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TOLEDO BEND DAM AND RESERVOIR EXEMPTION

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 15320

OCTOBER 9, 1974

Serial No. 93-PPP

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67-4

CONTENTS

	Page
H.R. 15320, a bill to recognize direct benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from further charges for the use, occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Tex -----	2
Report of U.S. Department of Agriculture -----	3
Report of the Department of the Army -----	4
Report of the Federal Power Commission -----	5

STATEMENT OF

Collins, Sam, assistant general manager, Sabine River Authority of Texas -----	37
Goldstein, Daniel, Assistant General Counsel for Legislation, Federal Power Commission -----	13
Morgan, R. D., chief engineer, Sabine River Authority, State of Louisiana -----	26
Patman, Hon. Wright, a Representative in Congress from the State of Texas -----	45
Peterson, R. Max, Deputy Chief for Programs and Legislation, Forest Service, U.S. Department of Agriculture -----	22
Sander, Donald A., Assistant General Counsel for Water Power Matters, Federal Power Commission -----	16
Waggoner, Hon. Joe D., Jr., a Representative in Congress from the State of Louisiana -----	8
Wilson, Hon. Charles, a Representative in Congress from the State of Texas -----	12

(III)

COMPTON REPORT

CONFIDENTIAL

1. The purpose of this report is to provide a comprehensive overview of the current state of the industry and to identify key trends and challenges. This report is intended for the use of senior management and is based on a thorough review of internal data and external market research.

2. The industry has experienced significant growth over the past five years, driven by increasing demand for high-quality products and services. However, this growth has also led to increased competition and rising costs of raw materials. Key challenges include the need to improve operational efficiency, invest in research and development, and enhance customer service. Opportunities exist in expanding into new markets and developing innovative products.

3. To address these challenges and capitalize on the opportunities, the following strategic initiatives are recommended: (a) Implementing lean manufacturing practices to reduce waste and improve production efficiency. (b) Increasing investment in R&D to develop new and improved products. (c) Expanding marketing efforts to reach new customer segments. (d) Strengthening relationships with suppliers to ensure a stable and cost-effective supply chain. (e) Enhancing employee training and development to build a skilled workforce. (f) Improving customer service through better communication and faster response times. (g) Exploring new market opportunities in emerging economies. (h) Investing in digital technologies to streamline operations and improve data analysis. (i) Maintaining a strong focus on quality control to ensure customer satisfaction. (j) Regularly reviewing and adjusting the strategy based on market changes and internal performance.

TOLEDO BEND DAM AND RESERVOIR EXEMPTION

WEDNESDAY, OCTOBER 9, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FORESTS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice at 2:05 p.m., in room 1302, Longworth House Office Building, Hon. John R. Rarick (chairman) presiding.

Present: Representatives Rarick, Foley, Vigorito, Melcher, and Gunter.

Also present: Steven Allen, staff consultant; Stephen Pringle, staff assistant; and Anita Brown, staff assistant.

Mr. RARICK. The subcommittee will please come to order.

The legislation before us today, H.R. 15320, seeks to exempt the Sabine River Authority, State of Louisiana, and the Sabine River Authority, State of Texas, from further charges for the use, occupancy, and enjoyment of some 35,550 acres within the Sabine National Forest, Tex.

Identical legislation was introduced in the 91st and 92d Congress by our former colleague from Louisiana, Hon. Speedy O. Long; however, the legislation received no consideration.

The bill before us today argues that this exemption should be granted to the States of Louisiana and Texas because the United States recognizes direct benefits from the construction of the Toledo Bend Dam and Reservoir project. The legislation lists four such benefits allegedly accruing to the United States:

First, the decreased annual maintenance costs for the Sabine-Neches Waterway as a result of siltation control;

Second, the improved navigation within the Sabine River Basin;

Third, the improved conditions for the propagation of fish and wildlife; and

Fourth, recreational benefits induced by the construction of the dam and reservoir.

