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File

Land and Water Resources

Discussion Items-Issues Between Mr. Horton and Mr. Ross
March 3, 1975 (1:30p)

Major Areas of Concern

New Era for the Public Lands Program
Total Water Management
Federal Policy on the Arctic

Specific Secretarial and Presidential Objectives

Land Use Planning Legislation - Pres. Obj.
Coal Leasing - Pres. Obj.
Water Policy - Pres. Obj.
Outer Continental Shelf - (Hughes) - Pres. Obj.
Arctic Gas (Lyons) - Pres. Obj.
Bureau of Land Management Organic Legislation (Revision of
Mining Law of 1872 and Mineral Leasing Act of 1920) - Secy. Obj.
Geothermal Leasing - Secy. Obj.
Utility Corridor Study- Secy. Obj.

Specific Issues Having Major Policy or Impact

Westlands Water District
Central Arizona Project - Water Allocation
Weather Modification's Future (Operational or More tests - Wyoming)
Yuma Desalting Plant (also brackish water research)
Garrison Diversion Unit - Canadian Issues
WRC National Water Conference
Nebraska Mid-State Division
Utah International Inc.
Peripheral Canal Unit
M.R.B. Water Marketing - (C.E. Indian Water Rights)
Electric Power Rate Increase
El Paso Natural Gas (ties to Arctic gas)
Diligence Regulations
Numerous EIS i.e. Osceola Phosphate, Colstrip Powerplant, etc.
Tenure of Natural Resource Lands in Western Oregon
Federal Advisory Committees - Restructure
Wyoming/Arkansas Coal Slurry Pipeline
Rights-of-Way Regulations
OCS Hardrock Minerals
Grazing (Regulations, Programmatic EIS-Suit by NRDC, Range Management
White Paper)
Game Range Jurisdictional Problem (FWL & BLM)
Alaska 17(d)(z) Conservation Areas Legislation



Specific Issues Having Major Policy or Impact -contd.

Oil Shale in situ development
Rosebud Lease Application
San Diego Gas and Electric Water Contract
Quechan Opinion
Central Utah - next phase



STATE OF THE DEPARTMENT

OFFICE OF ASSISTANT SECRETARY--LAND AND WATER RESOURCES

I MISSION

The mission of the Office of Assistant Secretary--Land and Water Resources is:

1. to formulate policy for a balanced multiple-use management of land and water resources; and
2. to insure balanced multiple-use and optimum resource use and protection on public lands and waters through a decisionmaking mechanism that requires thorough analysis of all resource values and a thorough consideration of alternatives.

The policy orientation of the Office is toward balanced resource use and protection. It gives equal priority to the integrity of the resource base and to extractive use. Land and water are viewed as both resources and commodities, with intangible values to be protected as well as benefits to be developed for human use. Neither an ideology nor the interests of a particular constituency (mining, timber, environmental) determine policy formulation. LWR is an advocate only for a perfected multiple-use resource management. To the extent this is true, the policy orientation of LWR differs both from its predecessors and from other line Assistant Secretaries.

We believe that the determination and execution of policy demand a rigorous, disciplined decisionmaking process. The ultimate decision cannot be predetermined. It must be the result, not the precondition, of resource analysis.

For example, LWR has not made in advance decisions on such issues as phosphate development in Osceola National Forest, the Nebraska Mid-State reclamation project, or future coal leasing.

Particular emphasis is being placed on strengthening the integrity of the decisionmaking process and upgrading the way decisions are made. Some sense of achievement can be derived from the development of a more sophisticated mechanism, through improvements in the NEPA analytical process and through Program Decision Option Documents. This focus on the means as well as the ends of decisionmaking, as well as the movement away from single constituent orientation, marks a fundamental difference between the mission of this office and that of the offices from which it evolved.



II IMPLEMENTATION

- A. Program Decision Option Documents assure a more comprehensive, integrated framework for decisions. A thorough, objective analysis is made of all factors and effects involved in policy issues, without predisposition toward development or protection. The process presents alternative choices and shows tradeoffs.
- B. A Control Monitoring Action System (CMAS) assures that every major action is assigned to a staff member, monitored, analyzed, and evaluated as to major tasks and key actions or decisions. The Assistant Secretary and his staff, in biweekly meetings with each Bureau, review progress and problems.
- C. Federal, State, and Local Advisory Boards have been established for two critical program areas, OCS and oil shale development. The Oil Shale Environmental Advisory Panel is overseeing implementation of the oil shale prototype program and analyzing regional impacts. The OCS Board, with coastal Governors' representatives, designs environmental baseline studies needed for EIS analysis and monitors programs to assess the effect of OCS activity.

III ACCOMPLISHMENTS

The philosophy described in Part I and the decisionmaking structure outlined in Part II are subsumed and expressed in "A Total Water Management Concept" and "A New Era for the Public Lands." These new thrusts embody what we consider the beginning of significantly new policy directions in land and water.

A. Total Water Management

Total water management considers water problems and projects as parts of an integrated system of planning, evaluation, financing, development, and operations. Heretofore, each of these aspects has been viewed independently, with little regard for their interrelationships. Unified management has been achieved only where projects within one river system have been completed. There, reservoir releases and flow regulation to meet specific project purposes are coordinated on a system basis.

Despite existing reservoir control systems and the onset of basinwide planning and multiple-purpose project design, a focus on individual projects has persisted. It has retarded attainment of optimum water resource use, the balancing of economic, social, and environmental values.

Total water management moves away from the individual project orientation toward a unified concept of projects and activities by drainage basins or major stretches of stream, a view that

makes for more efficient operation of the existing system and for adjustments to changing situations. Total water management is more than reservoir control; it is more than planning for the future. The concept embraces both of these functions, but is less oriented toward construction and more to land and water planning and total river basin analysis.

Total water management strengthens decisionmaking. It provides the means to judge the merits of proposed incremental additions or changes in a river system by analyzing the effects on the entire system and on its components. Proposals can be analyzed, not solely on their benefits and costs but on whether incremental adjustments in the system without additions or by variously scaled and located additions can better meet the objective.

The total water management concept began to take shape in 1974, with the following actions:

o Water Policy

- A Council of Members-Alternates of the Water Resources Council provides closer and more constant policy direction and formulation by the Members. It also allows for more effective Interior participation. The Assistant Secretary for Land and Water Resources is the Chairman of the Alternates.
- "Principles and standards" have been implemented by the Bureau of Reclamation, after intradepartmental review and participation. The application of these criteria will result in more thoroughly considered reclamation project proposals, in which environmental values are balanced with economic efficiency.

o Water Planning

A "water for energy" planning and appraisal system has been set up. All water program units of the Department participate, together with other appropriate Federal and State agencies. The studies, which consider the multiple use of water, including environmental values, provide the basis for further analysis and planning. Water for energy appraisals have been prepared for the Upper Colorado and Yellowstone basins.

Reports on possible supply sources for the four leased oil shale tracts in Colorado and Utah have been prepared. These reports reflect careful consideration of existing and future water uses and environmental impacts and provide the basis for further planning and analysis.



o Water Research

The Office of Saline Water and the Office of Water Resources Research were abolished and their functions taken over by the Office of Water Research and Technology. OWRT

- directs research toward problem-solving and implementation of new knowledge in the planning, design, and operation of water programs;
- coordinates all Interior water research.

o Water Supply Augmentation can be achieved through increase of supply and through reduction of demand. Both approaches are being pursued.

- Weather modification. Reclamation's cloud-seeding program to increase the winter snow pack is being carried out, completing a seven-year research and demonstration program that has proved the scientific feasibility of rainmaking.
- Water conservation regulations have been published as proposed rulemaking. The new policy would require applicants who desire to use natural resources under Interior's jurisdiction to file water management plans.
- Payments. Development of more appropriate criteria for repayment schedules for rehabilitation and betterment projects.

Power rate increases have been effected and a five times penalty rate for unauthorized overruns published as proposed rulemaking.

o Water Marketing

- An agreement has been worked out with the Department of the Army for marketing industrial water from the six main stem Missouri River reservoirs. This agreement places energy-related water and land-use decisions in the Northern Great Plains under one Federal jurisdiction.
- The recent contract with the State of Wyoming for industrial water from the Fontenelle reservoir is a prototype of similar arrangements to give the States first option to purchase Federal water for remarketing to industrial firms.

B. A New Era for the Public Lands

The management of the public lands in the past has been responsive to individual interest group demands (mining, grazing, timber) for the use of a particular resource, usually to the

exclusion and sometimes to the detriment of other possible uses. BLM's Management Framework Planning approach (MFP's) now inventories the public lands for their total resource potentials, and in a public process and with public understanding develops plans for optimum use for the benefit of all users.

Significant actions of 1974 include:

o Recreational use of the public lands

- Seven primitive areas encompassing 164,000 acres of unique natural resources have been designated.
- Offroad vehicle regulations were issued in May 1974 to control this legitimate but often destructive use.
- Visitor management on the California Desert has been initiated with a force of 25 rangers and a desertwide ORV plan.
- King Range Conservation Area has been established.

o Forestry management - O&C Lands

- Despite set-aside of lands for other useful purposes and a limitation on harvesting, the timber yield from O&C lands has been maintained at exceptionally high levels since 1971. By comparison, the Forest Service has not been able to implement similar intensity of forestry production. The management of the O&C forestry program is nationally regarded as enlightened resource development and restoration.

o Range management

- About 3.5 million cattle and 4.9 million sheep annually graze on 150 million acres of public lands. Range conditions have improved since the Taylor Grazing Act in 1934, but more than 50 million acres are now in deteriorating or poor condition. Efforts are taking place to strengthen the regulations for management and supervision of grazing, within available resources. In response to a request from the Senate Appropriations Committee, an inventory of range conditions has been completed, together with an estimate of costs to correct current deficiencies.

o Minerals management

- A new four-year OCS leasing schedule, including a call for an extensive environmental baseline study program, has been established.
- Regulations to improve competition by limiting joint bidding among major firms are under development.

- LWR joined with the Assistant Secretary for Energy and Minerals in developing new regulations for collection of all OCS geophysical and geological data and for early release of these data.
 - Regulations for diligent development of coal leases have been published as proposed rulemaking.
 - LWR continued to work on formulating a modern, controlled coal leasing program to correct the anachronisms of the past program. A programmatic EIS was issued and extensive public hearings were held.
 - Oil shale and geothermal leasing programs were implemented. Four oil shale tracts were leased and 34 competitive and one noncompetitive geothermal leases were granted. A long-term geothermal leasing schedule was adopted.
- o Land planning for National Resource Lands
- In a stepped-up effort to complete Management Framework Plans for energy resource areas, 70 percent of MFP's in coal basins and 50 percent of all MFP's needed have been completed.
 - A new map series showing mineral and surface ownership was published. Eighty percent of the first priority areas (coal) have been completed to facilitate environmentally acceptable development.

IV DEFICIENCY

In hindsight, LWR's chief deficiency was its failure to develop and communicate, both to the Secretariat and to the bureaus, a comprehensive statement on policy and to structure the decisionmaking mechanism to effect these changes. These failures are exemplified by the persistence of single-project thinking in Reclamation and single-resource management in BLM. Further, we were not as aggressive as we could have been in communicating this new direction publicly. Our own awareness of this problem will be most helpful in correcting it in 1975.

V FUTURE GOALS

In addition to continuing our efforts to broaden our management process, LWR has selected three major thrusts that are achievable and meaningful in terms of the public interest.

A. Under the New Era for the Public Lands we will:

- o Achieve reformed management of public lands through promulgation of a policy statement on balanced multiple-use management to BLM State, area and district directors.

