these research efforts.

We strongly resisted cancelling the Air Force study, despite the credibility problems that the agency has on this subject, because transfer of all research to a single agency would have represented a very inefficient use of research funds and because it would have established bad precedent. Essentially, transfer would have indicated that the President could not trust a Cabinet Department under his command to conduct reputable research which can withstand scientific and public scrutiny. We believe that the Air Force study will be conducted properly and that its research protocol will have the approval of the scientific community.

Attached, for your information, is a copy of the Interagency Work Group memorandum and a recently issued press release on the subject.

THE WHITE HOUSE

WASHINGTON

December 11, 1979

MEMORANDUM FOR SECRETARY OF DEFENSE
SECRETARY OF HEALTH, EDUCATION,
AND WELFARE
ADMINISTRATOR OF VETERANS AFFAIRS

SUBJECT: Interagency Work Group to Study the
Possible Long-Term Health Effects of
Phenoxy Herbicides and Contaminants

In recent months the public and the Congress have become concerned about adverse health effects to veterans following their possible exposure to herbicides, particularly Agent Orange, while serving in Vietnam. Although there are suggestions of adverse health effects of human exposure to such herbicides and contaminants, there is currently an inadequate scientific basis for relating health problems experienced by Vietnam veterans to previous exposure to herbicides and inadequate information on the long-term health effects of phenoxy herbicides in general.

Individually, each of your agencies has a strong interest in resolving this issue. Several studies have been initiated to answer questions about the possible health effects of exposure to herbicides and more generally to the class of substances called the dioxins. Collectively, the Federal government needs to have reliable data and criteria on which to base decisions and policies which affect the entire country. Although I am aware that there has already been extensive interagency cooperation on these issues, I believe there is a need for formal interagency coordination.

Therefore, I request that you establish an interagency work group to coordinate agency efforts to determine if there are long-term health effects following exposure to phenoxy herbicides and contaminants, with special immediate focus on exposure of Vietnam veterans to Agent Orange. This interagency group should:

1. Oversee, coordinate, and set priorities among Federal government research activities designed

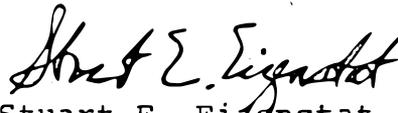
to relate exposure to phenoxy herbicides to long-term health effects.

2. Design a research agenda to assure that the Federal government conducts comprehensive research on the long-term health effects of these compounds, in response to both scientific and policy needs. The type and duration of exposure to Agent Orange by Vietnam veterans must be considered in the research agenda design so that the Veterans Administration will be able to establish sound policies for determining compensation for veterans exposed to Agent Orange in Vietnam, should a relationship between herbicide exposure and long-term adverse health effects be established. The research agenda should build on current agency activities, including the Department of Defense's Ranch Hand study. The interagency work group should identify the appropriate agencies to conduct the recommended research, either individually or through joint efforts.
3. Provide technical support to individual agencies and independent researchers in the formulation, development, and implementation of research on the biomedical effects of phenoxy herbicides and contaminants.
4. Assure that the protocols and methodology of ongoing and proposed Federally funded research studies will produce valid, reliable, timely, and relevant data, and periodically review the status of such research.
5. Assure that all relevant research findings, whether publicly or privately financed, are promptly made available to the public and the Congress, in a comprehensible and comprehensive fashion. The work group should establish a working relationship with the Veterans Administration's Advisory Committee on Health-Related Effects of Herbicides and should promptly provide the Committee all relevant information as it becomes available.

I am asking Secretary Harris to take the lead in convening the interagency group and would like to have an initial report on the progress of the group submitted to me by

February 15. The initial report should indicate the status of current agency activities, a proposed schedule for public progress reports, and any recommendations for inclusion of other agencies on the work group.

I have asked the Office of Science and Technology Policy to be an ex-officio participant on the work group. In addition, the Department of Agriculture, the Environmental Protection Agency, and the Occupational Safety and Health Administration will initially participate on the work group in an observer status.