The subcommittee will be especially interested in determining if these benefits do in fact exist as a result of the construction of Toledo Bend and if their value equals or exceeds the annual fee of \$85,320 that the Sabine River Authorities pay to the United States for the use of this land.

Finally, the subcommittee will be interested in comparing the situation presently confronting the States of Texas and Louisiana with those now facing other States.

[The bill H.R. 15320 follows:]

93D CONGRESS
2D SESSION

H. R. 15320

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 1974

Mr. WAGGONNER (for himself, Mrs. BOGGS, Mr. BREAUX, Mr. HÉBERT, Mr. LONG of Louisiana, Mr. PASSMAN, Mr. PATMAN, Mr. TREEN, and Mr. CHARLES WILSON of Texas) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To recognize direct benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from further charges for the use, occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Texas.

- 1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That, in consideration of the direct benefits accruing to the
 4 United States of America upon the construction of the Toledo
 5 Bend Dam and Reservoir project, the Sabine River Author-
 6 ity, State of Louisiana, and Sabine River Authority of Texas,
 7 shall, after the date of enactment of this Act, and not-

I

1 withstanding any other provision of law, be exempt from
2 the payment of any annual charges imposed for the purpose
3 of recompensing the United States for the use, occupancy,
4 and enjoyment of its lands within the Sabine National Forest,
5 Texas, which are necessary for the construction and opera-
6 tion of the Toledo Bend Dam and Reservoir as such project
7 shall be finally defined in accordance with the provisions of
8 license numbered 2305, issued by the Federal Power Com-
9 mission. The direct benefits accruing to the United States as
10 a result of the construction of the Toledo Bend Dam and
11 Reservoir by such authorities include, but are not limited
12 to, decreased annual maintenance costs on the Sabine-Neches
13 Waterway as a result of siltation control, improved navigation
14 potential for the Sabine River Basin, improved conditions for
15 the propagation of fish and wildlife, and recreational bene-
16 fits induced by the construction of such reservoir.

[The reports of the U.S. Department of Agriculture, the Department of the Army, and the Federal Power Commission follow:]

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 9, 1974.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives*

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 15320, a bill "To recognize direct benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from further charges for the use, occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Texas."

This Department recommends that H.R. 15320 not be enacted.

H.R. 15320 would exempt the Sabine River Authority, State of Louisiana and the Sabine River Authority of Texas from payment of any annual charges imposed for the use, occupancy, and enjoyment of lands within the Sabine National Forest, Texas, which are used in connection with the Toledo Bend Dam and Reservoir Project. This exemption would be in consideration of the direct benefits accruing to the United States as a result of the construction of the Project. The bill lists these benefits as decreased annual maintenance costs

on the Sabine-Neches Waterway as a result of siltation control, improved navigation potential for the Sabine River Basin, improved conditions for the propagation of fish and wildlife, and recreational benefits induced by the construction of such reservoir.

The Toledo Bend Dam and Reservoir Project occupies about 35,000 acres of National Forest land. The Sabine River Authority pays an annual fee of \$84,000 to the United States for the use of this land. Section 17 of the Federal Power Act (16 U.S.C. 810(a)) provides that 37.5% of the charges collected for the occupancy and use of National Forest lands be paid to the State in which the lands are located. In this case, \$31,500 would be returned annually to Texas.

Enactment of this bill and exemption of the Sabine River Authority from these fees may be inequitable to the many utility and other users of National Forest land who pay a fee based on the value of the land and the type of use.

Including the Sabine River Authority, there are about 200 Federal Power Commission licensed projects affecting National Forest Lands. Enactment of H.R. 15320 could set an undesirable precedent the implication of which could extend to all Federal Power Commission licensed reservoir projects involving Federal lands. It may also be inconsistent with the provisions of Title V of the Act of August 31, 1951 (65 Stat. 290), in which the sense of Congress was expressed that fees and charges should be made for licenses and other authorizations for the use of Federal property and services.

