

**6/30/80 [2]**

Folder Citation: Collection: Office of Staff Secretary; Series: Presidential Files; Folder: 6/30/80 [2]; Container 167

To See Complete Finding Aid:

[http://www.jimmycarterlibrary.gov/library/findingaids/Staff\\_Secretary.pdf](http://www.jimmycarterlibrary.gov/library/findingaids/Staff_Secretary.pdf)

THE WHITE HOUSE  
WASHINGTON  
6/30/80

Attorney General Civiletti  
Lloyd Cutler

The attached was returned in  
the President's outbox today  
and is forwarded to you for  
appropriate handling.

Rick Hutcheson

cc: The Vice President  
Stu Eizenstat

FOR STAFFING
FOR INFORMATION
✓ FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
FOR APPROPRIATE HANDLING
LAST DAY FOR ACTION

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

ACTION  
FYI

✓	VICE PRESIDENT
	JORDAN
✓	CUTLER
	DONOVAN
✓	EIZENSTAT
	MCDONALD
	MOORE
	POWELL
	WATSON
	WEDDINGTON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE
	ANDRUS
	ASKEW
	BERGLAND
	BROWN
✓	CIVILETTI
	DUNCAN
	GOLDSCHMIDT
	HARRIS
	KREPS
	LANDRIEU
	MARSHALL

	MILLER
	VANCE
	BUTLER
	CAMPBELL
	H. CARTER
	CLOUGH
	CRUIKSHANK
	FIRST LADY
	FRANCIS
	HARDEN
	HERTZBERG
	HUTCHESON
	KAHN
	LINDER
	MARTIN
	MILLER
	MOE
	PETERSON
	PRESS
	SANDERS
	SPETH
	STRAUSS
	TORRES
	VOORDE
	WISE



Office of the Attorney General  
Washington, D. C. 20530

June 16, 1980

MEMORANDUM FOR THE PRESIDENT

Re: Potential Litigation of the  
Legislative Veto Issue

cc Ben  
Lloyd-

Push this  
test

J.C.

I have your note to Stuart Eizenstat which reflects your interest in litigating the constitutionality of the legislative veto device enacted on May 29, 1980 as part of the Federal Trade Commission Improvements Act of 1980. Although I am not hopeful that we will be able to secure early judicial determination of this issue with regard to the FTC, I am hopeful that the very recent exercise of legislative veto power by the Congress in five instances will result in judicial consideration and resolution of this issue.

At present, the only case pending in the federal courts raising this issue involves the exercise of a one-House veto under the Immigration and Nationality Act. That case, Chadha v. INS, was argued in the Ninth Circuit Court of Appeals on April 10, 1978 by Assistant Attorney General Harmon; that court has given no indication as to when it will hand down a decision. We wrote to the court again last month calling the court's attention to the importance of the case and offering to do anything the court might require to expedite the decision.

With regard to FTC rules, despite the language in the Federal Trade Commission Improvements Act of 1980 inviting litigation, it is doubtful that a federal court can take jurisdiction of and decide the legislative veto question until such time as Congress exercises the legislative veto power it arrogated to itself in that Act. We are informed that the funeral industry rule is a likely target, but that no rule will be promulgated in time to be considered and vetoed during the 96th Congress.

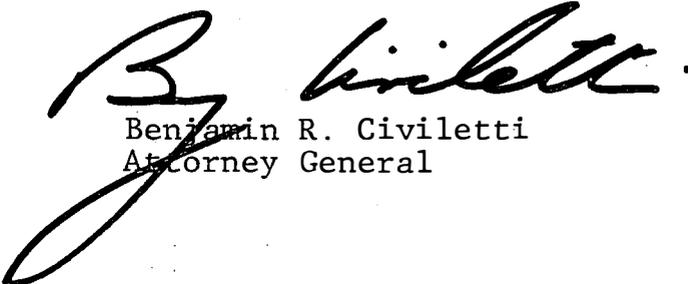
On June 5, 1980 I issued an opinion to Secretary Hufstedler (attached) advising her that a legislative veto provision in § 431 of The General Education Provision Act

is unconstitutional and that she could implement four regulations recently vetoed by Congress under § 431. Of the four Department of Education regulations recently vetoed, one rule may lead to litigation of this issue. That rule, which prescribes certain procedures to be used by the Education Appeal Board, will be implemented by Secretary Hufstedler on the basis of my advice to her that she may do so notwithstanding the legislative veto. One effect of that implementation will be to present the opportunity to one or more parties presently before the Education Appeal Board to challenge Secretary Hufstedler's legal right to implement a rule given its veto by Congress. The Government cannot initiate a suit to test this provision but rather we must wait for a person affected by the regulations to bring such a suit.

Finally, the House of Representatives disapproved, on May 20, 1980, a regulation issued by the Federal Energy Regulatory Commission. That rule was required to be issued under the Natural Gas Policy Act of 1978 and would put into effect phase II of natural gas deregulation. It would require industrial users of natural gas to pay an extra share of the cost of deregulating natural gas in order to relieve smaller consumers of natural gas of the economic burden of deregulation. Chairman Curtis of FERC has stated informally that his agency, an independent regulatory commission, will abide by the legislative veto.

On June 5, 1980 three consumer organizations formally filed a petition asking FERC to reconsider its decision to abide by the one-House veto. Litigation of the constitutional issue is likely to occur no matter how FERC responds. Such litigation, in which I expect to intervene on behalf of the United States, would also present the question whether Congress would have given FERC the power to adopt the phase II rule if there had been no one-House veto provision. If not, then a court decision that the legislative veto provision is unconstitutional would void the power to issue the phase II rule along with the legislative veto. This issue arises in all legislative veto cases.

We will argue to the court that the legislative veto provision is severable from the substantive statutory provisions establishing phase I and phase II and, therefore, the unconstitutionality of the legislative veto does not affect the continuing validity of the remainder of the statute. I will keep you advised of future developments regarding these potential court tests for the legislative veto.



Benjamin R. Civiletti  
Attorney General

Attachment

ID 803496

THE WHITE HOUSE

WASHINGTON

DATE: 20 JUN 80

FOR ACTION:

*up to date?  
ch of such*

INFO ONLY: THE VICE PRESIDENT

LLOYD CUTLER

STU EIZENSTAT

JACK WATSON

*OK*

SUBJECT: CIVILETTI MEMO RE POTENTIAL LITIGATION OF THE  
LEGISLATIVE VETO ISSUE (REVISED MEMO)

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

ACTION REQUESTED: YOUR COMMENTS

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

PLEASE NOTE OTHER COMMENTS BELOW:

UNITED STATES GOVERNMENT  
OFFICE OF THE DIRECTOR  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C. 20535

RECEIVED BY: [ ]  
DATE: 4/10/89

FROM: [ ]  
TO: [ ]

*Hold*  
*new memo*  
*coming from*  
*DOJ*

BY: [ ]  
DATE: [ ]

**MEMORANDUM  
OF CALL**

TO:

YOU WERE CALLED BY —  YOU WERE VISITED BY —

OF (Organization)

PLEASE CALL — PHONE NO.  FTS  
CODE/EXT.

WILL CALL AGAIN  IS WAITING TO SEE YOU

RETURNED YOUR CALL  WISHES AN APPOINTMENT

MESSAGE

*Civil letter memo  
re: Potential litigation  
of the leg. veto issue  
Justice wants to  
hold until we  
hear from them*

RECEIVED BY

DATE

*of [unclear]  
Newstead*

63-109

☆ U.S. G.P.O., 1979-281-184/13

STANDARD FORM 63 (Rev. 8-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.6

**Electrostatic Copy Made  
for Preservation Purposes**

---

add FM for  
action

Electrostatic Copy Made  
for Preservation Purposes

ID 803139

THE WHITE HOUSE

WASHINGTON

DATE: 31 MAY 80

FOR ACTION: LLOYD CUTLER

STU EIZENSTAT

INFO ONLY: THE VICE PRESIDENT

FRANK MOORE

SUBJECT: MEMO FROM BENJAMIN CIVILETTI RE: POTENTIAL LITIGATION OF  
THE LEGISLATIVE VETO ISSUE

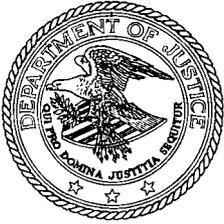
+++++  
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +  
+ BY: 1200 PM TUESDAY 03 JUN 80 +  
+++++

ACTION REQUESTED:

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

PLEASE NOTE OTHER COMMENTS BELOW:

**Electrostatic Copy Made  
for Preservation Purposes**



Office of the Attorney General  
Washington, D. C. 20530

May 30, 1980

MEMORANDUM FOR THE PRESIDENT

Re: Potential Litigation of the  
Legislative Veto Issue

I have your note to Stuart Eizenstat which reflects your interest in litigating the constitutionality of the legislative veto device enacted on May 29, 1980 as part of the Federal Trade Commission Improvements Act of 1980. Although I am not hopeful, for essentially the reasons set forth in the attached memorandum of the Office of Legal Counsel, that we will be able to secure early judicial determination of this issue with regard to the FTC, I am hopeful that the very recent exercise of legislative veto power by the Congress in five instances described more fully in the Office of Legal Counsel memorandum will lead to judicial consideration and resolution of this issue.