- Intensify efforts to establish Federal-State cooperative land-use planning programs.
- Expand cooperation with the States for land exchanges and "in lieu" selections.
- Continue to expand Primitive Area set-asides.
- Articulate a coal leasing policy and formulate a leasing program implementing it.
- In concert with the Assistant Secretary for Energy and Minerals, prepare regulations covering pre- and post-leasing reclamation activity, as embodied in the Administration's strip-mining bill.
- Develop regulations to strengthen environmental requirements for operations conducted under the permit authority of the Mineral Leasing Act of 1920.
- Establish range management objectives and an expanded program for early improvement of the grazing capacity of the public lands.
- Complete MFP's for all coal basins and complete minerals ownership maps for all known coal leasing areas.
- Complete an analysis of the minerals lands withdrawal situation and propose a policy statement to cover this problem.
- Continue to identify recreation areas on multiple-use lands.
- Complete, with the Department of Agriculture and the U.S. Forest Service, an ongoing study of recreation on multiple-use public lands.
- Work with the Congress to achieve a manageable wild horse and burro program.

B. Total Water Management

Continued implementation of this approach will be reinforced in 1975 by the following:

- A construction strategy, based on total river basin analysis, which will include recommendations for deauthorization of old and outdated projects.
- Expansion of cost sharing by requiring increased financial participation by non-Federal interests, including possible contribution toward capital costs.



- Expansion of dialogue and improvement of coordination with Western State Governors and other non-Federal interests.
- Continuation of the new Federalism initiatives as exemplified by the Fontenelle contract with Wyoming for marketing water.
- A national water resources conference in April, sponsored by the Water Resources Council, with participation of State officials, will focus on evaluating existing policies in light of our 1985 water needs.
- The "Section 80" study on principles and standards and water programs cost sharing will be completed this summer for the President's approval and transmittal of policy implementation legislation to the Congress.
- Determination of the Federal role in weather modification for augmenting precipitation. Emergency drought situations will be considered, in addition to those cases such as the Colorado River, where the Federal Government has, by law, certain responsibilities for river flow augmentation.
- Development of more uniform and equitable criteria for negotiating water and power repayment contracts.
- Identification of the water research needed to meet the Department's long-range goals for water resources.

C. Federal Policy on the Arctic

The stresses being placed on this Nation's Arctic Coast, together with great new thrusts in development of the North elsewhere--Canada, Scandinavia, and the Soviet Union--create an urgent need to develop a broad policy on the Arctic.

The Federal role may be divided into two broad general aspects--scientific research and regional development. The Interagency Arctic Research Coordinating Committee, established in 1967-68, has effectively coordinated the research aspect.

There remains the question of integrated regional development programs that accord with well-defined national goals in the Arctic and respond to the needs and issues posed by scientists. The attached paper is a start in defining these goals.

To complete this policy statement and establish a firm policy on the Arctic, we recommend that a subcommittee of the Domestic Council be established. A memorandum forwarding this proposal will be provided by February 28.

February 20, 1975





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

File

In Reply Refer To:
FWS/OBS/EA

MAR 14 1975

Dear Mr. Train:

At the recent hearings conducted by your agency in regard to the petition by the State of Louisiana to use DDT for control of tobacco budworm on cotton, the Fish and Wildlife Service indicated that a more complete statement of our concerns related to this petition would be submitted. It is to this matter that I should like to address the ensuing remarks.

Freedom of every kind apparently requires vigilance and diligence, and so it would seem for a wholesome environment. Almost one year ago we opposed a request, similar to the present one, to use DDT for control of tussock moth in the Northwest. At that time, we felt previous experience with DDT was adequate to foresee some of the adverse effects. Unfortunately, preliminary observations of the tussock moth control program have reinforced our fears that the environment would be unacceptably contaminated by DDT:

Aquatic Insects

In streams where DDT deposit was light, a moderate decrease in insects was observed. Recovery took 2 to 3 weeks. Where DDT deposits were heavy (up to 0.6 lb/acre) in streams, aquatic insect fauna was almost eliminated and there was no significant recovery detectable a month later (Herman, 1975).

Fish

Native sculpins were held in live cages in a stream which received only a light (up to 0.023 lb/acre) deposit of DDT. No initial mortality was observed; however, in a 72 hr. period after DDT drift reached the stream, 643 sculpin fry were found dead. No pre-spray mortality had been found (Herman, 1975).

DDT residues in fish from Lake Roosevelt Sanpoil Bay and the Grande Ronde River increased about 10 times over those collected before spraying (Schoettger, 1975).



Copy: Norm Ross



Let's Clean Up America For Our 200th Birthday

Birds

Pre-spray territorial density for the most common 14 species was 80.5 on the non-spray plot and 82.5 on the spray plot. While no changes were observed on the non-spray plot during the post-treatment period, a 24 percent decline was observed on the DDT-treated plot. The three most common species on both plots occupied about 60 percent of the territories. These three species declined by 8.2 percent on the non-spray plot but declined by 54.8 percent on the treated plot. Dead and dying birds were found. Where brain tissue was intact and could be analyzed, residues analyses indicated DDT as the cause of death. Although the study area was small (33.1 acres), the indications are that many hundreds of birds may have been killed as a direct result of this DDT application (Herman, 1975).

A build-up of DDT and its metabolites in raptors has been noted. DDT concentrations in wild kestrels was found to be dependent upon the distance that birds were collected from the spray areas. Residue values decreased with distance from spray areas (Henny, 1975).

In addition to the foregoing, it has been brought to our attention that perhaps thousands of head of livestock have been contaminated with DDT and cannot be marketed until DDT residues in tissues are reduced to legal tolerances (Outdoor News Bulletin, Jan. 3, 1975). In a limited number of analyses of wild deer and experimental sheep, DDT residue levels exceeded the FDA meat tolerance of 5 ppm (Pesticide Chemical News, Oct. 16, 1974).

All the foregoing occurred after one aerial application of about 315,000 lbs. DDT at 0.75 lb. per acre on about 420,000 acres. Now we are faced with a petition to apply up to 2.25 million pounds of DDT on 450,000 acres—3 to 5 applications of 1 lb. per acre.

In the interim since the cancellation of most DDT uses, residue levels of DDT have shown a steady decline nationally. In some coastal areas of Texas, recent analyses indicated some fish residue levels have declined by nearly one order of magnitude (Butler, 1975). Information developed within the past two years provides us with additional irrefutable evidence that DDT can be and is concentrated in aquatic organisms and transferred through the food chain. The experimental data is conclusive that most aquatic organisms can and do concentrate DDT residues in their tissues above the levels found in their immediate environment. The data that is available from monitoring programs more than adequately provides proof that DDT residues are ubiquitous and that downward trends in tissue levels have been in progress since the



ban on its use (Bedford and Zabik, 1973; de Koning and Mortimer, 1973; Derr and Zabik, 1972 and 1974; Johnson and Kennedy, 1973; Metcalf, 1972; Patel et al., 1972; Reinert et al., unpub. MS., 1974; Rice and Sitka, 1973; Sodergren, 1971; Sodergren and Svensson, 1973; Vaajakorpi and Salonen, 1973).

Data developed subsequent to the cancellation of DDT reinforces the record of that hearing that DDT can cause lethal and sublethal effects on aquatic invertebrates. Recovery is slow and higher trophic levels can be seriously affected (Calabrese, 1972; Derr and Zabik, 1973; Engel et al., 1972; Muirhead-Thomson, 1973; Nemmo and Blackman, 1972; Sanders, 1972; Schoettger, 1973). Reproduction of fish can be adversely affected (Dacre and Scott, 1971; Smith and Cole, 1973). Highly contaminated fish in Lake Michigan currently exhibit a downward trend in DDT residues. This trend began in the mid 1960's and corresponds to the beginning of reduced DDT use. When DDT uses were cancelled in Michigan, this trend became more pronounced. Since the nationwide cancellation of DDT, the downward trend became even more pronounced. This has continued through 1974 (Reinert, 1975). The size and incidence of DDT residues in molluscs also has exhibited a pronounced decline since about 1969 in molluscs collected in about fifteen coastal states (Butler, 1973).

Other studies have developed information which reinforces the conclusion that DDT can cause sublethal physiological and behavioral changes in fish which can ultimately lead to death (Davis et al., 1972; Davey et al., 1972 and 1973; Gardner, 1973; Hansen, 1972; Hatfield and Johansen, 1972a and 1972b; Jenicki and Kenter, 1971a and 1971b; Javaid, 1972a and 1972b; Peterson, 1973; Valentine and Soule, 1973; Weis and Weis, 1974; Weisbart and Feiner, 1974).

An accurate appraisal of cause of death of birds is rather difficult because DDT can be transported far from the sites of application. Recent studies provide sufficient data to conclude that DDT is toxic to birds and can be mobilized in lethal amounts during stress periods. Mortality can occur long after the stress has passed (Belisle et al., 1972; Dieter, 1974; Faber et al., 1972; Flickinger and Muker, 1972; Greichus and Hannon, 1973; Grocki and Johnston, 1974; Haynes, 1972; Hays and Risebrough, 1972; Heath and Hill, 1974; Hill et al., 1971; Jefferies and French, 1972; Porter and Wiemeyer, 1972; Sodergren and Ulfstrand, 1972; Van Velzen et al., 1972).

Controlled studies have recently elucidated a plausible biochemical mechanism to explain eggshell thinning by DDT. This phenomenon is widespread and presents an unreasonable environmental risk (Miller et al., 1975).



Analysis of tissues or eggs of birds from Louisiana reveals the presence of DDT (p,p'-isomer) and its metabolites (p,p'-DDE and p,p'-DDD). Residue data for birds collected over the past several years are available for mourning doves, eight species of herons and egrets, woodcock, brown pelicans, starlings, mallards and purple and common gallinules.

The brown pelican, State bird of Louisiana, merits special attention, and it is the species that will probably stand to suffer most if the DDT is applied. Although there are some obvious conflicts in early census data (Bailey, 1920; Oberholser, 1938), it is probably safe to state that the population of pelicans in Louisiana once consisted of at least 10,000 breeding pairs. Van Tets (1965) recorded a small nesting colony on North Island in 1961. From that time until 1971 when transplanted pelicans from Florida established a small breeding colony in Barataria Bay (Joanen and Dupuie, 1969; Blus, Joanen, et al., in press), breeding pelicans were absent from the State. What caused the pelicans to disappear? No one knows because the populations were not under study prior to extirpation and insufficient data are available to form other than a theoretical judgment.

Residues of DDT and metabolites in pelican eggs are currently low and are not thought to pose a threat to this species (Blus, Joanen, et al., in press). Residues of DDE average slightly over 1 ppm (part per million; fresh wet weight) with residues of DDT + DDD averaging less than 0.5 ppm. Even at this low level of DDE, eggshell thinning was found in eggs of brown pelicans collected in 1971 through 1973. The shells of these eggs averaged 7 to 12 percent thinner than the shells of pelican eggs collected prior to the use of DDT.

Eggshell thinning has been found in a number of species of birds in the United States and other sections of the world. The phenomenon was originally described by Ratcliffe (1967), and Hickey and Anderson (1968) followed with a paper dealing with this problem in the United States. DDE is implicated as the agent that induces all or most of the shell thinning in wild birds. Experimental studies with birds fed DDE have demonstrated the propensity of DDE for thinning eggshells and upsetting reproductive success (Heath, 1969; Wiemeyer and Porter, 1970); and correlative evidence from wild birds strongly involves DDE (Anderson et al., 1969; Blus et al., 1971; Blus et al., 1972).

The current level of DDE in Louisiana pelican eggs is lower than that found to have adverse effects on pelicans in South Carolina (Blus et al., 1974). In this study, DDE was found to exert an adverse effect on reproductive success even when levels in the egg were as low as 2 ppm; total reproductive failure occurred when the egg contained over 2.4 ppm. More recent unpublished data from South Carolina substantiate the earlier



conclusions, although the highest level of DDE in a sample egg from a successful nest was elevated to 3.7 ppm. Although all of the organochlorines are involved to some extent in inducing subnormal reproductive success and perhaps eggshell thinning in pelicans, statistical analysis reveals that DDE, the metabolite of DDT that occurs so commonly in birds is the agent responsible for the majority of eggshell thinning in brown pelicans (Blus et al., 1971) and also for the majority of pollutant-induced reproductive failure in brown pelicans (Blus et al., 1974.)