The direct cost of enacting this legislation would be the loss of the \$84,000 annual fee now paid to the United States by the Sabine River Authority. During the next five fiscal years this would amount to \$420,000.

We understand that the Sabine River Authorities of Louisiana and Texas are agencies of those States, and as such, that they have applied to the Federal Power Commission under Sec. 10(e) of the Federal Power Act (16 U.S.C. 803(e)) for exemption from annual charges to the extent their power is sold to the public without profit or is used by States or municipalities for State or municipal purposes. We believe the Sabine River Authorities should pursue possible relief under the general terms of the Federal Power Act, rather than by special separate legislation which could create inequities and an undesirable precedent.

The Office of Management and Budget advises that there is no objection to the presentation of the above report from the standpoint of the Administration's program.

Sincerely,

CLAYTON YEUTTER,
Assistant Secretary.

DEPARTMENT OF THE ARMY,
Washington, D.C., October 8, 1974.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of the Army on H.R. 15320, 93d Congress, a bill "To recognize direct benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from further charges for the use, occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Texas."

The purpose of the bill is stated in its title. It would exempt the two Sabine River Authorities from payment of any annual charges imposed by the United States Forest Service of the Department of Agriculture under the authority of Section 501 of the Act of August 31, 1951 (65 Stat. 290; 31 U.S.C. 483a) for the use, occupancy, and enjoyment of the lands within the Sabine National Forest, Texas, in connection with the Toledo Bend Dam and Reservoir project, a non-Federal project licensed by the Federal Power Commission. The bill would grant the exemption in consideration of the direct benefits accruing to the United States as a result of the construction of the project. These benefits are described by the bill as (1) decreased annual maintenance costs for the Sabine-Neches Waterway as a result of siltation control, (2) improved navigation within the Sabine River Basin, (3) improved conditions for the propagation of fish and wildlife, and (4) recreational benefits induced by the construction of the dam and reservoir.

The Department of the Army is informed that the Toledo Bend Dam and Reservoir project occupies some 35,550 acres of National Forest land and that the Sabine River Authorities pay an annual fee of approximately \$85,320 to the United States for the use of this land.

The Sabine-Neches Waterway is an authorized Federal navigation project extending from the Gulf of Mexico through a jettied entrance at the mouth of the Sabine Pass to Port Authur, Beaumont and Orange, Texas for a total of approximately 75 miles. Total tonnages transported over this waterway, exclusive of the through traffic of shallow-draft vessels that move over the waterway via the Gulf Intracoastal Waterway system but which do not stop to load or discharge commerce, increased from 41,253,212 tons in 1937 to 55,963,167 tons in 1971. The total estimated cost of this navigation project is \$57,502,000, \$51,248,000 of which is Federal and \$6,254,000 has been contributed by the Sabine River Authorities.

The Department of the Army is not aware of any justification for exempting the Sabine River Authorities from the requirement of payment of annual charges for their use of lands within the Sabine National Forest based upon their claim that the United States is receiving direct benefits from the construction of the Toledo Bend Dam. The Corps of Engineers has not conducted any study to determine if, in fact, the benefits as enumerated in the bill are accruing and are sufficiently widespread to warrant the claim of a direct Federal interest.

Enactment of H.R. 15320 would establish a precedent whereby the responsibility for paying for the use of National Forest lands would be waived if any water resource benefits resulting from the construction of a non-Federal project would accrue to the United States. Moreover, the benefits enumerated in the bill are only incidental to the construction of the project. They do not represent primary benefits which are capable of being identified on a quantitative basis. The type of relief being sought under the provisions of H.R. 15320 is not consistent with the policies, currently being followed by the Department of the Army in connection with its responsibilities for the development of the Nation's water resources, and if enacted it may result in the Federal Government crediting non-Federal interests with economically unjustified benefits.