At present, the only case pending in the federal courts raising this issue involves the exercise of a one-House veto under the Immigration and Nationality Act. That case, Chadha v. INS, was argued in the Ninth Circuit Court of Appeals on April 10, 1978 by Assistant Attorney General Harmon; that court has given no indication as to when it will hand down a decision. I believe there are no appropriate avenues available at the present time for our attempting to hasten their decision.

With regard to FTC rules, it is doubtful that a federal court can take jurisdiction of and decide the legislative veto question until such time as Congress exercises the legislative veto power it arrogated to itself in the Federal Trade Commission Improvements Act of 1980. We are informed that the funeral industry rule is a likely target, but that no veto would be likely during the 96th Congress.

Of four Department of Education regulations recently vetoed by concurrent resolution under § 431 of the General Education Provisions Act, one rule may lead to litigation of this issue. That rule, which prescribes certain procedures to be used by the Education Appeal Board, will be implemented by Secretary Hufstedler on the basis of my advice to her that she may do so notwithstanding the veto. One effect of that implementation will be to present the opportunity to one or more parties presently before the Education Appeal Board to challenge Secretary Hufstedler's legal right to implement a rule given its veto by a concurrent resolution. We are, unfortunately, not in a position to generate such a court test and it is difficult to assess the probability that parties with an interest in the regulation will do so.

Finally, the House of Representatives disapproved, on May 20, 1980, a regulation issued by the Federal Energy Regulatory Commission. That rule, if implemented, would put into effect phase two of the Natural Gas Policy Act of 1978, which calls for industrial users of natural gas to pay an extra share of the cost of deregulating natural gas in order to relieve smaller consumers of natural gas of the economic burden of deregulation. The General Counsel of FERC has stated informally that his agency, an independent regulatory commission over which I have no litigating control, will abide by the legislative veto. If your advisers determine that the FERC rule at this point in time represents bad policy, I believe the Administration should introduce immediately legislation to overturn that rule. I strongly recommend, notwithstanding the wisdom of the FERC rule, that you concur in my filing papers with FERC which would permit their reconsideration of their apparent decision to abide by the legislative veto and which would then provide an avenue for challenging the constitutionality of that veto in an appropriate judicial proceeding.



Benjamin R. Civiletti  
Attorney General

Attachment

Department of Justice  
Washington, D.C. 20530

RECEIVED  
OFFICE OF THE  
ATTORNEY GENERAL  
MAY 30 1980

MAY 30 1980

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Potential Litigation Involving the Legis-  
lative Veto Issue

The purpose of this memorandum is to apprise you of the current status of several situations presenting a potential for getting a judicial ruling on the constitutionality of legislative veto devices. It is prompted both by the President's note to Stuart Eizenstat affixed to the latter's May 27, 1980 memorandum for the President (attached), as well as the exercise by Congress in the past several weeks of five legislative vetoes, and the President's signing of the Federal Trade Commission Improvements Act of 1980 on May 29. We have attached to this memorandum a memorandum for your signature to the President calculated to bring him up to date on this issue.

As you are aware, Chadha v. INS, involving the constitutionality of a one-House veto provision in the Immigration and Nationality Act which was argued by John Harmon on April 10, 1978, continues to languish before the Ninth Circuit panel that heard the case. We believe that all appropriate measures to secure the court's decision in that case have been exhausted, at least for the time being.

In addition to the Chadha case, several other opportunities for litigating the constitutionality of legislative veto devices currently present themselves, although with varying degrees of potential for getting a judicial decree. The situations are as follows:

A. Federal Trade Commission Rules

The President signed into law on May 29 the Federal Trade Commission Improvements Act of 1980. Section 21 of that Act provides for veto of FTC rules by a concurrent resolution. That section also provides that "Any interested party may institute such actions in the appropriate district court of the United States including actions for declaratory judgment, as may be appropriate to construe the constitutionality" of the legislative veto provision. The legislative history of this judicial review provision makes clear that Congress intended to remove only prudential, as distinguished from Article III constitutional, limitations on judicial consideration of this issue. We have discussed this matter with the FTC General

Counsel's Office informally. That Office believes that the most likely candidate for exercise of a legislative veto is the funeral industry rule and that there is very little likelihood that the rule would be ripe for veto in the time left in the 96th Congress. Given this, and given the holding of the D.C. Circuit in Clark v. Valeo, 559 F.2d 642, 650, aff'd, 431 U.S. 950 (1977), that judicial consideration of this constitutional question absent actual exercise of the veto power by Congress presents severe Article III jurisdictional problems, we do not believe that there is much promise in securing in the near future a judicial determination of this issue in the context of an FTC rule. 1/

#### B. Department of Education Rules

Congress has, in the past several weeks, exercised by concurrent resolution its purported veto power under § 431 of the General Education Provisions Act, 20 U.S.C. § 1232(d), to disapprove four final regulations promulgated by the Department of Education. As you are aware, we expect to transmit to you in the very near future for your consideration and approval an opinion for your signature to Secretary Hufstedler addressing both the constitutionality of § 431 and the legal effect of the four legislative vetoes on the validity of the regulations in question.

Three of the vetoed regulations involve grant programs that, in Congress' apparent view, either impose requirements on grant applicants that are not authorized by statute or, in one case, permit expenditures that Congress did not intend. These regulations are unlikely to lead to suit because the requirements in question are not onerous, and no grantee is likely to challenge the one regulation which is assertedly too liberal.

1/ In Clark v. Valeo, the court was presented with a situation in which the Department of Justice argued that the mere existence of a legislative veto device had an impermissible effect on the ability of the Federal Election Commission to execute its responsibilities under its organic statute. In its decision, the Court of Appeals indicated that even if it had found no Article III barrier to its reaching a determination of the constitutional issue presented, it would have declined to reach the issue on prudential grounds. See 559 F.2d at 650 n.10. We believe it clear that the Federal Trade Commission Improvements Act of 1980 would effectively remove the "prudential" basis for a court's declining to adjudicate the constitutionality of the legislative veto device contained in § 21 of that Act. See Cong. Rec. H 3868 (daily ed. May 20, 1980). That Act did not affect and, of course, could not have affected the constitutional problems with an Article III court's entertaining such litigation.

The final regulation, providing procedures for the Education Appeal Board, is more likely to provoke suit. The Board has jurisdiction over several kinds of proceedings involving the recovery from state and local education agencies of expenditures that were not allowable under particular grants. Congress disapproved the Board's regulation because it is allegedly overgenerous to respondents in such actions. Although this one provision, if implemented over a veto, would probably not provoke suit, Congress' resolution of disapproval reaches, and assertedly invalidates, the entire Board regulation. Therefore, a respondent attempting to delay any proceeding against it might seek to enjoin the Board from proceeding at all until a valid final regulation is implemented. Alternatively, a respondent who is unsuccessful before the Board might raise the asserted invalidity of the Board's regulation in the course of subsequent judicial review. One current respondent, the State of Pennsylvania, has a \$5 million dispute pending before the Board; it is therefore a likely candidate to raise the legislative veto issue in some context.

Notwithstanding the likelihood of suit involving the Board, a court might still not reach the legislative veto issue. First, there is a dispute, under the relevant legislative veto statute, 20 U.S.C. § 1232(d), whether Congress timely passed its resolution of disapproval.

Second, in an injunctive suit, a court might find that no threat of irreparable harm would be posed to any respondent because, even if the current regulation were invalid, its invalidation would only resuscitate the previous interim regulation under which the Board could proceed in virtually the same way.

A remaining possibility for suit exists because Representative Perkins, the sponsor of three of the four vetoes and the most ardent proponent of the veto mechanism under the education laws, has indicated in informal discussions with Education his possible disposition to bring suit to uphold the vetoes himself or on behalf of his Committee. Resolution of the veto issue in such a suit might be avoided, however, on grounds of justiciability or standing. Neither this Office nor the Department has taken, to date, a firm position on whether the courts should entertain such a suit by a Member, Committee or House of the Congress.