Just how hazardous would the proposed applications of DDT be to the pelican, a species that is exceedingly sensitive to DDT, is difficult to answer; but we have some data that reflect directly on this problem. In 1969, Dr. Dale Newsome analyzed several species of marine fish from Louisiana, and he presented these data on March 3, 1975 at the hearing in Washington, D.C. The residues in these fish (fresh wet weight, DDT + DDE) ranged from 0.06 ppm in spot to 0.22 ppm in sand sea trout. In South Carolina in 1973, residues of DDT and metabolites in Atlantic menhaden averaged 0.135 ppm (0.067 DDE, 0.035 DDD, and 0.033 DDT). This was magnified 18 times from fish to pelican eggs that averaged 2.45 ppm of DDT and metabolites (2.09 DDE, 0.19 DDD, and 0.17 DDT). With these levels in their eggs in 1973, the pelicans in South Carolina were able to experience an excellent reproductive season for the first time in many years. Although the biomagnification of residues from menhaden to pelican eggs is confounded to some extent because of migratory tendencies of both the fish and pelicans, we feel the level of biomagnification is approximately correct. Assuming this biomagnification from fish to pelican egg, then the eggs of Louisiana pelicans would contain up to 4 ppm of DDE when feeding on fish containing the levels of residues reported by Dr. Newsome for his 1969 sample. This level of DDE in fish was shown to adversely affect reproductive success in South Carolina pelicans.

There are several other factors that need to be mentioned. First, food habit records of brown pelicans reveal that this bird feeds almost exclusively on menhaden in Louisiana; records of residues in menhaden in 1969 are apparently not available. Residues in menhaden are probably similar to the food in other fish that were analyzed. Second, organochlorine residues in Louisiana fish have probably declined since the decreased-then discontinued-use of DDT. Pelicans in South Carolina have exhibited a significant reduction in residues of DDT and metabolites from 1969 to 1973, and this is one obvious explanation for the excellent reproductive of the pelicans in South Carolina in 1973.

It seems readily apparent that residues of DDE will be increased in eggs and tissues of brown pelicans if the application of 2.25 million pounds of DDT in Louisiana becomes a reality. We feel that there is a distinct



possibility that, as a result of this application, DDE may reach levels in pelican tissues and eggs that are detrimental to reproductive success in this species. This would have the potential of catastrophic effects on the small reestablished breeding population that is currently having problems enough from weather and high tides.

Residue levels in some game birds have been high. DDE residue levels in woodcock breast muscle declined in 1971 to less than half the level observed in 1965. Many woodcock wings collected in the 1970-1971 migration in Louisiana and ten other states exhibited DDT residue levels in excess of the FDA tolerance of 5 ppm in meat (Clark and McLane, 1974; McLane et al., 1971 and 1973). Bobwhite quail collected in untreated fields contained 2 to 46 ppm DDE (fat basis) (McIntyre and Causey, 1971). Similar results were obtained with South Carolina bobwhite quail (Percival et al., 1973) and pheasant from Idaho (Messick, 1972). Other studies have indicated declining DDT levels in recent years, attributable to decreased DDT usage (Johnston, 1974a and 1974b). Mourning doves collected in 1970-1971 were carrying very low DDE levels and the birds collected in Louisiana were among those with the lowest DDE levels in the eastern United States (Kreitzer, 1974). Martin and Nickerson (1972) reported relatively low residues of DDT and metabolites in starlings collected from Louisiana in 1970; these residues had declined several times from those recorded in the same area in 1967-1968. Residues of DDE in common and purple gallinules collected in 1968-1969 in Louisiana rice fields were very low (Fowler et al., 1971).

Residues in eight species of herons and egrets collected in 1969 and 1970 revealed residues that were relatively low, but relatively high residues were found in green herons collected near Monroe (Faber and Hickey, 1973; Blus, Stendell, et al., in press). All eight of these species were undergoing shell thinning that varied from 1.7 to 7.4 percent.

Although residues of DDT and metabolites tend to be low in birds sampled in Louisiana during the past several years, there is documentation that at least nine species of birds are experiencing some thinning of their eggshells. Apparently, the current degree of shell thinning and current levels of residues of DDE and other organochlorines has not adversely affected reproduction or population status. The application of DDT in such huge amounts could well alter this situation such that eggshell thinning is increased and reproductive success is lowered to a subnormal level.



With respect to the petition itself, we believe it to be defective and that it does not meet the requirements of Section 18 of FIFRA. To this end, I should like to note the following in the petition:

Page 2. No regulatory procedures can prevent drift after an aerial application. All past unhappy experiences have been reinforced by the more recent experiences resulting from the use of DDT to control the tussock moth in the Northwest.

Page 8. This proposed use of DDT can not in any manner be construed as "research."

Page 10. 2. The amount of DDT to be used is about 3 times that used for tussock moth control and we are just beginning to see the extent of damage caused in the "emergency" program. It is difficult to argue that the effects of DDT use in Louisiana has caused irreversible adverse environmental effects. However, we would question whether the brown pelican, Louisiana's state bird, would reestablish itself in Louisiana with continued DDT use? We draw attention to the adverse effects of DDT on fish reproduction in the Gulf of Mexico. These may be reversible but at what cost? How long?

Page 10. 3. There is no evidence that cessation of cotton production in Louisiana for one or more years would cause irreparable social and economic conditions. The petitioner has already indicated some land previously planted to cotton has already been switched to other crops. This same problem has been faced previously in Texas and the change was not overly deleterious.

It is quite likely that a one year rotation of crops will beneficially interrupt the budworm cycle.

The petition states that the use of DDT would bring about discontinuation of "extensive use of endrin which is now ineffective for control of tobacco budworms." This seem specious. Why does anyone use an ineffective material? Certainly, cotton producers are more astute than this.

Page 10. 4. Adverse environmental effects are indicated by disappearance of the brown pelican. The results of this may not be known for some time until ecological shifts occur and are recognized. The re-introduction of the brown pelican may forestall some of these changes.

Page 11. 5. There are alternatives that are registered and could be available with proper planning.



The petitioner clearly states that the tobacco budworm, moving through Mexico and Texas to Louisiana, exhibits resistance to DDT, which could not be depended upon for control for more than a short period. This militates against use of DDT and raises serious doubt that this action "could slow the progress of resistance in tobacco budworm populations into states to the north and east." On the contrary, use of DDT in Louisiana could accelerate the development of resistance. Since resistance to organochlorines frequently engenders cross-resistance to, e.g., organophosphates, use of DDT might also preclude effective use of other new materials.

Page 12. 7. Past experiences indicate that some effects on the environment can be severe, and while not irreversible, may require years of work and the expenditure of considerable funds. Economic effects can be serious as when fish reproduction is adversely affected. Restoration of the brown pelican will require years and much money.

Page 15. Although the average 10 year production of cotton was 576 lbs. lint per acre, yields varied from a high of 636 lbs. to a low of 509 lbs. in 1972. This occurred at a time when DDT was still available. The 1973-1974 average of cotton production per acre was 465 lbs. If we attribute the decline to the budworm and overlook 1974 damage from the excessive rain and flooding, a more realistic estimate of 1975 losses resulting from budworm infestations of the same magnitude as 1973-1974 would be: $509 - 465 = 44$ lbs./acre (lost to budworm).

At a lint price of \$.40 per pound and a seed price of \$.07 per pound, the petitioners have calculated an annual loss of \$36,992,250 as a result of a reduction in yield of 111 pounds of lint per acre for 615,000 acres. The petitioners predict a 30 percent reduction in Louisiana cotton acreage for 1975. Thus, the loss should be reduced accordingly and we arrive at a figure of \$25,894,575. Correcting this figure for budworm damage ($\$25,894,575 \times 44/111 = \$10,264,506$) gives a more reasonable estimate of the loss to tobacco budworm if DDT is not used in 1975. However, even with DDT some of this loss can not be prevented.

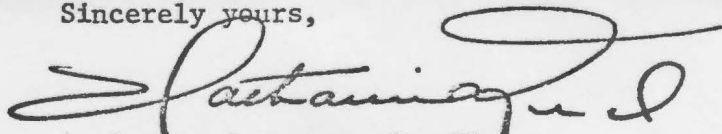
To accurately calculate the benefit/cost relationship, one must also include the cost of DDT and the cost of monitoring the program.

Tables 1 and 2, pages 27 and 28. Although these tables indicate better control of Heliothis with DDT than other test compounds, the difference between toxaphene-DDT-methyl parathion and the next best compound is 5 percent or less.



The record is replete with documentation of adverse effects of DDT on fish, birds and wildlife. In 1971 and 1972, parts of New Brunswick, Canada, were closed to woodcock hunting because DDT residue levels exceeded legal tolerance levels in meat. The 1971 DDT hearings brought out the fact that lakes in Mississippi had to be closed because of spraying on adjacent cotton fields. We are now witnessing the aftermath of the 1973 DDT tussock moth spray program and its adverse effects on the environment. Past indiscretions should not be repeated. Further, there are alternative compounds to DDT and we should make every effort to use them. Some of these chemicals are already registered for control of tobacco budworm on cotton. Others could be made available through the same mechanism of exemption now being pressed for DDT use. Certainly, our archives should not reflect still another step backward in our search for a better environment.

Sincerely yours,



Assistant Secretary for Fish
and Wildlife and Parks

Mr. Russell E. Train
Administrator , Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Enclosure



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DATE:

3/20

TO:

Norm Ross —

This is crazy!

R

Roland L. Elliott



U.S. Balance of Payments Deficit
Hit \$10.6 Billion in 1974

The U.S. balance of payments deficit reached \$5.9 billion in the fourth quarter of 1974, bringing the year's total deficit to \$10.6 billion, according to the Commerce Department, ABC/CBS reported. It reflected higher prices for imported oil and increased U.S. investments abroad, CBS said. The annual figure was the second-worse showing since the government started keeping records in 1960, CBS said.

* * * *

Alaska Proposes to Kill Wolves to Save Moose

Wolves and people are to blame for the sharp decline of moose in Alaska, and the state has decided if it cannot stop hunters, it will stop the wolves, Jack Perkins said in a 3:35 minute report. The state proposes to kill with shotguns 80 per cent of the wolves in Alaska, although they don't know how many wolves there are in Alaska. "Thus, they won't know how to say when they've killed 80 per cent," Perkins said.

* * * *



March 25, 1975

Dear Mr. Hodges:

This is in response to your telephone call to Don Rumsfeld regarding questions you wanted answered on the Cross Florida Barge Canal.

You probably are aware that the Cross Florida Barge Canal is currently being restudied in accordance with direction from the Federal Court. The restudy will determine the engineering, economic, environmental and secondary impacts of several alternatives; that is, completing the Canal, abandoning the project, or restoring the project, or restoring the area to its original condition.

The total cost of the study is estimated at \$2.2 million. Funds in the amount of \$600,000 are included in the FY 76 budget and \$225,000 are included for the transitional quarter. These funds will provide for the complete re-evaluation of all aspects of the project by September 30, 1976.

The President at this time has no position on the Canal project and will not until he has had the benefits of the restudy, which has not been completed.

Please let me know if I can be of additional assistance.

Sincerely,

NROSS/pt 3-25-75
cc: WH files
Warren Hendriks

Norman E. Ross, Jr.
Assistant Director
Domestic Council

Mr. Bill Hodges
2030 N. W. 7th Place
Gainesville, Florida 32609



NORM

INFORMATION

April 15, 1975

MEMORANDUM FOR THE PRESIDENT

FROM : JIM CANNON

SUBJECT : George Rogers Clark Park
Vincennes, Indiana

As you may recall, we were unable to advance the proposal for a Visitor's Center at this national park because a member of the Advisory Council for Historic Preservation had recommended against it.

Since that time, Secretary Morton has reviewed the matter and asked that the adverse finding by the Council staff be reviewed by the full Council, by May 8, 1975. This is a first step toward getting the Visitor Center built.