The Department of the Army believes that the exemption of the Sabine River Authorities from payment for the use of Federal lands is inequitable since other non-Federal interests are making payments for the use of similar lands at other, non-Federal reservoir projects. However, since the National Forest lands are under the control and management of the Department of Agriculture, the Department of the Army defers to their views concerning payment for the use of National Forest lands.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

FEDERAL POWER COMMISSION,
Washington, D.C., October 9, 1974.

HON. W. R. POAGE,
Chairman, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Attached is the report of the Federal Power Commission in response to your Committee's request for our comments on H.R. 15320, a bill which would exempt the Sabine River Authorities of the States of Louisiana and Texas from annual charges for the occupancy and use of Federal lands within the Sabine National Forest, Texas.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

H.R. 15320

A BILL To recognize direct benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority State of Louisiana, and Sabine River Authority of Texas, from further charges for the use occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Tex.

The bill would exempt the Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas from further charges for the use, occupancy, and enjoyment of certain lands of the United States within Sabine National Forest, Texas. The bill's rationale for exemption in this case is based on direct benefits accruing to the United States in terms of decreased annual maintenance costs on the Sabine-Neches Waterway, improved navigation on the Sabine River Basin, improved conditions for the propagation of fish and wildlife, and recreational benefits produced by the construction of the project reservoir.

On October 14, 1963, the Federal Power Commission issued a license to Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, joint licensees, authorizing the construction of a dam, reservoir, and powerhouse on the Sabine River: a boundary stream between Louisiana and Texas. Among other things the license authorized the joint licensees to utilize for the project 35,000 acres of federal land within the Sabine National Forest. The parcel of land utilized by the joint licensees is the largest parcel authorized under any license ever issued by this Commission.

The joint licensees have filed for exemption from all annual charges for years 1970-1973 assessed under Section 10(e) of the Federal Power Act. In pertinent part Section 10(e) exempts licensees from such annual charges "Provided . . . That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes . . ." The joint licensees are municipalities within the meaning of that term as defined by Section 3(7) of the Federal Power Act. However, under Section 11.24(c) of the Commission's Regulations under the Federal Power Act the burden rests upon the licensee to prove that the electric power generated, transmitted or distributed by the project is sold to the ultimate consumer without profit.

Section 11.24(d) of the Commission's Regulations also provides that licensees must follow the Commission's Uniform System of Accounts in order to qualify for consideration for exemption from annual charges for the use of lands. However, in this case, due to its peculiar circumstances the Commission accounting staff performed an in-depth field audit to ascertain the information needed in any proceeding for exemption from annual charges.

On October 8, 1974, the Commission issued an order setting for prehearing conference on October 29, 1974, the applications of the joint licensees for exemption from annual charges for the years 1970-1973. We attach a copy of that order which specifies the issues to be adjudicated in that proceeding.

Since the joint licensees' application for exemption from annual charges is pending before this Commission and the exemption involves complex issues of fact and law, to be determined by the Commission in its judicial capacity, it would not be proper for this Commission to comment on the merits of this bill.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

FEDERAL POWER COMMISSION,
JOHN N. NASSIKAS,
Chairman.

FEDERAL POWER COMMISSION

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., and Don S. Smith.

Sabine River Authority, Project No. 2305.

ORDER SETTING HEARING ON REQUEST FOR EXEMPTION FROM ANNUAL CHARGES

(Issued October 8, 1974)

Sabine River Authority of Texas and Sabine River Authority, State of Louisiana, the licensees under the Federal Power Act for Project No. 2305, have applied for exemption from annual charges for the years 1970-73. The provisions for annual charges are set out in Section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) with respect to licensees under that Act. Project No. 2305 occupies lands of the United States and is also subject to the annual charge for administrative costs set out in Section 10(e). Section 10(e) of the Act prescribes charges, *inter alia*, for use of lands of the United States and for administrative costs, to be paid by licensees under that Act.

Section 10(e) of the Act also provides for exemptions, *inter alia*, from charge where "licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit". It is under this part of the Section that the licensees for Project No. 2305 seek exemption from the annual charge prescribed by Section 10(e) of the Act, with respect to the charge for use of lands of the United States and for administrative costs.