### C. The FERC Natural Gas Pricing Regulation

On May 20, 1980, the House of Representatives adopted a resolution of disapproval of a rule transmitted to the Congress on May 6, 1980 by the Federal Energy Regulatory Commission promulgated under the Natural Gas Policy Act of 1978. The rule was the second phase of an "incremental pricing" plan for deregulated natural gas. The one-House veto was exercised pursuant to power

purported is delegated to either House under § 202 of that same Act. 2/

There are two distinct routes by which litigation regarding the exercise of the veto power here could occur. First, FERC itself could choose to regard the legislative veto as having no legal effect and commence to implement the regulation. Under that scenario, we could assume that a heavy industrial user of natural gas would file suit very quickly, arguing that the regulation was null and void. We have, however, been in touch informally with the General Counsel of FERC, Robert Nordhaus. Mr. Nordhaus indicates that FERC, which is an independent agency with completely independent litigating authority, has no intention of following that course.

The other route by which litigation can arise is a bit more complex. Both the Department of Energy and the Council on Wage and Price Stability made filings in, and were therefore parties to, the FERC rulemaking. As such, they are entitled at this point in time to file, probably no later than June 6, 1980, a petition for reconsideration by FERC of its rule or any portion thereof. Upon denial of such petition both DOE and COWPS would be entitled to seek judicial review. In this particular case, the petition for reconsideration would presumably request FERC to reconsider that part that indicated that the rule would not be effective should one House disapprove the rule. It would also ask FERC to implement its rule. We have been in touch with Alan Morrison, an attorney representing a consumer group which also appeared in the FERC rulemaking. Mr. Morrison, as soon as he has the concurrence of his client, intends to follow this course of action. Thus, it seems fairly certain that this issue will be presented to a court with or without the

---

2/ A lengthy discussion of the rule and the reasons for the House's exercise of the veto power conferred by § 202 is contained in 126 Cong. Rec. H 3839-55 (daily ed. May 20, 1980). From that discussion, it would appear that Congress determined in the 1978 Act that industrial users of natural gas should bear a disproportionate amount of the costs of deregulation of natural gas as compared with homeowners and other smaller users of natural gas. The FERC rule disapproved by the House apparently had the effect of implementing that policy and was disapproved by the House on the basis of the House's belief that that policy was no longer good policy under present economic conditions.

participation of the Executive. 3/

While we believe the procedural niceties of the Natural Gas Policy Act pose no substantial barrier to litigation of the legislative veto issue, you should be aware that any such litigation is likely to present a substantial severability issue. The Act itself suggests strongly that, but for its ability to take a "second look" at the wisdom of the FERC rule finally issued, Congress might not have given FERC the authority to issue this rule in the first place. If the court were to find the legislative veto provision not to be severable from the substantive grant of power to issue the rule, the court would be faced with disallowing the rule altogether if it found the legislative veto provision to be unconstitutional. The severability issue is further complicated by the fact that, should a court ultimately find no authority for the rule because of the severability problem, an argument could be made and most probably would be made by Mr. Morrison's client, that the initial rule promulgated by FERC as phase one of natural gas deregulation under the 1978 Act must also fall. While we tentatively have concluded that neither of these holdings should prevent our securing a judicial determination of the constitutional issue, they raise policy issues which should be brought to the attention of Administration officials having jurisdiction over them. 4/

Although some procedural aspects of going forward remain to be resolved, we recommend that the Department of Energy and the Council on Wage and Price Stability file a petition for reconsideration before FERC regarding the legislative veto issue. That petition for reconsideration, we assume, would be prepared by this Department in coordination with those agencies. 5/

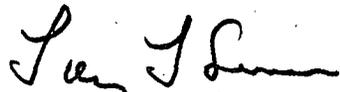
---

3/ We would also note that there may be other procedural routes which could be followed to raise this issue before FERC or a federal court. In the time available, we have not been able to determine the propriety of those routes because of questions we have been unable to answer regarding interpretation of certain provisions of the Natural Gas Policy Act of 1978.

4/ In this regard, we have been asked by Joe Onek, Deputy Counsel to the President, to attend a meeting on Monday, June 2, 1980, to discuss this issue with the various concerned policymakers.

5/ This Department's in-house expertise in making various kinds of filings before FERC is located in the Antitrust Division. We have discussed this matter with the Antitrust Division and anticipate their being able to assist us on this matter very quickly. We are presently working with them to develop a draft petition for rehearing prior to June 2.

The memorandum to the President which we have prepared for your signature reflects our recommendation that a petition for reconsideration be filed.



Larry E. Simms  
Deputy Assistant Attorney General  
Office of Legal Counsel

THE WHITE HOUSE  
WASHINGTON

June 28, 1980

SIGNING CEREMONY FOR S.562 NRC AUTHORIZATION BILL  
SENATOR GARY HART AND CONGRESSMAN MO UDALL

I. PURPOSE

To sign S.562 NRC Authorization Bill and have a brief photo opportunity with Senator Gary Hart and Congressman Mo Udall.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

Background: S.562 authorizes Fiscal Year 1980 appropriations of \$426,821,000 for the Nuclear Regulatory Commission, which includes funding to implement many of the recommendations of the Kemeny Commission. It requires the NRC to prepare detailed contingency plans for nuclear reactor accidents and to implement a variety of new safety standards for the licensing of new and operating reactors. Its most important miscellaneous provisions include stricter civil and criminal penalties for failure to comply with NRC regulations and for sabotage of nuclear facilities; a requirement that the NRC notify the Congress before spent fuel is transferred to a U.S. territory, and the appropriate Governors before nuclear waste is shipped through their states; and authorization for the NRC to promulgate regulations to withhold safeguards information from the public. This bill is a vital step in implementing safe construction and operation of nuclear power plants.

Participants: Senators Gary Hart, Jennings Randolph, Alan Simpson, and Robert Stafford. Congressmen Mo Udall, ~~Don Clauson~~, and Harley Staggers. White House staffers Bob Schule and Bill Cable.

Press Plan: White House photographer.

*3 Colorado papers (Washington Reps) (Hart's District)*

III. TALKING POINTS

See Attached.

1. I am pleased to sign S.562 authorizing appropriations to the Nuclear Regulatory Commission for Fiscal Year 1980. This important bill provides the necessary funding and authority for many recommendations made by the Kemeny Commission concerning the regulation of nuclear reactors, the inspection of facilities and enforcement of regulations, the development of safety and environmental standards and contingency plans, and the conduct of nuclear regulatory research.
2. I want to personally thank Senator Gary Hart as Chairman of the Subcommittee on Nuclear Regulation and Congressman Mo Udall, Chairman of the Subcommittee on Energy and the Environment for their commendable leadership in enacting this legislation.
3. I am extremely gratified that Congress, with the bipartisan support of members like Senator Jennings Randolph, Chairman of the Senate Committee on Environment and Public Works, Senators Robert Stafford and Alan Simpson, Congressman Harley Staggers, Chairman of the House Committee on Interstate and Foreign Commerce, and Congressman Don Clausen in a joint effort has been able to assess the Kemeny Commission report and guide this bill through Congress in an expeditious manner.
4. With the passage of this legislation, it is my hope that the Nuclear Regulatory Commission in cooperation with other federal agencies will ensure the safe operation of America's nuclear power plants.

THE WHITE HOUSE  
WASHINGTON

patti --

president retained last page  
of delegation suggestions....  
still didn't take action on  
paperclipped page.

however, he was talking to  
watson about this after staff  
meeting, so you may want to  
check with watson's office to  
see disposition of attached

thanks-sc

*Jack had  
had meeting  
w/ President  
day after  
done really.*

Mr. President--

*Patti -  
Went out  
this way*

You did not take action or comment  
suggested members of delegation  
as submitted....or, apparently as  
important but separate, inclusion  
of Keefe.

Please see paperclipped pages.

--Susan Clough

THE WHITE HOUSE

WASHINGTON

June 28, 1980

EYES ONLY

MEMORANDUM FOR THE PRESIDENT

FROM : JACK WATSON  
AL MCDONALD

SUBJECT: Presidential Attendance at the Ohira  
Memorial Service

The stage has been set to limit the downside consequences of a decision for you not to attend the Ohira memorial service in Tokyo. The discussions in Tokyo over delegation composition have built in lower expectations to limit official disappointment and, hopefully, to dampen public reactions. Since there are no protocol or precedent requirements for you to go, we have a logical story to tell here that should limit domestic criticism to at least no more of a flap than the one over Tito's funeral.

Consequently, the downside costs of your not going appear manageable, even though the barrage of suggestions urging your attendance continues.

On the other hand, we believe that the upside potential of your going is tremendous. There is probably no gesture that will be available to you in the next five years that would do more to solidify relationships between our two countries. Your presence would dramatically underscore our unique bilateral relationship and mutual support. It could also create more readiness on the part of the Japanese Government to work out promptly and positively our continuing stream of economic, trade and political problems.

Because of differences in the concept of obligations between the Japanese culture and our own, this gesture would touch a chord with the Japanese people and their leaders that could place you in a unique position among American Presidents and, thereby, enormously benefit our country over time.