I talked today with Governor Bowen about our efforts, and will continue to follow the matter.

cc: Bob Hartmann/
bcc: Mike Duval - Please continue to follow this

Dick Dunham
Jim Cavanaugh



DOMESTIC COUNCIL CLEARANCE SHEET

DATE: April 11, 1975

JMC action required by: _____

TO: JIM CANNON

VIA: DICK DUNHAM *RD*

JIM CAVANAUGH *JP*

FROM:

Norm Ross

SUBJECT:

George Rogers Clark Park-Indiana

COMMENTS:

FYI

DATE: 4/15/75

RETURN TO:

Material has been:

☒ ~~Signed~~ and forwarded

☐ Changed and signed (copy attached)

☐ Returned per our conversation

☐ Noted

☐

Shanks

JMC
Jim Cannon *(mm)*



THE WHITE HOUSE
WASHINGTON

INFORMATION

April 15, 1975

MEMORANDUM FOR THE PRESIDENT

FROM : JIM CANNON

SUBJECT : George Rogers Clark Park
Vincennes, Indiana

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I talked today with Governor Bowen about our efforts, and will continue to follow the matter.

cc: Bob Hartmann



MR. PRESIDENT,



HAVE YOU EVER THOUGHT
ABOUT ASSIGNING OUR
WILDLIFE REFUGES TO THE
CIA?

For Files: May 13, 1975

Jim Cannon and Jim Falk met with the Leuitant Governor of the State of Indiana Friday May 9th to discuss the need for the Visitor's Center at Vincennes. This was talked through and so no response is being made to Larry A. Conrad the Secretary of State of the State of Indiana who on the 22nd of April sent the President additional signatures of people who endorse this situation.

EE



Subject: George Rogers Memorial Park - Vincennes, Ind.

For your Information, Mr. Ross:

Last week the Advisory Council for Historical Preservation met with Regional People, National Park People, and local interest groups to discuss the relocation site of the proposed visitors' center

The site has been decided, discussion of the revised plan for the building was discussd.

It is expected that construction on the building will be started shortly, and expected to be finished by spring of 1976.

This information was passed on to Mr. Falk.

Obtained the above from Mr. Kyl - 5-7-75

phyllis

Thanks
5/8



File

April 11, 1975

MEMORANDUM FOR

JIM CANNON

FROM:

NORM ROSS

SUBJECT:

George Rogers Clark
Park-Indiana

The attached letter deals with a matter brought to the President's attention by Governor Bowen during the President's recent trip to South Bend. Secretary Morton believes that this action by the entire advisory council will satisfy the Governor as well as the Congressional delegation.

Attachment

cc: Mike Duval
Jim Falk





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

April 9, 1975

Memorandum to: Mr. Norm Ross
Domestic Council

Subject: Attached letter to Dr. Clement M. Silvestro

The attached letter deals with a matter brought to the President's attention by Governor Bowen during the President's recent trip to South Bend. We believe that this action by the entire advisory council will satisfy the Governor as well as the Congressional delegation.

Doug Wheeler (343-5347) would be glad to answer any questions.

Raphael Semmes
Acting Executive Secretary



Save Energy and You Serve America!





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

April 9, 1975

Dr. Clement M. Silvestro
Chairman, Advisory Council on
Historic Preservation
1522 K Street, N.W., Suite 430
Washington, D.C. 20005

Dear Dr. Silvestro:

The National Park Service appropriations act for fiscal year 1975 provided funds for the erection of a visitor center at the George Rogers Clark National Historical Park in Vincennes, Indiana. This park is listed in the National Register of Historic Places and is therefore subject to Section 106 of the National Historic Preservation Act of 1966. Pursuant to the procedures of the Advisory Council on Historic Preservation as set forth in 36 C.F.R. Part 800, both the National Park Service and the Council staff assessed the effect of this undertaking on the park. They concluded that, if located as shown in the 1967 master plan, the visitor center would have an adverse effect within the meaning of the Council's criteria for effect.

Because the National Park Service could find no alternative that would remove or mitigate the adversity and still permit the project to be completed in time for the Bicentennial year of 1976, the Director of the Service decided to seek reprogramming of the appropriation to needed rehabilitation work on the Clark Memorial Temple, the central feature of the park. The question of the visitor center was to be left to a new master plan study.

The finding of adversity and the decision to request reprogramming have raised serious opposition in Indiana and in the Congress. In order that the issues involved be given the fullest and most careful consideration, and that all interested parties be afforded an opportunity to state their views, I am asking that this case be placed before the full Advisory Council for its comment. I hope the Council will evaluate the finding of adversity reached by the



Save Energy and You Serve America!



Council staff and the National Park Service. If the Council disagrees with that finding, the Park Service would be prepared to proceed with construction of the visitor center as originally conceived. If the Council agrees with the finding of adversity, on the other hand, I would appreciate comment on possible mitigating measures that would permit construction at the planned location. If none appears adequate, alternative locations should be assessed.

A final decision is a matter of urgency. I am therefore requesting waiver of the onsite inspection involving Federal, State, and local units of government provided for in Section 800.5(b) of the Council's procedures and the public information meeting provided for in Section 800.5(c). Finally, I shall appreciate your calling a special meeting of the Council to take up this matter as provided in Section 800.6(c). It is my understanding that such a meeting could be scheduled to coincide with the next regular meeting of the Council on May 7-8, 1975.

Thank you for your cooperation.

Sincerely yours,

Rogers Morton
Secretary of the Interior



File

April 4, 1975

Dear Mr. Chairman:

This is in further response to your March 27 letter to the President concerning the proposal to establish a visitors' center at the George Roger Clark National Historical Park at Vincennes, Indiana.

I am certain you will be pleased to learn that, after a review by the Department of the Interior, Secretary Morton has directed that the Advisory Council for Historical Preservation review the proposal and resubmit its recommendation to him. We have asked Assistant Secretary John Kyl to advise you further on the action taken with respect to this project as soon as a final decision is reached following review of the additional study by the Advisory Council.

With kind regards,

Sincerely,

William T. Kendall
Deputy Assistant
to the President

The Honorable Vance Hartke
United States Senate
Washington, D.C. 20510

bcc to John Kyl, Department of the Interior - for further handling
~~bcc~~ Norman Ross - for your information

Note: Telephone conversation with Mr. Kyl this date.

WTK:VO/per Kyl:jk

April 4, 1975

Dear Senator:

This is in further response to your March 25 letter to the President concerning the proposal to establish a visitors' center at the George Roger Clark National Historical Park at Vincennes, Indiana.

I am certain you will be pleased to learn that, after a review by the Department of the Interior, Secretary Morton has directed that the Advisory Council for Historical Preservation review the proposal and resubmit its recommendation to him. We have asked Assistant Secretary John Kyl to advise you further on the action taken with respect to this project as soon as a final decision is reached following review of the additional study by the Advisory Council.

With kind regards,

Sincerely,

William T. Kendall
Deputy Assistant
to the President

The Honorable Birch Bayh
United States Senate
Washington, D.C. 20510

bcc to John Kyl, Department of the Interior - for further handling
✓cc Norman Ross - for your information

Note: Telephone conversation with Mr. Kyl this date.

NTK:VO/per Kyl:jk

April 4, 1975

Dear Mr. Hamilton:

This is in further response to your March 221 letter to the President concerning the proposal to establish a visitors' center at the George Roger Clark National Historical Park at Vincennes, Indiana.

I am certain you will be pleased to learn that, after a review by the Department of the Interior, Secretary Morton has directed that the Advisory Council for Historical Preservation review the proposal and resubmit its recommendation to him. We have asked Assistant Secretary John Kyl to advise you further on the action taken with respect to this project as soon as a final decision is reached following review of the additional study by the Advisory Council.

With kind regards,

Sincerely,

Vernon C. Loen
Deputy Assistant
to the President

The Honorable Lee H. Hamilton
House of Representatives
Washington, D.C. 20515

bcc to John Kyl, Department of the Interior - for further handling
~~bcc~~ Norman Ross - for your information

Note: Telephone conversation with Mr. Kyl this date.

VCL:VO/per Kyl:jk

**Advisory Council
On Historic Preservation**
1522 K Street N.W. Suite 430
Washington D.C. 20005

*used a draft that
Mr. Ross
prepared 4-15-*

March 26, 1975

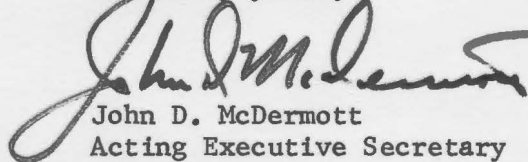
Mr. Norman E. Ross, Jr.
Assistant Director
Domestic Council
The White House
Washington, D.C. 20000

Dear Mr. Ross:

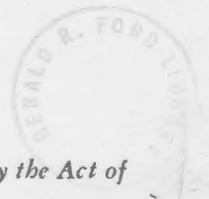
In reply to your request, I am enclosing a draft response for letters concerning the involvement of the Advisory Council on Historic Preservation in the proposal for a visitor center at George Rogers Clark National Historical Park, Vincennes, Indiana. Also enclosed are copies of the Council's "Procedures for the Protection of Historic and Cultural Properties," which are referred to in the draft letter.

I am also returning the basic correspondence as directed. If the draft response is not suitable or if you have any further questions concerning the matter, please let me know. My telephone number is 254-3380.

Sincerely yours,


John D. McDermott
Acting Executive Secretary

Enclosures



Dear

Thank you for your letter of _____ concerning the involvement of the Advisory Council on Historic Preservation in the proposal for a visitor center at George Rogers Clark National Historical Park, Vincennes, Indiana. We have contacted the Advisory Council on Historic Preservation and they have provided the following information detailing their legislative responsibilities and recent activities with regard to the proposed National Park Service undertaking.

It is important to understand that Section 106 of the National Historic Preservation Act of 1966 (80 Stat. 915) requires that prior to the approval of the expenditure of Federal funds for an undertaking that will affect a property listed in the National Register of Historic Places, the Federal agency shall provide the Advisory Council a reasonable opportunity to comment on the undertaking. Steps in achieving the Council's comments are set forth in the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 C.F.R. Part 800), a copy of which is enclosed. It should be noted that the Council does not have the authority to cancel Federal projects, as is often assumed, but is limited to giving advice to the parties concerned. Decisions to cancel a Federal undertaking are made solely by the Federal agency having responsibility and jurisdiction over the undertaking. Furthermore, it should be explained that in making judgments about the



effects of projects, the Council is guided by the "Criteria for Effect" and the "Criteria for Adverse Effect," which appear as Sections 800.8 and 800.9 of the attached "Procedures."

The Council informs us that it did not receive information on the proposed visitor center from the National Park Service until November 29, 1974. By that date, most of the planning and design aspects of the project were complete. On December 17, the Council staff responded to the National Park Service, based on the material submitted, with a finding "that the proposed undertaking constitutes an alteration of the present visual relationship between the Clark Memorial and its site by introducing a structure into the southwest corner of the site; an area which is presently open space. This alteration constitutes an adverse effect under Section 800.9(a), (b), and (c) of the Council's procedures."

In further response to a request of the National Park Service, the Council made an on-site inspection of the property. Representing the Council were Executive Secretary Robert R. Garvey, and Dr. Richard Howland, an architectural historian and a designee of the Secretary of the Smithsonian Institution to the Advisory Council. The inspection resulted in a reaffirmation of the previous finding and was communicated by letter of January 30, from Mr. Garvey to Acting Regional Director Merrill D. Beal of the Midwest Region of the National Park Service.



Following this determination, the next step for the National Park Service to take under the Council's "Procedures" (Section 800.4 and 800.5) would have been to consult with the State Historic Preservation Officer and the Council staff to consider ways in which the adverse effect might be removed or mitigated. From the viewpoint of the Council staff, the consultation would have centered upon the possibility of relocating the proposed visitor center so that it would not impinge upon the traditional setting for the Clark Memorial. Throughout this period, the Advisory Council continually expressed its desire to work toward an expeditious resolution of this problem.