Part II of the Regulations under the Federal Power Act provides in part that "[a] State or municipal licensee may claim total or partial exemption upon one or more of the following grounds:

* * * * *

(2) To the extent that power generated, transmitted, or distributed by the project was sold directly or indirectly to the public (ultimate consumer) without profit;" (18 CFR 11.24 (a) (2)).

(e) *Sales for resale.* Notwithstanding compliance by a State or municipal licensee with the requirements of paragraph (d) of this section, it shall be subject to the payment of annual charges to the extent that electric power generated, transmitted, or distributed by the project is sold to another State, municipality, person, or corporation for resale, unless the licensee shall show that the power was sold to the ultimate consumer without profit. The matter of whether or not a profit was made is a question of fact to be established by the licensee. (18 CFR 11.24(e)).

It should be noted that the "matter of whether or not a profit was made is a question of fact to be established by the licensee." (18 CFR 11.24(e)). (See, *Central Nebraska Public Power Irrigation District*, 5 FPC 165, 171 affirmed, 160 F. 2d 782; *Power Authority of the State of New York*, 31 FPC 93, 97).

Power generated by the Toledo Bend Project No. 2305 is sold by the licensees to three utilities, Gulf States Utilities Company, Louisiana Power and Light Company and Central Louisiana Electric Company, which in turn resell the power to the ultimate consumer.

In view of the circumstances we think it appropriate that the licensees for Project No. 2305 be afforded an opportunity to show in a hearing why they believe they should be afforded exemption from the annual charges assessed pursuant to Section 10(e) of the Act.

In accordance with the Commission's Rules and Regulations, 18 C.F.R. §1.18, and in order to expedite the orderly conduct and disposition of the hearing, a prehearing conference should be held. This conference will provide an opportunity for the parties to submit and consider facts, arguments, offers of settlement, or proposals of adjustment, as may be forthcoming. There may also be considered the possibility of a simplification of the issues, stipulations of fact, or such other matters as may properly aid in expediting the proceeding.

The Commission finds:

It is appropriate and in the public interest to hold a prehearing conference and such hearings as may be required, in order to afford the Sabine River Authority of Texas and Sabine River Authority, State of Louisiana, Licensees for Project No. 2305, the opportunity to show why they should be exempt from annual charges assessed pursuant to Section 10(e) of the Act, with respect to the following issues:

(1) Whether in accordance with Section 11.24(a) (2) Licensees have made a showing that there was no profit to the Licensees resulting from the sale of power generated from Project No. 2305, and

(2) Whether in accordance with Section 11.24(e) Licensees have made a showing that power generated from Project No. 2305 and sold for resale was sold to the ultimate consumer without profit.

The Commission orders:

(A) A prehearing conference before an Administrative Law Judge shall be held at 10:00 a.m. on October 29, 1974, in a hearing room at the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, respecting the issues set forth above concerning the claim for exemption from payment of annual charges under Section 10(e) of the Federal Power Act and the Commission's Regulations with respect to sale of power generated at Project No. 2305.

(B) If the Administrative Law Judge finds that there is disagreement on the facts bearing on the exemption from annual charges, he shall schedule a hearing on the remaining factual issues to be followed by briefing and an initial decision in accordance with Sections 1.29 and 1.30 of the Rules of Practice and Procedure.

(C) If the Administrative Law Judge finds no disagreement on material fact bearing on the question of an exemption from annual charges, he shall provide a briefing schedule to be followed by an initial decision in accordance with Sections 1.29 and 1.30 of the Rules of Practice and Procedure.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Secretary.

Mr. RARICK. Our first witness today is the principal sponsor of H.R. 15320, our colleague from Louisiana's Fourth Congressional District, the Honorable Joe Waggonner.

Joe, it is indeed a pleasure to have you with us today. We will be happy to take your testimony at this time.