Stuart E. Eizenstat
Assistant to the President
for Domestic Affairs and Policy

cc: Secretary of Agriculture
Administrator, Environmental Protection Agency
Assistant Secretary of Labor for Occupational
Safety and Health
Director, Office of Science and Technology Policy

Study of Agent Orange Health Effects Ordered

By Jeremiah O'Leary
Washington Star Staff Writer

President Carter has ordered the establishment of an interagency working group to study the possible long-term health effects of Agent Orange and other herbicides that were used extensively in the Vietnam war.

The group, according to the White House, will



EIZENSTAT

have the major responsibility for reporting to the public the results and implications of all research findings on the health effects of phenoxy herbicides and their contaminants.

The program was launched yesterday when domestic affairs adviser Stuart Eizenstat sent a memorandum to the secretaries of Defense and Health,

Education and Welfare and to the administrator of Veterans Affairs. A number of Vietnam veterans have complained that their health has been damaged by exposure to Agent Orange, which was sprayed from U.S. military planes over wide areas of Vietnam to kill vegetation and forest growth that might conceal Viet

Cong and North Vietnamese forces. HEW will be in charge of assuring that the proposed federally funded studies and methods are scientifically sound.

The White House has directed the working group to coordinate with the Veterans Administration on compensation policy for veterans claiming to have health problems because of exposure to Agent Orange. The White House said there is not an adequate scientific basis for determining whether exposure to the poison could have caused long-term health problems to the Vietnam veterans.

Meanwhile, the Air Force has begun a major study to determine the current health status of personnel who took part in Operation Ranch Hand, the code name for those assigned to spray Agent Orange on Vietnam.

HEW has launched grant programs for epidemiological and laboratory studies in connection with the herbicides. These include studies of industrial workers exposed to the phenoxy herbicides at Nitro, W. Va., Jacksonville, Ark., and Saugert, Ill.

These studies are expected to yield information on the possible health effects of chronic exposure to the so-called dioxin contaminant compounds. HEW is of establishing a registry of workers who were involved in the manufacture of the herbicides. HEW research grant programs support 21 programs for dealing with the chemistry, biochemistry, pharmacology and toxicology of dioxins and related compounds.

The VA also has established a central registry which contains data obtained from comprehensive medical examinations of Vietnam era veterans claiming exposure to the herbicides. This registry will be used for a formal study of ground troops who served in Vietnam.

Office of the White House Press Secretary

THE WHITE HOUSE

The White House today established an interagency work group to study the possible long-term health effects of the type of herbicides that includes Agent Orange, the herbicide which was used extensively in Vietnam.

In a memorandum to the secretaries of defense and HEW and to the administrator of veterans affairs, Stuart Eizenstat, domestic advisor to the President, called upon the interagency group to "oversee, coordinate and set priorities among Federal government research activities designed to relate exposure to phenoxy herbicides to long-term health effects."

The Interagency Work Group will have the major governmental responsibility for reporting to the public the results and implications of all research on the long-term health effects of phenoxy herbicides and their contaminants. The Work Group, which will be chaired by HEW, must assure that the protocols and methodology of ongoing and proposed federally funded research studies are scientifically sound.

The Work Group will establish a working relationship with the Veterans Administration's Advisory Committee on Health-Related Effects of Herbicides, which is advising the VA on compensation policy for veterans claiming health problems because of exposure to Agent Orange in Vietnam. There is currently an inadequate scientific basis for determining whether exposure to the herbicides could have caused long-term health effects.

The Interagency Work Group will oversee a number of ongoing agency activities related to the phenoxy herbicides and contaminants.

The Air Force has initiated a major study to determine the current health status of the Operation Ranch Hand participants, who were responsible for spraying Agent Orange in Vietnam. The protocol for that study has been revised based on reviews by the Air Force Scientific Advisory Board, the Armed Forces Epidemiological Board, and the University of Texas at Houston School of Public Health. The protocol is currently being reviewed by a committee of the Assembly of Life Sciences of the National Academy of Sciences.