After reviewing this finding of adverse effect, the Director of the National Park Service, on February 28, 1975, agreed with the determination. It was also noted by the Director that placement of the visitor center as proposed would bring visitors to the central feature of the park by way of the back door and deny the original intent of the design that they approach by way of the broad esplanade from Vigo Street. Inspection of the area further revealed that the Clark Memorial was in a state of serious disrepair, and it was decided to seek authority to reprogram funds available in fiscal year 1975 for emergency rehabilitation of this historic resource, and to program as a priority project a new master plan for the park.



The President appreciates your interest in this matter and the opportunity to assist you. Please let us know if we can assist you further.

Sincerely yours,

Mr. Norman E. Ross, Jr.
Assistant Director, Domestic
Council



FRIDAY, JANUARY 25, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 18

PART II



ADVISORY COUNCIL ON HISTORIC PRESERVATION



PROCEDURES FOR THE PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Establishment of New Chapter and Part

RULES AND REGULATIONS

Title 36—Parks, Forests, and Public Property

CHAPTER VIII—ADVISORY COUNCIL ON HISTORIC PRESERVATION

PART 800—PROCEDURES FOR THE PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Pursuant to the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) and Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment" (36 FR 8921, 16 U.S.C. 470), the Advisory Council on Historic Preservation has established Procedures for Compliance, set forth in the FEDERAL REGISTER of February 28, 1973 (38 FR 5388), to implement the purposes of those authorities. Proposed revisions to those procedures were published in the FEDERAL REGISTER of November 5, 1973 (38 FR 30464) and 30 days were allowed for public comment. Federal agencies were also solicited to consult with the Advisory Council with regard to the development of procedures for the protection of non-federally owned historic and cultural properties as required by section 1(3) of Executive Order 11593.

In response to comments received by the Advisory Council and in consultation with Federal agencies, the proposed procedures have been revised to incorporate suggestions from Federal and State agencies and private citizens. It is the purpose of this notice, through publication of revised "Procedures for the Protection of Historic and Cultural Properties," to apprise the public as well as government agencies, associations, and all other organizations and individuals interested in historic preservation, that the following procedures are hereby adopted as set forth below. The procedures will appear in the Code of Federal Regulations in Title 36, Chapter 8 at Part 800. The procedures are being codified because they affect State and local governmental agencies, private organizations, and individuals, in addition to Federal agencies, to which they are specifically directed, and because of the resultant need to make them widely and readily available.

Federal agencies are advised that the procedures set forth certain steps for agencies to follow to fulfill their obligations pursuant to section 1(3) of Executive Order 11593 and to use as a guide in the development of their required internal procedures in consultation with the Council. The Advisory Council reiterates its solicitation of Federal agencies to consult with the Council on the development of those procedures. Inquiries regarding such consultation, as well as inquiries regarding the substance of and compliance with the procedures in general, should be directed to the Executive Secretary, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005.

Effective date: January 25, 1974.

ROBERT R. GARVEY, Jr.,
Executive Director, Advisory
Council on Historic Preservation.

A new Chapter VIII, Advisory Council on Historic Preservation, containing Part 800, Procedures for the Protection of Historic and Cultural Properties, is added to title 36, CFR, reading as set forth below.

Sec. 800.1	Purpose and authorities.
800.2	Coordination with agency requirements under the National Environmental Policy Act.
800.3	Definitions.
800.4	Agency procedures.
800.5	Consultation process.
800.6	Council procedures.
800.7	Other powers of the Council.
800.8	Criteria of effect.
800.9	Criteria of adverse effect.
800.10	National Register criteria.

AUTHORITY: Pub. L. 89-665, 80 Stat. 915, (16 U.S.C. 470); E.O. 11593, 3 CFR 1971 Comp., p. 154.

§ 800.1 Purpose and authorities.

(a) The National Historic Preservation Act of 1966 created the Advisory Council on Historic Preservation, an independent agency of the Executive branch of the Federal Government, to advise the President and Congress on matters involving historic preservation. Its members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of the Treasury, the Secretary of Commerce, the Attorney General, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the General Services Administration, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, and 10 citizen members appointed by the President on the basis of their outstanding service in the field of historic preservation.

(b) The Council reviews Federal, federally assisted, and federally licensed undertakings affecting cultural properties as defined herein in accordance with the following authorities:

(1) Section 106 of the National Historic Preservation Act. Section 106 requires that Federal, federally assisted, and federally licensed undertakings affecting properties included in the National Register of Historic Places be submitted to the Council for review and comment prior to the approval of any such undertaking by the Federal agency.

(2) Section 1(3) of Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment." Section 1(3) requires that Federal agencies, in consultation with the Council, establish procedures regarding the preservation and enhancement of non-federally owned historic and cultural properties in the execution of their plans and programs. After soliciting consultation with the Federal agencies, the Advisory Council has adopted procedures, set forth in §§ 800.3 through 800.10, to achieve this objective and Federal agencies should fulfill their responsibilities under section 1(3) by following these procedures. The Council further recommends that Federal agencies use these procedures as a guide in the development, in consultation with the Council, of their required internal procedures.

(3) Section 2(b) of Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment." Federal agencies are required, by section 2(a) of the Executive Order, to locate, inventory, and nominate properties under their jurisdiction or control to the National Register. Until such processes are complete, Federal agencies must submit proposals for the transfer, sale, demolition, or substantial alteration of federally owned properties eligible for inclusion in the National Register to the Council for review and comment. Federal agencies must continue to comply with section 2(b) review requirements, even after the initial inventory is complete, when they obtain jurisdiction or control over additional properties that are eligible for inclusion in the National Register or when properties under their jurisdiction or control are found to be eligible for inclusion in the National Register subsequent to the initial inventory.

§ 800.2 Coordination with agency requirements under the National Environmental Policy Act.

Section 101(b) (4) of the National Environment Policy Act (NEPA) declares that one objective of the national environmental policy is to "preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice." In order to meet this objective, the Advisory Council instructs Federal agencies to coordinate NEPA compliance with the separate responsibilities of the National Historic Preservation Act and Executive Order 11593 to ensure that historic and cultural resources are given proper consideration in the preparation of environmental impact statements. Agency obligations pursuant to the National Historic Preservation Act and Executive Order 11593 are independent from NEPA and must be complied with even when an environmental impact statement is not required. However, where both NEPA and the National Historic Preservation Act or Executive Order 11593 are applicable, the Council on Environmental Quality, in its *Guidelines for the Preparation of Environmental Impact Statements* (40 CFR Part 1500), directs that compliance with section 102(2)(C) of NEPA should, to the extent possible, be combined with other statutory obligations—such as the National Historic Preservation Act and Executive Order 11593—to yield a single document which meets all applicable requirements. To achieve this objective, Federal agencies should undertake, to the fullest extent possible, compliance with the procedures set forth below whenever properties included in or eligible for inclusion in the National Register are involved in a project to ensure that obligations under the National Historic Preservation Act and Executive Order 11593 are fulfilled during the preparation of a draft environmental impact statement required under section 102(2)(C) of NEPA. The Advisory Council recommends that compliance with these procedures be undertaken at the earliest

stages of the environmental impact statement process to expedite review of the statement. Statements on projects affecting properties included in or eligible for inclusion in the National Register should be sent directly to the Advisory Council for review. All statements involving historic, architectural, archeological, or cultural resources, whether or not included in or eligible for inclusion in the National Register, should be submitted to the Department of Interior for review.

§ 800.3 Definitions.

As used in these procedures:

(a) "National Historic Preservation Act" means Public Law 89-665, approved October 15, 1966, an "Act to establish a program for the preservation of additional historic properties throughout the Nation and for other purposes." 80 Stat. 915, 16 U.S.C. 470, as amended, 84 Stat. 204 (1970) and 87 Stat. 139 (1973) hereinafter referred to as "the Act."

(b) "Executive Order" means Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment," 36 FR 8921, 16 U.S.C. 470.

(c) "Undertaking" means any Federal action, activity, or program, or the approval, sanction, assistance, or support of any other action, activity or program, including but not limited to:

(1) Recommendations or favorable reports relating to legislation, including requests for appropriations. The requirement for following these procedures applies to both: Agency recommendations on their own proposals for legislation and agency reports on legislation initiated elsewhere. In the latter case only the agency which has primary responsibility for the subject matter involved will comply with these procedures.

(2) New and continuing projects and program activities: directly undertaken by Federal agencies; or supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance; or involving a Federal lease, permit, license, certificate, or other entitlement for use.

(3) The making, modification, or establishment of regulations, rules, procedures, and policy.

(d) "National Register" means the National Register of Historic Places, which is a register of districts, sites, buildings, structures, and objects, significant in American history, architecture, archeology, and culture, maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and section 101(a) (1) of the National Historic Preservation Act. The National Register is published in its entirety in the FEDERAL REGISTER each year in February. Addenda are published on the first Tuesday of each month.

(e) "National Register property" means a district, site, building, structure, or object included in the National Register.

(f) "Property eligible for inclusion in the National Register" means any dis-

RULES AND REGULATIONS

trict, site, building, structure, or object which the Secretary of the Interior determines is likely to meet the National Register Criteria. As these determinations are made, a listing is published in the FEDERAL REGISTER on the first Tuesday of each month, as a supplement to the National Register.

(g) "Decision" means the exercise of agency authority at any stage of an undertaking where alterations might be made in the undertaking to modify its impact upon historic and cultural properties.

(h) "Agency Official" means the head of the Federal agency having responsibility for the undertaking or a subordinate employee of the Federal agency to whom such authority has been delegated.

(i) "Chairman" means the Chairman of the Advisory Council on Historic Preservation, or such member designated to act in his stead.

(j) "Executive Director" means the Executive Director of the Advisory Council on Historic Preservation established by Section 205 of the Act, or his designated representative.

(k) "State Historic Preservation Officer" means the official within each State, authorized by the State at the request of the Secretary of the Interior, to act as liaison for purposes of implementing the Act, or his designated representative.

(l) "Secretary" means the Secretary of the Interior, or his designee authorized to carry out the responsibilities of the Secretary of the Interior under Executive Order 11593.

§ 800.4 Agency procedures.

At the earliest stage of planning or consideration of a proposed undertaking, including comprehensive or area-wide planning in which provision may be made for an undertaking or an undertaking may be proposed, the Agency Official shall take the following steps to comply with the requirements of section 106 of the National Historic Preservation Act and sections 1(3) and 2(b) of Executive Order 11593.

(a) *Identification of resources.* As early as possible and in all cases prior to agency decision concerning an undertaking, the Agency Official shall identify properties located within the area of the undertaking's potential environmental impact that are included in or eligible for inclusion in the National Register.

(1) To identify properties included in the National Register, the Agency Official shall consult the National Register, including monthly supplements.

(2) To identify properties eligible for inclusion in the National Register, the Agency Official shall, in consultation with the appropriate State Historic Preservation Officer, apply the National Register Criteria, set forth in Section 800.10, to all properties possessing historical, architectural, archeological, or cultural value located within the area of the undertaking's potential environmental impact. If the Agency Official determines that a property appears to meet the Criteria, or if it is questionable

whether the Criteria are met, the Agency Official shall request, in writing, an opinion from the Secretary of the Interior respecting the property's eligibility for inclusion in the National Register. The Secretary of the Interior's opinion respecting the eligibility of a property for inclusion in the National Register shall be conclusive for the purposes of these procedures.

(b) *Determination of effect.* For each property included in or eligible for inclusion in the National Register that is located within the area of the undertaking's potential environmental impact, the Agency Official, in consultation with the State Historic Preservation Officer, shall apply the Criteria of Effect, set forth in Section 800.8, to determine whether the undertaking has an effect upon the property. Upon applying the Criteria and finding no effect, the undertaking may proceed. The Agency Official shall keep adequate documentation of a determination of no effect.

(c) *Effect established.* Upon finding that the undertaking will have any effect upon a property included in or eligible for inclusion in the National Register, the Agency Official, in consultation with the State Historic Preservation Officer, shall apply the Criteria of Adverse Effect, set forth in § 800.9, to determine whether the effect of the undertaking is adverse.