STATEMENT OF HON. JOE D. WAGGONNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. WAGGONNER. Mr. Chairman, I want to personally thank you for scheduling this hearing and giving us an opportunity to briefly comment on H.R. 15320.

I must make a personal comment in addition to expressing my personal thanks to you for scheduling this hearing. I express my regrets that, I suppose you would say, fate decrees that you are not going to continue to be with us for an extended period of time, which I had hoped you would be, in the capacity in which you serve on this particular occasion. Because in this capacity, you have been a tremendous service to us in Louisiana and to all who have an interest in agriculture, with a special interest in this instance of the forests of this great land of ours.

Mr. Chairman, as you know, H.R. 15320 is a bill to recognize direct benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from further charges for the use, occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Tex.

By way of background, the Toledo Bend Dam and Reservoir project is a multipurpose facility which includes a water conservation reservoir and hydroelectric plant. It is located on the Sabine River between the State of Louisiana and the State of Texas.

Of course, I refer to it as being between the State of Louisiana and the State of Texas. Those who are here from Texas may want to say it is between the States of Texas and Louisiana, and that is their right. But being first, I am going to put first things first.

The project was constructed and paid for by the Sabine River Authority, State of Louisiana, and the Sabine River Authority of Texas. Both of these authorities are government agencies of their respective States. The cost of the project was \$70 million—and I think it is significant to note that the entire cost was borne by the State of Louisiana and the State of Texas in equal amounts without any Federal assistance whatsoever, either by grant or loan. And this may well be the last project of such magnitude to be constructed on this basis, because Federal aid seems to be more important now than it once was.

Since the dam and reservoir were constructed on a navigable waterway to be used in part for providing hydroelectric power and because Federal lands were involved, it was determined at the outset that the Federal Power Commission would have jurisdiction. A license was issued by the Federal Power Commission authorizing the construction of the project. As a part of the conditions of the license, there was stipulated that an annual charge would be paid by the Sabine River Authority in the amount of approximately \$84,000 annually to recompense the United States for the use and enjoyment of some 35,000 acres of land, which are inundated by the reservoir. These lands comprise a part of the Sabine National Forest, located in Texas, which are administered by the U.S. Forest Service under the Department of Agriculture.

The authority for imposing such a fee is 16 U.S.C. 803(e). That section provides,

That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of the administration of this subchapter; for recompensing it for the use, occupancy, and enjoyment of its lands of other property.

Section 17 of the Federal Power Act specifies that the annual charges received pursuant to order of the Commission shall be paid and distributed as follows: 12.5 percent to the General Treasury of the Federal Government; 50 percent to the reclamation fund which was established by Congress in 1902; and 37.5 percent to the State within whose boundaries any of the lands are located. This in itself creates a real problem particularly for Louisiana since the forest lands in question are in Texas, and the Texas constitution prohibits the granting of any of its funds to any other State. In other words, Louisiana could not receive one-half of the 37.5 percent even though both States shared the initial construction costs of the project and both States share in operating and maintaining it.

But, my purpose for being here today, Mr. Chairman, is not to show the problem involved regarding the 37.5 percent, but rather to briefly outline why, in my personal view, the Sabine River authority—Louisiana and Texas—should be exempt from having to pay the annual usage fee at all.

At the outset, I think it important to note that the Sabine River Authorities have filed annually since 1969 with the Federal Power Commission an application requesting an exemption from payment of the annual fee since the hydroelectric power was not being sold for profit and because of the great benefits received by the Federal Government as a result of the project. The Federal Power Commission has not as yet ruled on any of these applications, although it is my understanding, at this point in time, that a hearing might be scheduled by the Com-

mission in the near future with respect to this situation. The fact that there has been no administrative relief afforded has necessitated the legislation at hand.