The Department of Health, Education, and Welfare research grant programs support major research in two broad areas: epidemiological and laboratory studies. A major focus of the epidemiological efforts is on studies of industrial workers exposed to the phenoxy herbicides or their contaminants, which include the class of compounds called dioxins. Studies of workers exposed in Nitro, West Virginia, Jacksonville, Arkansas, and Sauget, Illinois should yield information on the possible health effects of chronic dioxin exposure. HEW is in the process of establishing a registry of workers involved in the formulation or synthesis of phenoxy herbicides. In addition, HEW research grant programs support 21 grants dealing with the chemistry, biochemistry, pharmacology, and toxicology of dioxins and related compounds.

The Veterans Administration has established a central registry which contains data obtained from comprehensive medical examinations of Vietnam era veterans claiming exposure to herbicides. This registry will be utilized in a formal epidemiological study of ground troops who served in Vietnam, which the VA soon will initiate. In addition, the VA is currently performing a pilot study of the feasibility and diagnostic usefulness of determining dioxin levels in the fat of veterans exposed to phenoxy herbicides.

~~CONFIDENTIAL~~

2

- (5) Whenever another debate is scheduled, it would be after Iran. By then, economic issues will be dominant, and to your disadvantage: the unemployment rate will be up, the recession will finally be here (if it is ever coming), gasoline prices will be up, and inflation will not show much sign of abating.
- (6) Once this debate is over, there will be no need to agree to further debates.
- (7) I am sure Bob Strauss and Tim Kraft will be letting you know of the impact of cancellation on the campaign. My understanding, though, is that cancellation will likely have a very serious impact in Iowa; it is the type of announcement that could change the outcome. Kennedy will be able to campaign on the basis of his caring enough to come to Iowa. It can be said subtly, and will have real impact.

Whatever your decision, I think it should be held until as late as possible, probably the New Year. That will obviously allow you to decide with as much information as possible about the likely situation in Iran, but will also keep Brown and Kennedy guessing (and probably not preparing with the necessary dedication).

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

PERSONAL AND CONFIDENTIAL

THE WHITE HOUSE

WASHINGTON

December 26, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*

SUBJECT: Iowa Debate

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Before you make a final decision on your participation in the Iowa debate, I wanted to present to you on paper the reasons why I strongly believe you should participate in the debate:

- (1) I am afraid the press and the public will begin to say you are hiding behind Iran -- using a national crisis to help you politically. The press is beginning to hint at that view. If you cancel the debate, I fear an avalanche of articles charging that you are using Iran as an excuse not to debate or campaign; that was fine for a month or so, but at this point the hourly-daily developments do not require your constant presence in Washington.
- (2) By not debating, you are effectively saying that there is no event outside of Washington that you will attend until the hostages are freed. They may be in captivity for two more months. I think you cannot expect the poll margins to hold for two months, and you need to be seen in the flesh seeking voter support. It will be hard to do that, in New Hampshire for instance, if you have previously canceled a debate because of Iran.
- (3) The debate is a perfect device to provide the transition you need from isolation to more public/political involvement. It is clearly different from the typical political event, and your participation can be publicly explained on that basis. Once the event is behind you, it will be much easier to ease into more political events.
- (4) The debate could not come at a better time. If you cancel, you will undoubtedly have to commit to another debate; whenever that debate is held, you are unlikely to be as high in the polls and public respect. By doing the debate now, you will be able to take advantage of the high standing you now have; the television audience is likely to look at your answers with greater respect; the audience questioners are likely to be more deferential; the other candidates are likely to be more intimidated, more defensive.

"NOT TO BE AN ADMINISTRATIVE MARKING
CANCELLED PER E.O. SEC. 1.3 AND
ATORNY'S MEMO OF MARCH 26, 1983"

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~~CONFIDENTIAL~~

2

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