(d) *Finding of no adverse effect.* Upon finding the effect not to be adverse, the Agency Official shall forward adequate documentation of the determination, including evidence of the views of the State Historic Preservation Officer, to the Executive Director for review. Unless the Executive Director notes an objection to the determination within 45 days after receipt of adequate documentation, the Agency Official may proceed with the undertaking.

(e) *Finding of adverse effect.* Upon finding the effect to be adverse or upon notification that the Executive Director does not accept a determination of no adverse effect, the Agency Official shall: (1) Request, in writing, the comments of the Advisory Council; (2) notify the State Historic Preservation Officer of this request; (3) prepare a preliminary case report; and (4) proceed with the consultation process set forth in Section 800.5.

(f) *Preliminary case report.* Upon requesting the comments of the Advisory Council, the Agency Official shall provide the Executive Director and the State Historic Preservation Officer with a preliminary case report, containing all relevant information concerning the undertaking. The Agency Official shall obtain such information and material from any applicant, grantee, or other beneficiary involved in the undertaking as may be required for the proper evaluation of the undertaking, its effects, and alternate courses of action.

§ 800.5 Consultation process.

(a) *Response to request for comments.* Upon receipt of a request for Advisory Council comments pursuant to Section 800.4(e), the Executive Director shall ac-

knowledge the request and shall initiate the consultation process.

(b) *On-site inspection.* At the request of the Agency Official, the State Historic Preservation Officer, or the Executive Director, the Agency Official shall conduct an on-site inspection with the Executive Director, the State Historic Preservation Officer and such other representatives of national, State, or local units of government and public and private organizations that the consulting parties deem appropriate.

(c) *Public information meeting.* At the request of the Agency Official, the State Historic Preservation Officer, or the Executive Director, the Executive Director shall conduct a meeting open to the public, where representatives of national, State, or local units of government, representatives of public or private organizations, and interested citizens can receive information and express their views on the undertaking, its effects on historic and cultural properties, and alternate courses of action. The Agency Official shall provide adequate facilities for the meeting and shall afford appropriate notice to the public in advance of the meeting.

(d) *Consideration of alternatives.* Upon review of the pending case and subsequent to any on-site inspection and any public information meeting, the Executive Director shall consult with the Agency Official and State Historic Preservation Officer to determine whether there is a feasible and prudent alternative to avoid or satisfactorily mitigate any adverse effect.

(e) *Avoidance of adverse effect.* If the Agency Official, the State Historic Preservation Officer, and the Executive Director select and unanimously agree upon a feasible and prudent alternative to avoid the adverse effect of the undertaking, they shall execute a Memorandum of Agreement acknowledging avoidance of adverse effect. This document shall be forwarded to the Chairman for review pursuant to Section 800.6(a).

(f) *Mitigation of adverse effect.* If the consulting parties are unable to unanimously agree upon a feasible and prudent alternative to avoid any adverse effect, the Executive Director shall consult with the Agency Official and the State Historic Preservation Officer to determine whether there is a feasible and prudent alternative to satisfactorily mitigate the adverse effect of the undertaking. Upon finding and unanimously agreeing to such an alternative, they shall execute a Memorandum of Agreement acknowledging satisfactory mitigation of adverse effect. This document shall be forwarded to the Chairman for review pursuant to Section 800.6(a).

(g) *Memorandum of Agreement.* It shall be the responsibility of the Executive Director to prepare each Memorandum of Agreement required under these procedures. In preparation of such a document the Executive Director may request the Agency Official to prepare a proposal for inclusion in the Memorandum, detailing actions to be taken to avoid or mitigate the adverse effect.

(h) *Failure to avoid or mitigate adverse effect.* Upon the failure of consulting parties to find and unanimously agree upon a feasible and prudent alternative to avoid or satisfactorily mitigate the adverse effect, the Executive Director shall request the Chairman to schedule the undertaking for consideration at the next Council meeting and notify the Agency Official of the request. Upon notification of the request, the Agency Official shall delay further processing of the undertaking until the Council has transmitted its comments or the Chairman has given notice that the undertaking will not be considered at a Council meeting.

§ 800.6 Council procedures.

(a) *Review of Memorandum of Agreement.* Upon receipt of a Memorandum of Agreement acknowledging avoidance of adverse effect or satisfactory mitigation of adverse effect, the Chairman shall institute a 30-day review period. Unless the Chairman shall notify the Agency Official that the matter has been placed on the agenda for consideration at a Council meeting, the memorandum shall become final: (1) Upon the expiration of the 30-day review period with no action taken; or (2) when signed by the Chairman. Memoranda duly executed in accordance with these procedures shall constitute the comments of the Advisory Council. Notice of executed Memoranda of Agreement shall be published in the FEDERAL REGISTER monthly.

(b) *Response to request for consideration at Council meeting.* Upon receipt of a request from the Executive Director for consideration of the proposed undertaking at a Council meeting, the Chairman shall determine whether or not the undertaking will be considered and notify the Agency Official of his decision. To assist the Chairman in this determination, the Agency Official and the State Historic Preservation Officer shall provide such reports and information as may be required. If the Chairman decides against consideration at a Council meeting, he will submit a written summary of the undertaking and his decision to each member of the Council. If any member of the Council notes an objection to the decision within 15 days of the Chairman's decision, the undertaking will be scheduled for consideration at a Council meeting. If the Council members have no objection, the Chairman shall notify the Agency Official at the end of the 15-day period that the undertaking may proceed.

(c) *Decision to consider the undertaking.* Upon determination that the Council will consider an undertaking, the Chairman shall: (1) Schedule the matter for consideration at a regular meeting no less than 60 days from the date the request was received, or in exceptional cases, schedule the matter for consideration in an unassembled or special meeting; (2) notify the Agency Official and the State Historic Preservation Officer of the date on which comments will be considered; and (3) authorize the Executive Director to prepare a case report.

(d) *Content of the case report.* For

purposes of arriving at comments, the Advisory Council prescribes that certain reports be made available to it and accepts reports and statements from other interested parties. Specific informational requirements are enumerated below. Generally, the requirements represent an explication of elaboration of principles contained in the Criteria of Effect and in the Criteria of Adverse Effect. The Council notes, however, that the Act recognizes historical and cultural resources should be preserved "as a living part of our community life and development." Consequently, in arriving at final comments, the Council considers those elements in an undertaking that have relevance beyond historical and cultural concerns. To assist it in weighing the public interest, the Council welcomes information not only bearing upon physical, sensory, or esthetic effects but also information concerning economic, social, and other benefits or detriments that will result from the undertaking.

(e) *Elements of the case report.* The report on which the Council relies for comment shall consist of:

(1) A report from the Executive Director to include a verification of the legal and historical status of the property; an assessment of the historical, architectural, archeological, or cultural significance of the property; a statement indicating the special value of features to be most affected by the undertaking; an evaluation of the total effect of the undertaking upon the property; a critical review of any known feasible and prudent alternatives and recommendations to remove or mitigate the adverse effect;

(2) A report from the Agency Official requesting comment to include a general discussion and chronology of the proposed undertaking; when appropriate, an account of the steps taken to comply with section 102(2)(A) of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321): an evaluation of the effect of the undertaking upon the property, with particular reference to the impact on the historic, architectural, archeological and cultural values; steps taken or proposed by the agency to take into account, avoid, or mitigate adverse effects of the undertaking; a thorough discussion of alternate courses of action; and, if applicable and available, a copy of the draft environmental statement prepared in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969;

(3) A report from any other Federal agency having under consideration an undertaking that will concurrently or ultimately affect the property, including a general description and chronology of that undertaking and discussion of the relation between that undertaking and the undertaking being considered by the Council;

(4) A report from the State Historic Preservation Officer to include an assessment of the significance of the property; an identification of features of special value; an evaluation of the effect of the undertaking upon the property and its specific components; an evaluation of

known alternate courses of action; a discussion of present or proposed participation of State and local agencies or organizations in preserving or assisting in preserving the property; an indication of the support or opposition of units of government and public and private agencies and organizations within the State; and the recommendations of his office;

(5) A report by any applicant or potential recipient when the Council considers comments upon an application for a contract, grant, subsidy, loan, or other form of funding assistance, or an application for a Federal lease, permit, license, certificate, or other entitlement for use. Arrangements for the submission and presentation of reports by applicants or potential recipients shall be made through the Agency Official having jurisdiction in the matter; and

(6) Other pertinent reports, statements, correspondence, transcripts, minutes, and documents received by the Council from any and all parties, public or private. Reports submitted pursuant to this section should be received by the Council at least two weeks prior to a Council meeting.

(f) *Coordination of case reports and statements.* In considerations involving more than one Federal department, either directly or indirectly, the Agency Official requesting comment shall act as a coordinator in arranging for a full assessment and discussion of all interdepartmental facets of the problem and prepare a record of such coordination to be made available to the Council. At the request of the Council, the State Historic Preservation Officer shall notify appropriate governmental units and public and private organizations within the State of the pending consideration of the undertaking by the Council, and coordinate the presentation of written statements to the Council.

(g) *Council meetings.* The Council does not hold formal hearings to consider comments under these procedures. Two weeks notice shall be given, by publication in the FEDERAL REGISTER, of all meetings involving Council review of Federal undertakings in accordance with these procedures. Reports and statements will be presented to the Council in open session in accordance with a prearranged agenda. Regular meetings of the Council generally occur on the first Wednesday and Thursday of February, May, August and November.

(h) *Oral statements to the Council.* A schedule shall provide for oral statements from the Executive Director; the referring Agency Official presently or potentially involved; the applicant or potential recipient, when appropriate; the State Historic Preservation Officer; and representatives of national, State, or local units of government and public and private organizations. Parties wishing to make oral remarks shall submit written statements of position in advance to the Executive Director.

(i) *Comments by the Council.* The comments of the Council, issued after consideration of an undertaking at a

Council meeting, shall take the form of a three-part statement, including an introduction, findings, and a conclusion. The statement shall include notice to the Agency Official of the report required under section 800.6(j) of these procedures. Comments shall be made to the head of the Federal Agency requesting comment or having responsibility for the undertaking. Immediately thereafter, the comments of the Council will be forwarded to the President and the Congress as a special report under authority of section 202(b) of the Act and published as soon as possible in the FEDERAL REGISTER. Comment shall be available to the public upon receipt of the comments by the head of the Federal agency.

(j) *Report of agency action in response to Council comments.* When a final decision on the undertaking is reached by the Federal Agency, the Agency Official shall submit a written report to the Council containing a description of actions taken by the Federal Agency subsequent to the Council's comments; a description of actions taken by other parties pursuant to the actions of the Federal Agency; and the ultimate effect of such actions on the property involved. The Council may request supplementary reports if the nature of the undertaking requires them.

(k) *Records of the Council.* The records of the Council shall consist of a record of the proceedings at each meeting, the case report prepared by the Executive Director, and all other reports, statements, transcripts, correspondence, and documents received.

(l) *Continuing review jurisdiction.* When the Council has commented upon an undertaking pursuant to Section 800.6 such as a comprehensive or area-wide plan that by its nature requires subsequent action by the Federal Agency, the Council will consider its comments or approval to extend only to the undertaking as reviewed. The Agency Official shall ensure that subsequent action related to the undertaking is submitted to the Council for review in accordance with § 800.4(e) of these procedures when that action is found to have an adverse effect on a property included in or eligible for inclusion in the National Register.

§ 800.7 Other powers of the Council.

(a) *Comment or report upon non-Federal undertaking.* The Council will exercise the broader advisory powers, vested by section 202(a) (1) of the Act, to recommend measures concerning a non-Federal undertaking that will adversely affect a property included in or eligible for inclusion in the National Register: (1) upon request from the President of the United States, the President of the U.S. Senate, or the Speaker of the House of Representatives, or (2) when agreed upon by a majority vote of the members of the Council.