I do not think that it was the intent of Congress when the Federal Power Act was passed initially to require a nonprofit State agency to pay an annual usage fee when such project benefited the general public and the U.S. Government to the extent that this one has. In fact, section 803(e) further provides and I again quote:

That licenses for the development, transmission or distribution of power by states or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such state or municipality for state or municipal purposes.

The sale of hydroelectric power by the Sabine River Authority is not done for profit. Proceeds from the sale of the hydroelectric power generated at the facility are necessary to finance the operation of the reservoir and for debt retirement.

Mr. Chairman, the benefits derived by the United States from the Toledo Bend project are enormous. Foremost, it has substantially increased the value of the Federal lands in the Sabine National Forest adjoining the reservoir from \$40 an acre in 1967 to \$2,000 an acre at present. Taking the 8,200 shoreline acres, the value of which was estimated to be \$328,000 in 1967, the value of that property is now \$16,400,000. This in itself has been a substantial windfall to the Federal Government.

In addition, the project has reduced siltation of the Sabine-Neches Waterway located south of the project, which has resulted in decreased annual maintenance costs for the Army Corps of Engineers. Silt above the reservoir which was normally carried by the Sabine River and deposited in the waterway is now being retained behind the Sabine River Dam. The Corps of Engineers has estimated that prior to the completion of the project some 330,000 cubic yards of silt, which had originated above the reservoir, had to be removed from the waterway. At 25 cents a cubic yard, which is a Corps of Engineers estimate for silt removal of this type, the savings to the Corps of Engineers and the Federal Government would come to approximately \$82,500 annually. This figure is approximately the yearly charge for usage of the forest lands in the Sabine National Forest.

The project has also enhanced the potential for navigation of the Sabine River at a potential savings to the corps of \$5 million in navigation construction costs. The work done in the construction of the project has reduced the amount of work needed to be done for navigation purposes in the future.

Additionally, the reservoir itself has amounted to a fantastic conservation program of water resources which we have noticed this summer are in increasingly shorter supply. It is estimated that 2 billion gallons of good quality water are conserved daily. The Federal Government is normally only too willing to share in the cost of water conservation programs, but keep in mind that no Federal funds were used in this instance.

The hydroelectric power produced by the facility provides for pollution-free energy which is helping to conserve fossil fuels, which we know to be in short supply.

Finally, the project has expanded recreational opportunities, and it is estimated that the recreation expenditures induced by the project are in the neighborhood of \$12,500,000 a year. These recreational expenditures have provided a significant amount of tax dollars to the U.S. Treasury. Under existing law, the Federal Government can and has shared in the costs of providing similar recreational opportunities. A project totally funded by the Federal Government providing for this extent of fish and wildlife recreation would cost anywhere between \$7 to \$10 million. Again, I point out that no Federal funds were expended on this project.

These facts alone would seem to justify an exemption of any fees for the use and enjoyment of the Federal park lands that are inundated.

Mr. Chairman, the Department of Agriculture last Congress reported unfavorably on this legislation. It was suggested that this be handled with the Federal Power Commission administratively rather than through legislation, that the passage of legislation would begin an unwise precedent for other Federal Power Commission projects, and that inequities would be created for other licensees. But, nearly all other projects of this magnitude are financed in part by the Federal Government. This is a different situation involving no Federal funds. I would think, in fact, that the Federal Government would want to encourage other projects of this nature which are done at a State and local government level at no expense to the Federal Government.

Mr. Chairman, for the reasons I have given, I respectfully urge that the subcommittee take favorable action with regard to this bill and that it be reported to the full committee without unnecessary delay.

Mr. RARICK. I thank you very much, Mr. Waggonner for your statement. Certainly it succinctly presents the case for the legislation before us.

Mr. Vigorito, have you any questions?

Mr. VIGORITO. No questions, Mr. Chairman.

Mr. RARICK. I say this to my colleague from Louisiana, if you desire to remain, we would be happy to invite you to join us here at the subcommittee table. We have other witnesses who have varied views on the legislation before us, and I would be most happy to have you remain should you have any questions you would like to propound to the followup witnesses. We would be happy to invite you to participate.