Whether right or wrong, the Japanese perception is that Ohira as a person and a head of government fulfilled to the limit -- and perhaps even beyond -- his side of the obligations inherent in the unique Japanese-American relationship. He took the risk and was unseated domestically because of his

staunch support for your positions which were clearly unpopular in Japan. In the Japanese layman's view, the physical strain of suffering a harsh political defeat and launching an immediate re-election effort contributed to Ohira's untimely death at the peak of his career. There is clearly no causal link, but in the Japanese cultural sense, there are strong coincidental suspicions that counterbalancing obligations were also incurred.

For you to respond with a personal trip beyond the call of official duty and protocol would represent a dramatically positive and very human gesture. It would more than square any imagined "account" and emphasize for Japanese leaders that those who take risks in support of the United States can be confident that we value the relationship in the same way they do and that we will fully recognize and appreciate their contributions and sacrifices.

Attendance of an American President at the funeral of the Emperor will be assumed and viewed in Japan as a form of disgrace if it does not happen. In that case, the upside will be slight and the downside enormous. This situation is such a contrasting opportunity that one can hardly imagine a set of circumstances in which more diplomatic good will and a tighter bond between two peoples could be cemented.

Such a voluntary, personal gesture could only be viewed with high and enthusiastic emotion by the Japanese people. To them what other heads of state do is almost irrelevant. Because of the unique character of our bilateral relationship, your action will be the only one that really counts.

We believe the domestic reactions would also be very positive. The difference between a head of state and a head of government has no significance to our man in the street. When reports from Japan begin to show what a unique opportunity you have seized and the tremendous diplomatic result you have produced, reactions here should be highly favorable. In the next four months, opportunities with a real and unmitigated political upside will be hard to find, but, needless to say, extremely important. An incumbent President can capitalize on such an opportunity most easily in foreign affairs. The Ohira memorial service is a classic example of such an opportunity; missing it will have significant political costs.

In sum, we believe the potential for benefits is so great and the circumstances surrounding the occasion so special that you should consider the matter one more time before deciding. We fully appreciate the inconvenience of such a long trip, particularly since you have just returned from one, but we think you should go.

## THE WHITE HOUSE

WASHINGTON

June 28, 1980

## MEMORANDUM FOR THE PRESIDENT

FROM : JACK WATSON *Jack*  
AL MCDONALD *Al*

SUBJECT: U.S. Delegation to Ohira Memorial Service

Attached is a proposed list for the Delegation to the Ohira memorial service. This list has been cleared with NSC, State Department, and the offices of the Vice President, Sarah Weddington and Anne Wexler.

Only government officials and representatives of major organizations have been included. No individual business executives were added since that is almost an endless list that is difficult to sort out without creating more ill will than appreciation.

For the Congressional group, members are listed in the order that Frank Moore recommends for invitations. He is discussing these with Majority Leader Byrd and Speaker O'Neill. Frank suspects the final list will include Senator Glenn and Congressman Jones as members of the official delegation, and Senator Matsunaga and Congressman Mineta in the accompanying party. The Vice President's office is uncomfortable with Frenzel but Jones is very anxious to have him since they form a bipartisan unit focusing on Japanese trade problems in the Ways and Means Committee.

The only other dissenting views concern Bob Keefe. Bob Strauss considers him an absolute must, and State expects objections from Ambassador Mansfield and Assistant Secretary Holbrooke.

\_\_\_\_ Approved as submitted  
 \_\_\_\_ Exclude Keefe  
 \_\_\_\_ Substitute as indicated

POSSIBLE DELEGATION

OHIRA MEMORIAL SERVICE

Official Delegation

Head - ~~President/Vice President/Secretary of State/  
Secretary of Treasury~~

Ambassador Mansfield  
Ambassador Askew  
Senator Inouye/Glenn  
Congressman Zablocki/Wolff/Jones  
Governor George Ariyoshi (Hawaii)\*

Accompanying Party

Edwin Reischauer (Former Ambassador)  
Robert Ingersoll (Former Ambassador; Chairman,  
Japan Society)  
James Bere (Chairman; Advisory Committee of  
Japan-US Economic Relations)  
Joji Konoshima (Executive Director, U.S.-Asia  
Institute)  
Senator Glenn/Matsunaga  
Congressman Wolff/Jones/Mineta or Frenzel  
Diane Feinstein (Mayor, San Francisco)  
Robert Keefe (Consultant on Asian and Ethnic  
Affairs, DNC)

(JW)

\*Assuming five members plus Ambassador Mansfield

THE WHITE HOUSE  
WASHINGTON  
June 30, 1980

Henry Owen

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

Rick Hutcheson

THE WHITE HOUSE  
WASHINGTON

6/26/80

Rick Hutcheson --

I've not sent a cc to Owen yet.  
Pls handle.

Thanks--Susan Clough

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
FOR APPROPRIATE HANDLING
LAST DAY FOR ACTION

*original  
to Owen*

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

ACTION  
FYI

VICE PRESIDENT
JORDAN
CUTLER
DONOVAN
EIZENSTAT
MCDONALD
MOORE
POWELL
WATSON
WEDDINGTON
WEXLER
BRZEZINSKI
MCINTYRE
SCHULTZE
ANDRUS
ASKEW
BERGLAND
BROWN
CIVILETTI
DUNCAN
GOLDSCHMIDT
HARRIS
KREPS
LANDRIEU
MARSHALL

MILLER
VANCE
BUTLER
CAMPBELL
H. CARTER
CLOUGH
CRUIKSHANK
FIRST LADY
FRANCIS
HARDEN
HERTZBERG
HUTCHESON
KAHN
LINDER
MARTIN
MILLER
MOE
PETERSON
PRESS
SANDERS
SPETH
STRAUSS
TORRES
VOORDE
WISE



DEPARTMENT OF STATE

Washington, D.C. 20520

June 24, 1980  
4:00 a.m.

Mr. President,

I just spoke to Anne Wexler in Washington, as she had asked me to do before I left, to brief her on the Summit results on energy, and particularly coal. She wanted to be able to communicate these results to members of the Congress particularly interested in coal. She said that several members are ready to speak on the floor Tuesday about the accomplishments of the Summit. She thought the results would be well received.

She said that there had been a fight in the Platform Committee on nuclear power and that in order to prevent adoption of a plank committing the U.S. to phase out nuclear power it had been necessary to agree to a plank that said the U.S. should phase out of nuclear power when the U.S. was self-sufficient in energy. I told her that we were briefing the press here that different countries would make different contributions to the 1990 goal of 15-20 MBD equivalent increased supply of alternative energy sources, and that the U.S. contribution would be largely in coal.

I'm leaving in an hour for Vienna, where I'll brief Austrian officials, including Chancellor Kreisky, about the Summit results and share with him some of our doubts about the North-South Summit idea he's promoting. I'll be back in Washington Friday.

I enjoyed serving you at this Summit.

120  
Henry Owens

@ Henry Owens -  
Again, you did a superb job  
as my personal representative. I  
thank you for it! J. Carter

FRANKLIN D. ROOSEVELT, JR.

Book - FYI  
orig. 40 files Bill  
cc  
cc's 40 → Jody  
6/30/80  
8B J

June 16, 1980

The President  
The White House  
Washington, D. C.

073860

Dear Mr. President:

Just a note on tax cut tactics.

Secretary Miller's current line that you do not now favor a tax cut but that it might be most welcome next January, I think, should be changed to:

"The President is constantly reviewing the advisability and the timing of a tax cut, depending on the economic situation."

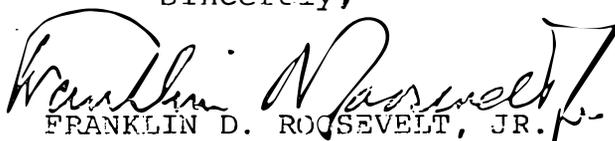
This puts you in favor of a tax cut at the right time, and makes you a statesman acting in the best interests of the nation's economy, rather than Governor Regan's position favoring a tax cut now, obviously for political advantage.

Hopefully, both inflation and interest rates will be down around 9% or 10% by late October, but unemployment may be running 9% or even 10%, and there are more wage earners than borrowers, although I guess it is getting pretty even. Therefore, I think you may want to ask for a tax cut just before Congress goes home in September - again, hopefully. You can avoid the obvious accusation of political motivation if you now take the position that you favor a tax cut at the right time, depending on the economic picture. Then, instead of political motivation, you will be a statesman.

I am delighted that Hamilton Jordan is full time on the campaign. It is imperative that you win this election. Anything I can do to help, please don't hesitate to let me know.

With warm, personal regards,

Sincerely,

  
FRANKLIN D. ROOSEVELT, JR.

FDRJR:egb

THE WHITE HOUSE

WASHINGTON

June 30, 1980

In times of economic uncertainty, such as these, small businesses are often hardest hit by the double burdens of inflation and market slowdowns.