(b) *Comment or report upon Federal undertaking in special circumstances.* The Council will exercise its authority to comment to Federal agencies in certain special situations even though written notice that an undertaking will have an

effect has not been received. For example, the Council may choose to comment in situations where an objection is made to a Federal agency finding of "no effect."

§ 800.8 Criteria of effect.

A Federal, federally assisted, or federally licensed undertaking shall be considered to have an effect on a National Register property or property eligible for inclusion in the National Register (districts, sites, buildings, structures, and objects, including their settings) when any condition of the undertaking causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archeological, or cultural character that qualifies the property under the National Register Criteria.

§ 800.9 Criteria of adverse effect.

Generally, adverse effects occur under conditions which include but are not limited to:

- (a) Destruction or alteration of all or part of a property;
- (b) Isolation from or alteration of its surrounding environment;
- (c) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;
- (d) Transfer or sale of a federally owned property without adequate conditions or restrictions regarding preservation, maintenance, or use; and
- (e) Neglect of a property resulting in its deterioration or destruction.

§ 800.10 National Register criteria.

(a) "National Register Criteria" means the following criteria established by the Secretary of the Interior for use in evaluating and determining the eligibility of properties for listing in the National Register: The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

- (1) That are associated with events that have made a significant contribution to the broad patterns of our history; or
- (2) That are associated with the lives of persons significant in our past; or
- (3) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (4) That have yielded, or may be likely to yield, information important in prehistory or history.

(b) *Criteria considerations.* Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in na-

RULES AND REGULATIONS

ture, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction or historical importance;

(2) A building or structure removed from its original location but which is

the surviving structure most importantly associated with a historic person or event;

(3) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life;

(4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

(5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

(6) A property primarily commemorative in intent if design, age tradition, or symbolic value has invested it with its own historical significance; or

(7) A property achieving significance within the past 50 years if it is of exceptional importance.

[FR Doc. 74-1936 Filed 1-24-74; 8:45 am]

May 13, 1975

MEMORANDUM FOR:

JIM LYNN

FROM:

JIM CANNON

SUBJECT:

Memo to the President
on Mescalero Apache
Economic Enterprise

The Counsel's office has recommended that your memo should set forth for the President's decision options involving the method by which the expansion of the Mescalero Apache economic enterprise can best be achieved.

In addition to your memo attached are the opinions and recommendations of the Department of Agriculture on your proposed action.

Attachments - original incoming letter from Jim Lynn
recommendations of the Dept. of Ag. received
from Vandermeide

NEROSS/ee

look in India File for Backup -



May 28, 1975

MEMORANDUM FOR

WARREN RUSTAND

FROM:

NORM ROSS

SUBJECT:

President Attending Dedication
of Piscataway Park, June 25

I recommend that the President accept the invitation tendered by Ms. Bolton and Representative Skubitz on behalf of The Accokeek Foundation for the afternoon of June 25.

It is, indeed, true that John Saylor had been a staunch advocate of the Piscataway Park and of the supplementary legislation which became Public Law 93-444. You may recall that the Administration had opposed enactment of P.L. 93-444; the President's participation in a dedication ceremony would help to dispel some of the "hard feelings" which remain. Moreover, the establishment of a "Saylor Grove" within the Park is an entirely fitting tribute to a Republican member whose record on behalf of conservation legislation will long be remembered.

Jack Fish, Director of National Capital Parks, has begun to plan a ceremony for June 25 in close consultation with Mr. Robert Strauss, Executive Director of the Accokeek Foundation. They envisage both a dedication of the Piscataway Park and a ceremonial planting of a tree in the Saylor Grove. The grove is now being planted with trees bought with donated funds.

NEROSS/ee



April 23, 1975

MEMORANDUM FOR

NATHANIEL REED

FROM:

NORM ROSS

SUBJECT:

President attending dedication
of Piscataway Park, June 25

I would appreciate your comments and recommendation
on the attached invitation.

Part of Piscataway Park will include a Memorial Grove
in honor of John Saylor.

Many thanks for your time.

Attachment

NEROSS/ee

Check up on this

edid - 5-1



33
THE ACCOKEEK FOUNDATION, INCORPORATED

525 School Street, Southw
Washington, D. C. 20024, Phone 638-06

Telex: 244

*Indicate
wk of June 16*
The President of the United States
The White House
Washington, D. C.

My dear Mr. President:

All of us are aware that you voted for the late John Saylor's bill to complete Piscataway Park when you were a member of the House.

Later, as President on October 15, 1974, you signed this bill into PL 93-444.

John Saylor's last official act before his sudden death was to urge the passage of this bill.

Now that the Piscataway Park acquisition is complete, we think it should be dedicated this spring, and at the same time, to dedicate the Memorial Grove in the Park as a Memorial to John Saylor.

It would be most fitting if you could spare time from your heavy schedule, to helicopter down for the ceremony, and speak a few words for the man who has done so much for conservation in this country.

We are planning for the ceremony just after the middle of June. Of course, we will invite leading members of the Congress, and the National Conservation and Historical groups to join us at that time.

Would it be possible for you to find time either the week of June 16th or June 23rd? We will plan the schedule based on your availability.

Please let us know if it is possible for you to come.

Sincerely yours,

Frances P. Bolton
Honorable Frances P. Bolton
President

Joe Skubitz
Joe Skubitz, M.C.
Secretary

TID
SCHEDULE BD.
DATE RECEIVED

FEB 20 1975

MESSAGE
SPEAKERS BUREAU
POST OFFICE



THE WHITE HOUSE
WASHINGTON

April 11, 1975

MEMORANDUM FOR:

ROBERT T. HARTMANN
JOHN O. MARSH, JR.
MAX FRIEDERSDORF
→ NORMAN ROSS

FROM:

WARREN RUSTAND *WSR*

SUBJECT:

President attending dedication of
Piscataway Park June 25

I would appreciate your comments and recommendation
on the attached invitation.

Part of Piscataway Park will include a Memorial Grove
in honor of John Saylor.

The Park is located directly across the Potomac River
from Mt. Vernon. Also located on the site is the National
Colonial Farm which is a replica of a Maryland freeholders
farm at the time of the American Revolution.

Thank you.

*Send a letter note to Wat Reed - send second
page - ask for his comments & then follow
through -*



414

March 10, 1975

Dear Mrs. Bolton:

The President has asked me to thank you for your recent letter inviting him to take part in the dedication of the Piscataway Park later this summer.

The President was pleased to receive your invitation and he was very interested to learn of the Memorial Grove in the Park honoring John Saylor. It is too early to know now what the President's schedule for the last half of June will be but we will hold this for consideration on his schedule. I would appreciate hearing from you again once a date for the dedication ceremony has been set.

In the meantime, the President sends his warm personal regards,

Sincerely,

Warren S. Rustand
Appointments Secretary
to the President

Mrs. Frances P. Bolton
President
The Accokeek Foundation
525 School Street, SW.
Washington, D.C. 20024

WSR:jem

cc: mary Widner w/incoming for follow-up

THE ACCOKEEK FOUNDATION, INCORPORATED

→ Margaret
525 School Street, Southwest
Washington, D. C. 20024, Phone 638-0606
Telex: 24461

March 31, 1975
1975 APR 1 PM 3 30

Mr. Warren S. Rustand
Appointments Secretary
to the President
The White House
Washington, D. C.

Bryan Point Rd
Accokeek, Md.
Below St. Washington
Md.

My dear Mr. Rustand:

Our deep apologies for the delayed answer to your letter of March 10, 1975 to The Honorable Frances P. Bolton, President of this Foundation. Mrs. Bolton is directly out of town, Mr. Skubitz is back in his district, and I have been out of the country. *National Colonial Farm - across of Mt. Vernon*

You inquired as to setting a date for the ceremony. In a conference with the National Park Service last week, agreement was reached that the most suitable date for the ceremony would be the afternoon of June 25th. The Park Service will conclude the necessary additional work at the site, the Congress will be in session, and the date is suitable to the Saylor family. *Bureau release replica of time of Robert was on Mt. Vernon*

Therefore, Mrs. Bolton and Mr. Skubitz have asked me to confer with you as to whether or not this date will be suitable for the President? *Preserved by Paul C*

Sincerely yours,

Robert Ware Straus
Robert Ware Straus
Executive Vice President

RWS/as



owned by Paul C
1975

April 7, 1975

Dear Mr. Straus:

Thank you for your letter of March 31, sent in response to my letter to Mrs. Bolton about the dedication of the Piscataway Park.

Notation has been made that the afternoon of June 25 has been set for this ceremony. Just as soon as it is possible to determine the President's calendar for late June, we will be back in touch with you.

With my best wishes,

Sincerely,

Warren S. Rustand
Appointments Secretary
to the President

Mr. Robert Ware Straus
Executive Vice President
The Accokeek Foundation, Inc.
525 School Street, SW.
Washington, D. C. 20024

WSR:mhr:jlc

cc and incmg to Mary Widner for June 25 file





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 7 1975

MEMORANDUM FOR NORM ROSS
 Domestic Council
 The White House

Subject: President attending dedication of Piscataway Park, June 25

I recommend that the President accept the invitation tendered by Ms. Bolton and Representative Skubitz on behalf of The Accokeek Foundation for the week of June 16 or June 23.

It is, indeed, true that John Saylor had been a staunch advocate of the Piscataway Park and of the supplementary legislation which became Public Law 93-444. You may recall that the Administration had opposed enactment of P. L. 93-444; the President's participation in a dedication ceremony would help to dispel some of the "hard feelings" which remain. Moreover, the establishment of a "Saylor Grove" within the Park is an entirely fitting tribute to a Republican member whose record on behalf of conservation legislation will long be remembered.

Jack Fish, Director of National Capital Parks, has begun to plan a ceremony for June 25 in close consultation with Mr. Robert Strauss, Executive Director of the Accokeek Foundation. They envisage both a dedication of the Piscataway Park and a ceremonial planting of a tree in the Saylor Grove. The grove is now being planted with trees bought with donated funds.

The Park Service assures me that it can meet all logistical requirements of a Presidential visit. We will be pleased to provide a detailed briefing statement at a later date.

Nathaniel P. Reed
Assistant Secretary for Fish
and Wildlife and Parks



Save Energy and You Serve America!



[7/75]

Deferral No.

Duval

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

file
Interior

Agency U.S. Department of the Interior	Appropriation Title & Symbol
Bureau National Park Service	14 X 1037
Amount \$	Road Construction
to be deferred part of year	National Park Service
Amount \$ 270,504,000	
to be deferred for entire year	

Justification:

The 1975 budget proposes a construction program of \$33 million. The planned development program will provide the roads necessary to serve the facilities planned for construction in 1975. Additional funds are unnecessary for the orderly program of construction and rehabilitation as proposed in the President's budget. Further, additional funding at this time would be a very low priority use of scarce resources. Congress has essentially agreed with the program level proposed in the budget.

Estimated Effects:

None. Given the historically moderate level of capability of the agency to accomplish construction work, it is unlikely there would be any increases in the program even if the additional contract authority were available. Further, use of additional funds would result in projects which are deemed of low priority, as many facilities and interpretive systems which they would serve are not yet constructed or are not needed until future years.



DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency	Dept. of the Interior	Appropriation Title & Symbol
Bureau	Bureau of Indian Affairs	Road Construction Program 14X2364
Amount \$		
to be deferred part of year		
Amount \$	110,423,000	
to be deferred for entire year		

JUSTIFICATION: The Bureau of Indian Affairs road construction program for FY 1975 is \$60,200,000. The Federal Aid Highway Act of 1973 provides Contract Authority of 75 million dollars for each of fiscal years 1974, 1975, and 1976. The funds are authorized to be used one year in advance. The amount made available to the Bureau represent all funds that were requested by the Department of the Interior for use in the construction and rehabilitation of roads necessary to service Indian reservations. Additional funds are unnecessary for the orderly program of construction and rehabilitation as proposed in the President's budget. Further, additional funding at this time would be a very low priority use of scarce resources. Congressional action to date in providing cash to liquidate Contract Authority provides only for carrying out the program plan as presented in the 1975 budget.

ESTIMATED EFFECTS: None. The program level is high enough so that there are no unobligated funds to lapse at the end of the year. Annual appropriations are so high that the road construction program cannot use up all funds available. In a sense, however, the effects of the deferral are positive in that investments promising relatively low return are avoided. The obligation of funds proposed to be deferred would not be possible as planning and pre-construction activities have not been done. It is possible that some highly productive opportunities have not yet been identified, however, analysis to date indicates that the benefit/cost ratio is less favorable when road development is undertaken before it is required by the basic resource objectives. Congressional disapproval of this deferral would require investments in opportunities expected to yield low returns.



DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency	Appropriation Title & Symbol
Department of the Interior	
Bureau	14X1113 Public Lands
Land Management	Development Roads & Trails
Amount \$	
to be deferred part of year	
Amount \$ 30,000,000	
to be deferred for entire year	

JUSTIFICATION:

The Public Lands Development Road and Trail program for FY 1975 is \$4,070,000. The Federal Aid Highway Act of 1973 provides Contract Authority of \$10 M for each of fiscal years 1974, 1975, 1976 and authorizes use one year in advance. The amount of road development in any one year is based on estimated requirements to meet the objectives for multiple use resource development and use plans on the national resource lands. These objectives are in turn constrained by the estimated benefits related to the associated costs for the available development opportunities and by overall financial resource constraints. Efforts are being made to refine knowledge of major resource development opportunities in order to better determine their benefit/cost relationships and to establish priorities. Road requirements are major consideration in these efforts. It is conceivable that upon further analysis, some increase in the program might be justified but these possible increases are expected to be relatively small in relation to the available authority.

Congressional action to date in providing Cash to Liquidate Contract Authority provides only for carrying out the program plan as presented in the 1975 budget. Additional obligation in 1975 would increase 1975 cash requirements beyond that made available.

Estimated Effects:

The estimated effects of the proposed deferral are essentially positive in that investments promising relatively low return are avoided. It is possible that some highly productive opportunities may not have yet been identified. However, analysis to date generally indicates that the benefit/cost relationship is less favorable when road development is undertaken before it is required by the basic resource development objectives.

Congressional disapproval of this deferral would require investments in opportunities expected to yield low returns, investments not coordinated with other resource development activities, and a program level for which comprehensive plans have not been prepared. Obligation of major amounts of funds proposed to be deferred would not be possible as planning and other pre-construction activities have not been accomplished.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Sec. 1012 of P.L. 93-344

Agency Department of the Interior	Appropriation Title & Symbol 14X1113 Public Lands Development, Roads and Trails
Bureau of Land Management	
Amount Proposed for Rescission: \$ 4,891,000	

Justification:

The \$4,070,000 made available for the Public Lands Development Roads and Trails program represents the funding required to support resource development and use plans for the public lands in FY 1975. The Federal Aid Highway Act of 1973 provides contract authority of \$10 million for each of fiscal years 1974, 1975, 1976 and authorizes use one year in advance. Under the existing program, \$4,891,000 of contract authority will lapse.

The FY 1975 program level has been prepared considering resource development and use opportunities and the associated benefit/cost relationships to the extent possible. It is not possible to recommend a higher program level based on the data and analysis which has been provided to date by the Department of Agriculture. Analysis of additional program opportunities is continuing and it is possible that limited increases could be demonstrated to be productive expenditures of public funds.

Congressional action to date in providing Cash to Liquidate Contract Authority provides only for carrying out the program plan as presented in the 1975 budget. Additional obligation in 1975 would increase 1975 cash requirements beyond that made available.

Estimated Effects:

The projected lapse will have no adverse effects on the program in future years.

Congressional failure to rescind this unneeded contract authority would likely result in only a limited increase in the program level because necessary planning and other pre-construction activities have not been accomplished. Moreover, the bulk of additional projects that might be undertaken would have generally unfavorable benefit/cost relationships because of limited benefits and/or because realization of benefits would not occur for several years in the future.



Rescission Proposal No.:

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Sec. 1012 of P.L. 93-344

Agency U.S. Department of the Interior	Appropriation Title & Symbol 14 X 1037 Road Construction- National Park Service
Bureau National Park Service	
Amount Proposed for Rescission: \$14,611,000	

Justification:

The planned development program will provide the roads necessary to serve the facilities planned for construction in 1975. Additional funds are unnecessary for the orderly program of construction and rehabilitation as proposed in the President's budget. Further, additional funding at this time would be a very low priority use of scarce resources. Congress has essentially agreed with the program-level proposed in the budget. The 1975 budget proposes a construction program of \$33 million.

Estimated Effects

None. The projected lapse will have no effects as the contract authority available in the next two years far exceeds the estimated requirements. The program proposed in the budget will provide the necessary road complements to the recreation facilities currently under construction and is at a level commensurate with capability of the agency to accomplish construction activities.

Should the CA not be rescinded, there is very little chance any increases in the program would occur as this would be at a level higher than any the agency has been able to achieve in its history.



Deferral No. _____

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency Department of the Interior	Appropriation Title & Symbol 14X5029 Federal Aid in Wildlife Restoration
Bureau Fish and Wildlife Service	
Amount \$ _____ to be deferred part of year	
Amount \$ <u>19,375,000</u> to be deferred for entire year	

Justification:

This is a permanent appropriation for which more receipts are received each year than can be expended by the States in that year. This is a grant program to the States. Each year, unobligated funds are placed in reserve. The States have two years in which to obligate new funds. The reserve reflects an estimate of the amount that will remain unobligated at the close of FY 1975. Frequently, States do not have sufficient funds to match Federal grants. Also, States must submit reports on their plans for review by the Fish and Wildlife Service. These may not be adequate, or may not be submitted at all.

Estimated Effects:

Whether Congress overturns this deferral or not, the effect of the reserve is zero, whether measured programmatically or financially. State programs receive the assistance they ask for, if they can provide matching funds, and if all requirements are met. The reserves simply reflect that there are more revenues in this permanent account than can be used each year.



Deferral No. _____

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency	Appropriation Title & Symbol
Department of the Interior	14X5092
Bureau	Proceeds from Sales, Water Resources
Fish and Wildlife Service	Development Projects,
Amount \$	
to be deferred part of year	
Amount \$ 4,000	
to be deferred for entire year	

JUSTIFICATION: This is a permanent appropriation for which more is received than was programmed for this year. Unobligated funds are placed in reserve. These receipts, derived from water resources development projects conducted on National Wildlife Refuge lands on which other agencies have primary jurisdiction, could be expended in the future, if plans are made to utilize these funds. At the present time, the amount is so small that it could not be used for a new project; yet, no request was made to apply it to other projects or programs.

ESTIMATED EFFECTS: The reserve, if released, would not be used in this fiscal year since there are no plans by the Fish and Wildlife Service to apply these funds to approved programs. If unreleased, the effect would also be zero, since the funds would not be used, even if released. The reserve simply reflects the fact that revenues from this account were higher than program requirements.



Deferral No. _____

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency Department of the Interior	Appropriation Title & Symbol 14X5136 Oregon and California Grant Lands
Bureau Bureau of Land Management	
Amount \$ _____ to be deferred part of year	
Amount \$ 23,692,697 to be deferred for entire year	

Justification:

Funding in this account is 25 percent of current year receipts from the O&C lands. Current program will be \$28,750,000, as estimated in proposed budget and as reviewed by Congress, plus \$3,500,000 for a project deferred from 1974. Amounts made available represent all funds that are required for the planned program. Deferred amounts which are based on previously planned carryovers and recently upward revised receipts and will be used in future years and will provide a cushion for a possible future reduction in receipts.

None.

An increase over this level would be used for inadequately planned projects and those of low priority.

Because funding is based on current year receipts the budget authority available for a year is never known until the end of that fiscal year. Therefore, in order to insure a sound program, as receipts vary from the original estimates, the changes are used to either decrease or increase the funding carried into the subsequent year. Failure to follow this practice makes management very difficult and usually inefficient.

Failure to act now! Heavy increase cutbacks in
2nd yr.



Rescission Proposal No.: _____

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Sec. 1012 of P.L. 93-344

Agency U.S. Department of the Interior

Appropriation Title & Symbol

Bureau of Outdoor Recreation

14 X 5005
Land and Water Conservati

Amount Proposed for Rescission: \$30,000,000
annually for fiscal years 1975 through 1989

Justification: Under P.L. 91-308, signed July 7, 1970, \$30,000,000 of contract authorization (C.A.) becomes available each fiscal year through FY 1989 for use by Federal park and recreation agencies to buy lands. However, after having used \$15.5 million of the C.A. in 1969 and \$30 million in 1970, those agencies concluded it was more practical to obtain regular appropriations for such land purchases and, consequently, the C.A. has lapsed in fiscal years 1971-1974 and is planned to lapse in 1975. Cash to liquidate obligations incurred by use of C.A. must necessarily take precedence when allocating funds from the LWCF for various land acquisition programs. This reduces the flexibility of either the agencies or Congress to set priorities in the land acquisition program each year as a set amount of the appropriations available must go for cash to liquidate the C.A. used in previous years.

Estimated Effects Will eliminate source of annual confusion about what the \$30,000,000 of contract authority is and why the budget recommendation is that it lapse unobligated again. In addition, there are no program or outlay effects as the agencies prefer to achieve the program goals through use of appropriations. Historically, congressional action on the LWCF budget would indicate that Congress also prefers the use of regular appropriations.



DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency	Department of the Interior	Appropriation Title & Symbol
Bureau	U.S. Geological Survey	14X5662 Payments from Proceeds, Sale of Water, Mineral Leasing Act of 1920, Sec. 40(d)
Amount \$		
to be deferred part of year		
Amount \$	27,500	
to be deferred for entire year		

JUSTIFICATION:

The Mineral Leasing Act of 1920, Sec. 40(d) provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about \$1,000 per year (e.g. at the start of fiscal 1965 the account had an unobligated balance of \$16,000 which had increased to \$27,500 by the start of fiscal 1975). No obligations have been made of these receipts over the past nine years and none are planned for fiscal 1975 because the total available is too small to be put to practical use for the purpose designated by law. Deferral is planned because funds could not be used effectively during current fiscal year even if made available for obligation.

ESTIMATED EFFECTS:

Receipts will continue to accrue but will remain unobligated until such time as an amount is available which can be used for an effective purpose.



Deferral No. _____

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency Department of the Interior	Appropriation Title & Symbol 14X5091 National Wildlife Refuge Fund
Bureau Fish and Wildlife Service	
Amount \$ _____ to be deferred part of year	
Amount \$ <u>4,241,750</u> to be deferred for entire year	

Justification: This is a permanent appropriation from which Federal receipts collected in one year are not to be expended until the following year. For administrative purposes, these are placed in reserve until the following year.

Estimated Effects: The receipts cannot be spent until the year following that in which they were collected (16USC 715S); the effect of maintaining or ending the reserve is nil, for this reason.



Deferral No. _____

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency Department of the Interior	Appropriation Title & Symbol 14X5138 Federal Aid in Fish Restoration and Management
Bureau Fish and Wildlife Service	
Amount \$ _____ to be deferred part of year	
Amount \$ 6,924,000 to be deferred for entire year	

Justification:

This is a permanent appropriation for which more receipts are received each year than can be expended by the States in that year. This is a grant program to the States. Each year, unobligated funds are placed in reserve. The States have two years in which to obligate new funds. The reserve reflects an estimate of the amount that will remain unobligated at the close of FY 1975. Frequently, States do not have sufficient funds to match Federal grants. Also, States must submit reports on their plans for review by the Fish and Wildlife Service. These may not be adequate, or may not be submitted at all.

Estimated Effects:

Whether Congress overturns this deferral or not, the effect of the reserve is zero, whether measured programmatically or financially. State programs receive the assistance they ask for, if they can provide matching funds, and if all requirements are met. The reserves simply reflect that there are more revenues in this permanent account than can be used each year.