In the past, the small business people of this Nation have demonstrated their willingness and their determination to apply the skills, the knowledge and the restraint necessary to overcome such difficult periods of adjustment.

Sharing information and ideas is characteristic of the small business community. As a vital part of our response to the unprecedented economic demands facing us, I encourage you to continue applying the self-reliance and ingenuity that have made small business the backbone of the Nation's economy.

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

In times of economic uncertainty, such as these, small businesses are often hardest hit by the double burdens of inflation and market slowdowns.

In the past, the small business people of this Nation have demonstrated their willingness and their determination to apply the skills, the knowledge, and the restraint necessary to overcome such difficult periods of adjustment.

Sharing information and ideas is characteristic of the small business community. <sup>As a vital part of</sup> ~~in~~ our responses to the unprecedented economic demands facing us, I encourage you to continue applying the self-reliance and ingenuity that have made small business the backbone of the Nation's economy.

~~JIMMY CARTER~~

6/26/80  
Cleared by  
Speechwriters  
TAT

**U.S. SMALL BUSINESS ADMINISTRATION**  
**1441 L STREET NW**  
**WASHINGTON, DC 20416**

**CHUCK SEARCY**  
**ASSISTANT ADMINISTRATOR**  
**FOR PUBLIC COMMUNICATIONS**  
**TELEPHONE 202-653-6832**

**Electrostatic Copy Made  
for Preservation Purposes**

THE WHITE HOUSE  
WASHINGTON

01 Jul 80

FOR THE RECORD

GENE EIDENBERG RECEIVED A COPY  
OF THE ATTACHED.

THE WHITE HOUSE

WASHINGTON

June 30, 1980

Gene  
C

MEMORANDUM FOR THE PRESIDENT

FROM: GENE EIDENBERG

Gene

SUBJECT: Brief Status Report on Cuban Refugee Situation

There are three matters related to the Cuban refugee situation of which you need to be apprised.

1. Individual Cuban-Americans are still trying to get to Cuba to get family members. The Coast Guard barricade in the Florida Straits remains effective between Key West and Mariel Harbor. There is some penetration of the barricade north and east of Key West via Bahamian waters (1-3 boats per day).

The Coast Guard has received permission from the Bahamian Government to fly over its airspace and is now choking off these latest efforts. The Coast Guard will stay in the area in force until we are confident the situation is stabilized.

Sustain this effort

2. With Lloyd, I have asked the Justice Department to develop a procedure for releasing commercial fishing vessels seized during the "freedom flotilla." Such a procedure may follow those in a federal court order issued last week in Miami. The court order has been stayed until July 7 to provide the government an opportunity to either appeal or work out a procedure satisfactory to the court, the boat owners and the government. I expect to have such a procedure developed and announced by Tuesday, July 1.
3. In your name, I have asked the Small Business Administration to defer collections on obligations to the SBA by commercial fishermen whose boats have been seized and who are unable to meet payment schedules because of the delays occasioned by the legal proceedings. Vernon Weaver has agreed and I announced this decision in Miami on Friday, June 27. The result is that no commercial fisherman will lose ownership while we work out a settlement that protects the integrity of our law enforcement efforts and permits the owners to resume fishing.

I have advised Congressman Bo Ginn of our efforts.

cc: Jack Watson  
Lloyd Cutler  
Frank Moore

Electrostatic Copy Made  
for Preservation Purposes

830

THE WHITE HOUSE  
WASHINGTON

6/29/80

Mr. President:

Enclosed are cables Zbig asked me to deliver to you. The first 3 deal with the UN vote on Jerusalem. You already have a Zbig memo recommending a meeting tomorrow morning before the vote. You are now scheduled to depart Camp David at 3 pm.

depart Camp David tomorrow morning and meet with Muskie, Zbig, Mondale and McHenry on UN vote

have group come to Camp David

arrange conference call with group

Phil

9.  
SC

# The Trilateral Commission

345 EAST 46th STREET, NEW YORK, N.Y. 10017 • (212) 661-1180

Cable: TRILACOM NEWYORK • Telex: 424787

David Rockefeller  
North American Chairman

Takeshi Watanabe  
Japanese Chairman

Georges Berthoin  
European Chairman

Mitchell Sharp  
North American Deputy Chairman

Nobuhiko Ushiba  
Japanese Deputy Chairman

Egidio Ortona  
European Deputy Chairman

George S. Franklin  
Coordinator

June 24, 1980

C

074413

Charles B. Heck  
North American Secretary  
Martine Trink  
European Secretary  
Tadashi Yamamoto  
Japanese Secretary

The Honorable Jimmy Carter  
President of the United States  
The White House  
Washington, D.C. 20501

EXECUTIVE COMMITTEE

Giovanni Agnelli  
P. Nyboe Andersen  
Robert W. Bonner  
Henrik N. Boon  
William T. Coleman, Jr.  
Paul Delouvrier  
Horst Ehmke  
Carlos Ferrer  
Garret Fitzgerald  
George S. Franklin  
Chujiro Fujino  
Michel Gaudet  
Takashi Hosomi  
Robert S. Ingersoll  
Yusuke Kashiwagi  
Henry A. Kissinger  
Max Kohnstamm  
Baron Léon Lambert  
Roderick MacFarquhar  
Bruce K. MacLaury  
Carlos March Delgado  
António Vasco de Mello  
Kiichi Miyazawa  
Karl-Heinz Narjes  
Keichi Oshima  
Charles W. Robinson  
William M. Roth  
Kiichi Saeki  
William W. Scranton  
Ryuji Takeuchi  
Otto Grieg Tidemand  
Sir Philip de Zulueta

Dear Mr. President,

I thought you would be interested to see the latest issue of Dialogue, which is devoted to the plenary meeting of the Commission held in London at the end of March, 1980. Most of the discussions summarized in this issue, as well as Kiichi Miyazawa's fine address to the participants, went to the heart of current problems in trilateral relations; I hope this issue will give you the flavor of what turned out to be the best-attended and one of the most successful plenary meetings we ever had.

Sincerely,

George S. Franklin  
Coordinator

Enc.

Electrostatic Copy Made  
for Preservation Purposes

THE WHITE HOUSE  
WASHINGTON

6/30/80

Jack Watson  
Anne Wexler

The attached was returned in  
the President's outbox today  
and is forwarded to you for  
appropriate handling.

Rick Hutcheson

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
FOR APPROPRIATE HANDLING
LAST DAY FOR ACTION

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

ACTION  
FYI

	VICE PRESIDENT
	JORDAN
	CUTLER
	DONOVAN
	EIZENSTAT
	MCDONALD
	MOORE
	POWELL
	WATSON
	WEDDINGTON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE
	ANDRUS
	ASKEW
	BERGLAND
	BROWN
	CIVILETTI
	DUNCAN
	GOLDSCHMIDT
	HARRIS
	KREPS
	LANDRIEU
	MARSHALL

	MILLER
	VANCE
	BUTLER
	CAMPBELL
	H. CARTER
	CLOUGH
	CRUIKSHANK
	FIRST LADY
	FRANCIS
	HARDEN
	HERTZBERG
	HUTCHESON
	KAHN
	LINDER
	MARTIN
	MILLER
	MOE
	PETERSON
	PRESS
	SANDERS
	SPETH
	STRAUSS
	TORRES
	VOORDE
	WISE



THE SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

15 JUN 1980

cc Jack  
Anne  
advise  
J

MEMORANDUM FOR THE PRESIDENT

Here is another idea on how we might help rebuild a constituency for foreign aid, as we discussed at last Friday's Foreign Policy Breakfast. Why not revive the oft-used approach of setting up another "blue ribbon panel" of distinguished citizens? This device has been used to good effect before but not in the last several years.

By including on the committee a few prominent businessmen, churchmen, and labor leaders, you could prime and educate them to go after these constituencies. To avoid possible charges of election year politics, the panel could be asked to report after the election but before your next budget. You might even appoint one or two prominent liberal Republicans.

*Arnold Bruner*

la fo → Bob Dunn  
6/25/80  
h

June 24, 1980

MEMO TO: THE PRESIDENT  
FROM : PHIL WISE; LONDON BUTLER; HAMILTON JORDAN  
THRU : BOB DUNN *Bob*  
SUBJECT: Request for Approval to Schedule Meeting  
with the UAW Board

Doug Frazer has advised Landon Butler that the UAW is not going to let it's support for Kennedy eliminate the Union from being a major force in the general election campaign.

Frazer plans to convene the International Executive Board after the Convention to meet with the candidates and then to hold regional meetings to endorse your reelection.

Landon advised Frazer that there was a great deal of planning for the fall campaign that had to begin at once, and Frazer agreed.

Landon and Hamilton believe it important to set an early date for a meeting with the UAW Board.

Early meeting approved: Yes  No

*J*

MEMORANDUM  
OF CALL

TO: \_\_\_\_\_

YOU WERE CALLED BY \_\_\_\_\_

YOU WERE VISITED BY \_\_\_\_\_

OF IDENTIFICATION \_\_\_\_\_

FRANK MOORE

BEST COPY AVAILABLE

WHEN CALLED BY \_\_\_\_\_

IS WANTED TO SEE YOU

RETURNED BY \_\_\_\_\_

WITH AN ASSIGNMENT

MESSAGE

has a copy of  
the attached

RECEIVED BY	DATE	TIME

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D.C. 20535

NAME MIKE SYNAR

1568

TITLE Congressman

Requested by Frank Moore / FM,  
Jim Copeland

CITY/STATE Muskogee, Oklahoma

Date of Request 6/30/80

Phone Number--Home (     )                     

Work (     ) 225-2701

Other (     )                     

INFORMATION (Continued on back if necessary)

On June 12, the House passed the Fair Housing bill. The crucial vote occurred on June 11 on an amendment by Mike Synar which refined and retained the enforcement provisions of the Committee bill. His amendment passed 205-204.

Synar's floor statement, personal lobbying and defense of his amendment were extremely effective.

----- (over) -----

NOTES: (Date of Call                     )

*not done*

TALKING POINTS

1. I didn't have a chance to call before I went to Europe but wanted you to know that I am very appreciative of your fine work on the Fair Housing bill.
2. You struck the right compromise and then communicated it eloquently to your colleagues.

Thank you.

NAME Congressman John Dingell (D-Mich)

1555

TITLE Member of Congress

Bob Maher / *F.M./m*

Requested by Walker Nolan

CITY/STATE Wash. D.C.

Date of Request 6/12/80

Phone Number--Home (202) 821-2531

Work  225-4071

Other  \_\_\_\_\_

INFORMATION (Continued on back if necessary)

This call should be made as soon as possible.

Dingell has not scheduled any activity on Utility Oil Backout legislation because 1) his subcommittee has been busy and 2) an early scan of the members indicates we have three, maybe four votes.

Support was originally limited because members like Moffett, Wirth,

NOTES: (Date of Call \_\_\_\_\_)

*done*

Markey and Maguire were upset over the acid rain issue, and Shelby and Sharp were not sure the government should be giving companies money to convert. The ranking minority (Brown-Ohio) doesn't like the idea and it is unlikely we will get any Republicans, unless some Texas Republicans are attracted by the gas provisions.

As an activist in the Coal Caucus, Murtha has asked that you meet with members of Dingell's subcommittee and pitch them. Dingell felt at that time we might be hurt by this. His thought was that those members invited were against or at best undecided. If the press asked them and they had not been converted, then it would reflect badly on us.

Since then, we have worked some and appear to be making progress on the environmental issue.

There are 14 Democrats and 7 Republicans. We need 11 votes. Besides the 4 Democrats we think we have, we can begin to pick up some uncommitteds when the bill starts to move.

The call to Dingell is to express your interest, tell him that you know he has talked to some members and previously the issue looked grim. Thank him for the early effort and for having his staff talk to members about compromises. Tell him you need this bill and that you hope he will put his full effort into helping with members.

Tell him you know he advised against meeting with his committee members, but you are asking his advice anew knowing staff has talked to some. He will be flattered by your asking him his personal appraisal of the various members.

Time is very short. With Senate Energy Committee having reported a bill 17-1 on the 11th, perhaps the House could begin markup. Dingell's staff is recommending that Dingell not act until Senate floor action is completed. The Senate won't start until the end of next week. (Attached is a summary of the Senate Committee action)

CAUTION: Dingell will rant about how the Senate intends to turn this into a Christmas tree bill. He is concerned that the Senate gas amendment would weaken the Fuel Use Act provision for gas use. He doesn't want to go to Conference and deal with a weakened Fuel Use Act. He is also aware that Senate floor amendments may open the Clean Air Act.

The Senate Energy Committee reported out their staff's redraft of Phase I of our bill on June 11th by a vote of 17-1. It contained a compromise provision which allows some utilities to burn gas until 1990 or for their book service lives, whichever is later. This is less than the outright repeal of the Fuel Use Act prohibition against burning gas past 1990. Had repeal been in the bill, Dingell threatened to not move the bill. His staff is still unhappy with the Senate provision and is recommending that he not act on the bill until Senate floor action is completed. The Senate will not begin floor action until the end of next week. We need for the House to begin action as soon as possible.

The Committee trimmed the list of plants mandated for conversion from 107 in our bill to 80. The rationale was to turn it to plants that were newest and largest, thus getting more bang for the buck. However, the decisions were primarily politically based.

The Committee adopted a Metzenbaum amendment to help Ohio Coal which added \$200 million to the \$400 million which our bill provided for coal scrubbing and washing. He also changed the compliance language so that a utility doesn't have to be in compliance with the Clean Air Act, rather it merely doesn't have to be found not in compliance. This may cause some controversy.

A Tsongas amendment to link grants to a constant emissions plan was defeated. (Tsongas was the only vote against reporting out.) The clean air issue will reappear on the Senate floor in a Dominici amendment. Dingell is concerned about getting a bill which would open up the Clean Air Act.

The Senate changed our 50% grants financing provision to 25% grants across the board, 25% more upon showing of need, and another 25% in loans to be repaid out of money saved by burning coal.

The Committee dropped Phase II for the sake of time. It might be considered separately or there is a remote possibility it could be added on the floor. Phase II will be necessary in the House because it attracts Members interested in conservation, solar, etc.

Dingell has been told by Carl Bagge, the President of the National Coal Association that the Senate action has a) split the Association between eastern coal and western coal and b) will result in no gains in petroleum reduction because the plants staying on gas will eliminate the gains made by those converting. Dingell will talk to the utility companies on Friday. The utilities were able to refute Bagge's argument convincingly with the Senate Committee by pointing out that if they are forced off gas there is nothing to burn but oil until coal plants come on line. The Mining and Reclamation Council disagrees with Bagge. Bagge is in trouble within his own association, losing eastern coal members and is now playing up to the western coal members who feel that denying western utilities any flexibility on gas will sell more western coal.

to Mr Jim Free  
7/8/80

THE WHITE HOUSE  
WASHINGTON

7/8/80

Mr. President --

Any comment you'd care to  
share regarding your phone  
call with Lindy Boggs that  
I can pass on to Congressional  
Liaison/Jim Free?

--SSC

no comment \_\_\_\_\_

notes as follows: I talked to  
her briefly on radio phone -  
V.P. is following up  
today

J

Out Box 7/8/89

TELEPHONE CALL REQUEST re CONGRESSWOMAN LINDY BOGGS

done  
J

Home: 265-6971 (Washington, D.C.)  
Work: 225-6636 (Washington, D.C.)  
Other: (504) 581-2590

Thank Mrs. Boggs for her support & long hours during the Platform Committee Meeting. Tell her you heard about her yeoman's service & long hours.

Tell her how important Louisiana is in your reelection strategy.

Thank her for her advice and support in Congress over the past four years. And tell her you've heard she may not run again. Explain how her running one more time helps your reelection. But also how keeping her in Congress means so much to the country and to the party.

(Phone Call requested by Jim Free)

-----  
The filing deadline for Congressional races in Louisiana is July 11th. Lindy Boggs has told several people that she is considering not running for reelection. The major problem keeping her from this decision is that she can find no one to run in her place. Local New Orleans politicians claim without Lindy on the ballot, we could lose the seat and greatly hurt the Carter-Mondale results.

Lindy's son Tommy claims that encouragement from you would have maximum bearing on her decision. With the race in Louisiana between you and Reagan being as close as it appears to be, the margin of our win in the New Orleans area will determine which way the state goes on November 4th.

Congresswoman Boggs, by the way, served on the Platform Drafting Subcommittee, and they stayed for the full Committee meeting. She stayed late every night, and served you well.

-----

THE WHITE HOUSE  
WASHINGTON  
6/30/80

Jack Watson  
Arnie Miller

The attached was returned in  
the President's outbox today  
and is forwarded to you for  
appropriate handling.

Rick Hutcheson

cc: The Vice President  
Phil Wise

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
FOR APPROPRIATE HANDLING
LAST DAY FOR ACTION

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

ACTION  
FYI

<input checked="" type="checkbox"/>	VICE PRESIDENT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	CUTLER
<input type="checkbox"/>	DONOVAN
<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	MCDONALD
<input type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	WATSON
<input type="checkbox"/>	WEDDINGTON
<input type="checkbox"/>	WEXLER
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	MCINTYRE
<input type="checkbox"/>	SCHULTZE
<input type="checkbox"/>	
<input type="checkbox"/>	ANDRUS
<input type="checkbox"/>	ASKEW
<input type="checkbox"/>	BERGLAND
<input type="checkbox"/>	BROWN
<input type="checkbox"/>	CIVILETTI
<input type="checkbox"/>	DUNCAN
<input type="checkbox"/>	GOLDSCHMIDT
<input type="checkbox"/>	HARRIS
<input type="checkbox"/>	KREPS
<input type="checkbox"/>	LANDRIEU
<input type="checkbox"/>	MARSHALL

<input type="checkbox"/>	<input type="checkbox"/>	MILLER
<input type="checkbox"/>	<input type="checkbox"/>	VANCE
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	<input type="checkbox"/>	CAMPBELL
<input type="checkbox"/>	<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	<input type="checkbox"/>	CRUIKSHANK
<input type="checkbox"/>	<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	<input type="checkbox"/>	FRANCIS
<input type="checkbox"/>	<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	<input type="checkbox"/>	HERTZBERG
<input type="checkbox"/>	<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	<input type="checkbox"/>	KAHN
<input type="checkbox"/>	<input type="checkbox"/>	LINDER
<input type="checkbox"/>	<input type="checkbox"/>	MARTIN
<input type="checkbox"/>	<input type="checkbox"/>	MILLER
<input type="checkbox"/>	<input type="checkbox"/>	MOE
<input type="checkbox"/>	<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	<input type="checkbox"/>	PRESS
<input type="checkbox"/>	<input type="checkbox"/>	SANDERS
<input type="checkbox"/>	<input type="checkbox"/>	SPETH
<input type="checkbox"/>	<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	<input type="checkbox"/>	TORRES
<input type="checkbox"/>	<input type="checkbox"/>	VOORDE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	WISE

THE WHITE HOUSE  
WASHINGTON

June 27, 1980

*Jack*

MEMORANDUM FOR THE PRESIDENT

FROM:

JACK WATSON *Jack*  
ARNIE MILLER *AM*

SUBJECT:

Synthetic Fuels Corporation (SFC) - Status of CEO

You are scheduled to sign the SFC legislation on Monday afternoon. Last month we presented to you our plan to go after four candidates for the full-time CEO position: Irv Shapiro, Frank Cary, Fletcher Byrom and Robert Charpie.

- o Shapiro, who was approached by Reg Jones, initially turned down the CEO position, but indicated an interest in a Directorship. However, we think that he might reconsider about the CEO job (see below).
- o Cary flatly declined the CEO post, but showed some interest in serving as a Director.
- o Byrom met with Bill Miller, Charles Duncan and Graham Claytor today to discuss his interest.
- o Charpie will meet with Bill Miller, Harold Brown, Charles Duncan and Frank Press early next week.

Lloyd Cutler, Stu and Bill Miller have expressed interest in Tom Murphy, of GM. Lloyd has heard that Murphy might like the job. Murphy is well known and highly regarded in the business community, and has worked well with you and members of your Administration. Murphy would bring financial expertise to the job, but, unlike the other candidates, he does not have a background in high-technology management.

John Sawhill, who has expressed strong interest in the post, would bring government, energy technology and financial expertise to the job, but most of your senior advisors think it would be better to bring in someone from the business community.

Shapiro recently told Anne Wexler that he thought he had been approached incorrectly for a job of this magnitude. Shapiro said that instead of Reg Jones, you should have asked him to serve in this position. This leads us to believe he may reconsider if you talk with him directly.

Two Page

The job is so important that we recommend you be personally involved in the recruitment effort. A private meeting between you and Shapiro, or the other candidates, could make the difference between a turndown and an acceptance.

Bill Miller, Charles Duncan, Lloyd Cutler and Stu Eizenstat concur in the recommendation. Lloyd Cutler has suggested that you meet with all of us on Monday or Tuesday to discuss the matter. We do not think a meeting is necessary since the only purpose of such a meeting would be to persuade you of the need for your direct involvement. We believe you can decide that question without meeting with us.

I am willing to meet with the candidates to try to recruit them for the job.

Schedule a meeting with Bill Miller, Charles Duncan, Lloyd Cutler, Stu Eizenstat and us to discuss the matter.

Jack -  
Let's expedite the  
thing. Let Fritz  
determine by phone  
call if they're int-  
erested at all. If  
so, I'll meet 'em  
Them

J

THE WHITE HOUSE  
WASHINGTON  
21 Jul 80

Stu Eizenstat

The attached was returned in  
the President's outbox today  
and is forwarded to you for  
appropriate handling.

Rick Hutcheson

37  
S. Clough

**The Chase Manhattan Bank, N.A.**  
1 Chase Manhattan Plaza  
New York, New York 10081

**David Rockefeller**  
Chairman of the Board

Stu  
advise  
J



**CHASE**

July 3, 1980

075187

The President  
The White House  
Washington, D. C.

Dear Mr. President:

As you know, enormous effort by a great many New Yorkers has gone into sparking the revitalization of the City's waterfront through construction of Westway. This is a tremendous opportunity in terms of not only improved transportation, but also jobs, recreation and a better living environment.

Westway has now reached a critical stage, as the enclosed copies of today's Times editorial and yesterday's Daily News article suggest. On the one hand, increased understanding of the project is producing far broader popular support, including that of such distinguished environmentalists and scientists as Rene Dubos. On the other hand, the actions of the Environmental Protection Agency are producing a growing sense of frustration, perplexity and, often, outrage amongst citizens of New York.

I have spoken with Stuart Eizenstat about the EPA difficulties, and he has been very constructive. Knowing of your own support of Westway, however, I wonder if it might be useful as well at this time for you to enter into the issue personally and help expedite this vital project for our City.

With Kind regards,

Sincerely,

*David*

**Electrostatic Copy Made  
for Preservation Purposes**

# The New York Times

Founded in 1851

ADOLPH S. OCHS, Publisher 1896-1935

ARTHUR HAYS SULZBERGER, Publisher 1935-1961

OSVIL E. DEYFOOS, Publisher 1961-1963

ARTHUR OCHS SULZBERGER  
Publisher

A. M. ROSENTHAL, Executive Editor

SEYMOUR TOPPING, Managing Editor

ARTHUR GELB, Deputy Managing Editor

JAMES L. GREENFIELD, Assistant Managing Editor

PETER MILLONES, Assistant Managing Editor

LOUIS SILVERSTEIN, Assistant Managing Editor

MAX FRANKEL, Editorial Page Editor

JACK ROSENTHAL, Deputy Editorial Page Editor

CHARLOTTE CURTIS, Associate Editor

TOM WICKER, Associate Editor

## Dogged by a Clean Air Tail

Senator Moynihan proposes to abolish the Federal Department of Transportation because its powers have been usurped by the Environmental Protection Agency. His humor is wicked and valid. The language of the Clean Air Act and its interpretation by E.P.A. have been stretched to ludicrous extremes. The agency no longer simply tries to clean up the air; it now presumes to judge whether New York's mass transit plans are adequate to meet transportation needs, without regard to their impact on air quality. And it further presumes to dictate how many scarce billions must be allocated to transit.

Whether the agency is overreaching, as some critics allege, or simply doing what Congressional amendments to the Clean Air Act require, as seems defensible, is beside the point. Either way, the Clean Air tail is now wagging the entire transportation dog. This is surely not what most supporters of clean air laws had in mind. The environmental agency has little competence in transportation planning and is not politically accountable for its decisions.

Even so, the agency now threatens to reject a mass transit plan submitted by New York to comply with the Clean Air Act. The untested theory behind the whole exercise is that improving mass transit might induce enough motorists to ride rather than drive and thus reduce air pollution. The E.P.A. does not, as yet, contest the idea that the plan will produce the minimal pollution gains required by law. But it does contend that the plan won't meet "basic transportation needs," also required by law but never clearly defined.

This preliminary verdict confronts the state with two unpalatable alternatives. It can try to "trade in" Federal funds for the Westway highway project, which has been endorsed by the region's top elected officials,

in exchange for more Federal transit funds. Or it can be judged delinquent by E.P.A. and face draconian retribution, including loss of Federal sewage treatment and highway funds.

The environmental agency may well be right that the transit package is inadequate. E.P.A. is skeptical that New York will really get all the Federal transit dollars it now predicts. Its skepticism is justified by Governor Carey's past record as a false prophet. Moreover, the state defines its basic transit needs far more modestly than others would. We, too, have an uneasy feeling that the transit system is disintegrating for lack of maintenance and improvement. But surely a decision on how to remedy that — and how much to invest in transit altogether — is better left to political leaders responsible for all community services than to environmental officials with narrow expertise.

In any event, the demand for more transit improvements now is hard to justify on environmental grounds. The E.P.A. offers no evidence that the bigger transit program it seeks would necessarily improve air quality. Some experts think it might, others disagree. In any case, cleaner cars on the way from Detroit and a new state inspection program will do far more to clean the air than transit improvements. The state has proposed a number of other transportation control measures to reduce pollution. E.P.A. has conditionally approved them all.

The E.P.A.'s threatened disapproval of the transit proposal is open to comment for 60 days. New York State should use this period to explore — with Congressional leaders and the White House — whether clean air laws are really meant to give E.P.A. such broad authority over transportation. If so, perhaps the Transportation Department should, in fact, be abolished.

# Carey OKs green acres over Westway

By OWEN MORITZ

Urban Affairs Editor

Design of a 93-acre park that would sit atop and adjoin the \$1.5 billion Westway was authorized by the Carey administration yesterday in the state's first planning move undertaken in anticipation of federal approval for the controversial lower West Side highway.

While some federal money has been spent for repair and stopgap work along the right of way, yesterday's announcement represents the first contracts awarded in the name of Westway.

State Parks Commissioner Orin Lehman announced that three firms have been selected to design the waterfront park under a \$1.8 million grant from the Federal Highway Administration and \$200,000 from the state.

Preliminary plans call for a continuous greenway, a river edge promenade, bicycle path and recreational facilities on land created by construction of the proposed Westway, a 4.2-mile interstate highway running from the Battery to 42d St., along the right of the way of the old West Side Highway. It would be, Lehman said, the largest amount of park land to be developed in Manhattan in a half-century.

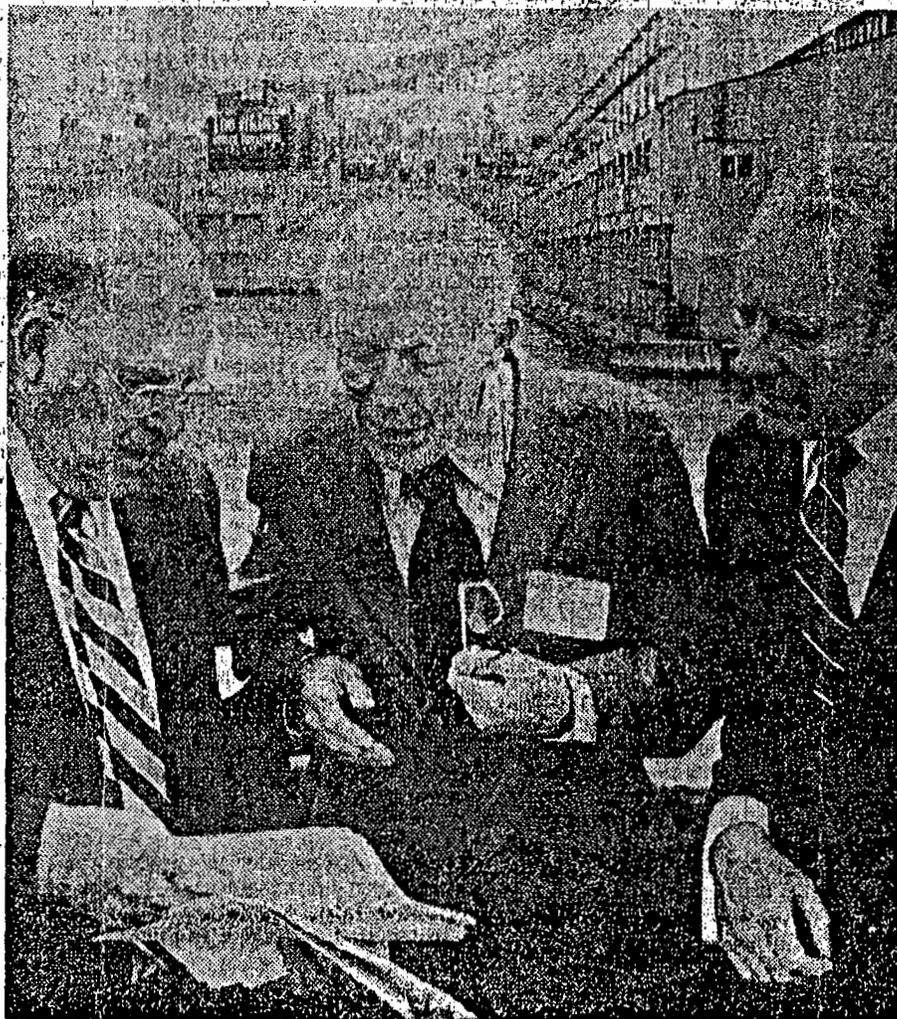
## Need EPA approval

Westway has been approved by the state Legislature, the Federal Highway Administration and the Army Corps of Engineers here. But the project must still win permits from the state and federal Environmental Protection agencies. Gaining approval from the federal EPA office here is considered to be the toughest test. A decision is expected later this year.

The park go-ahead is considered significant to a committee of business and citizen supporters of Westway called Citizens for Balanced Transportation. To head off environmental and local community opposition, the group has sought to emphasize the community possibilities of the highway.

"This is a red-letter day for the people who live here," said W.H. (Tex) James, former publisher of the Daily News, who heads Citizens for Balanced Transportation.

Significantly, no member of the Koch administration was on hand for yesterday's announcement aboard a Circle Line



Tom Middlemiss/Daily News

Environmentalist Rene Dubos, flanked by W.H. (Tex) James (left), chairman of New York Citizens for Balanced Transportation, and State Parks Commissioner Orin Lehman, looks over plans for Westway park during Circle Line trip around Manhattan.

day's announcement aboard a Circle Line boat. The mayor had vowed support for Westway after Gov. Carey's pledge of safeguarding the 50-cent fare through 1981; since the fare went to 60 cents, Koch has begun publicly to waver again.

James believes the city will come around, citing the fact that Westway would add \$100 million to the city's operating budget for the purchase of the

They said there is now a long waiting list of cities seeking such trade-ins, meaning New York would have to wait years to get anything; that \$5.8 billion in trade-ins is now pending and so far Congress has only authorized \$700 million a year for such spending; that the subways have yet to gain any money from \$270 million in similar Long Island Expressway "trade-ins"; that a six-lane highway replacing the West Side Highway would have to be built anyway and that, in any event, trade-in money could be used only for capital expenses and not to save the fare or for operating expenses.

James said the MTA has yet to spend some \$1 billion in capital funds already authorized. A significant figure endorsing the Westway yesterday was famed microbiologist Rene Dubos. He said the project would be environmentally sound and would mark a historic moment for New York in redeveloping its waterfront.

## Moynihan blasts opposition to Westway

Washington (News Bureau)—Sen. Daniel P. Moynihan (D-N.Y.), asserting that federal environmental officials were again trying to thwart the Westway project after the Carter administration had approved it, called the situation "a disgrace to government" and said President Carter should fire those obstructing the project.

The latest cause of Moynihan's ire was a finding by the Environmental Protection Agency that the state's plan for complying with the Clean Air Act should be rejected because its mass transit proposals were inadequate.

The EPA report suggested that the state could get enough mass transit funds by trading in highway grants for transit money. "This reference could only mean one thing," Moynihan said, "the funds for Westway project, a project EPA has opposed and fought for years."

Moynihan's anger was such that he said he was introducing a resolution in the Senate saying that the U.S. Transportation Department, the agency that actually approved Westway, should be abolished since it "clearly has nothing left to do" in view of EPA's ease in thwarting it.

—Bruce Drake

*gab*

# WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

ID # 075187

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 8010717

Name of Correspondent: David Rockefeller

MI Mail Report

User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Personal Friend

### ROUTE TO:

### ACTION

### DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>PR Clou</u>		ORIGINATOR	<u>8010718</u>			<u>1 1</u>
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				

#### ACTION CODES:

- A - Appropriate Action
- C - Comments
- D - Draft Response
- F - Fact Sheet
- I - Info Copy
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

#### DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

#### FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: Writes concerning the construction of Westway project.

Keep this worksheet attached to the original incoming letter.  
 Send all routing updates to Central Reference (Room 75, OEOB).  
 Always return completed correspondence record to Central Files.  
 Refer questions about the correspondence tracking system to Stephen Slade, ext. 2941.

# RECORDS MANAGEMENT ONLY

## CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: L Individual Codes: 4200 5300

Prime Subject Code: FA 007 Secondary Subject Codes: HI  
ST 032  
PP

## PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

**SIGNATURE CODES:**

- CPn - Presidential Correspondence
  - n - 1 - James Earl Carter
  - n - 2 - Jimmy Carter
  - n - 3 - Jimmy
  - n - 4 - JC
  - n - 5 - J
- CLn - First Lady's Correspondence
  - n - 1 - Rosalynn Carter
  - n - 2 - Rosalynn
  - n - 3 - R
- CBn - Presidential & First Lady's Correspondence
  - n - 1 - Jimmy Carter - Rosalynn Carter
  - n - 2 - Jimmy - Rosalynn

**MEDIA CODES:**

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study