Mr. WAGGONNER. Mr. Chairman, I appreciate that. I have every confidence that while you are in the chair, any necessary questions to the contrary you will raise yourself without my assistance. It is about time for me to question the Secretary of the Treasury, who is before Ways and Means, on the President's economic message delivered yesterday to a Joint Session of the Congress; and be it pleasing to the Chair, I would beg to be excused to go to my own committee.

Mr. RARICK. I certainly thank you again for your attendance and your participation.

Mr. WAGGONNER. Thank you.

Mr. RARICK. Our next witness is our colleague from the State of Texas, the Honorable Charles Wilson.

If you will come to the witness table, Mr. Wilson. We will be happy to receive your testimony.

STATEMENT OF HON. CHARLES WILSON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Mr. WILSON. Thank you, Mr. Chairman.

I, too, would like to thank you for the work you have done on behalf of the National Forests of the United States in this capacity. And I would like to express my confidence that although there might have been a bad day there in Louisiana, you will soon find other areas of public service in which you will make just as large a contribution.

I am not going to make any statement as such, because actually I think the preceding witness covered all of the facts and covered the case as an advocate as completely and thoroughly as he could have, and I cannot think of a single thing I could add to what he said, other than to enthusiastically endorse what he said in its entirety.

I do have some constituents I would like to introduce to you, Mr. Chairman.

Mr. Gene Meek, from Newton, Tex., who is the president of the Sabine River Authority of Texas; an old friend of mine.

Mr. D. N. Beasley, who is chairman of the Joint Board of Toledo Bend Operations, and my campaign manager in San Augustine in 1966.

And Mr. Nelson, who is operations manager.

And then, my last introduction will be that of the next witness, but I would like to take this time to thank you very much. I think it is important that the Sabine River Authority is a governmental agency, and governmental agencies, as a general practice, do not pay taxes to each other. That, and the fact that this particular project is the only one that I know of that is a State-operated and State-funded reservoir, which is on partially public lands. And I simply think there is no precedent, no policy. Mr. Waggonner said the Federal Power Commission had indicated to them that there might be a hearing; they indicated to us there would not be a hearing. And I think the legislative remedy in this case is the only remedy.

With that, I would like to introduce Sam Collins, of Newton, who is the assistant general manager of the Sabine River Authority of Texas; and he will make a statement.

But first, of course, I would subject myself to any questions you might have of me.

Mr. RARICK. Thank you very much, Mr. Wilson. We are happy to have you make your statement. I assume you are in favor of the legislation.

Mr. WILSON. I am a cosponsor, yes.

Mr. RARICK. We are happy to welcome the other residents of Texas. I believe that several of them are listed on the schedule of witnesses to appear.

So, unless you have anything more, or Mr. Vigorito, if you have any questions—

Mr. VIGORITO. I have no questions.

Mr. RARICK. Thank you very much.

Mr. WILSON. Thank you very much, Mr. Chairman.

Mr. RARICK. Our next witness is Mr. Daniel Goldstein, Assistant General Counsel for Legislation, Federal Power Commission, Washington, D.C., who is accompanied by Mr. Donald Sander, Assistant General Counsel for Water Power Matters.

We are happy to have you with us today, Mr. Goldstein and Mr. Sander.

Do you have a prepared statement?

Mr. GOLDSTEIN. Yes, Mr. Chairman; Mr. Sander and I each have a statement. Mine is extremely brief; Mr. Sander's is a little more lengthy.

Mr. RARICK. Mr. Goldstein, we would be happy to take your testimony first.

Mr. GOLDSTEIN. Yes, Mr. Chairman.

STATEMENT OF DANIEL GOLDSTEIN, ASSISTANT GENERAL COUNSEL FOR LEGISLATION, FEDERAL POWER COMMISSION; ACCOMPANIED BY DONALD A. SANDER, ASSISTANT GENERAL COUNSEL FOR WATER POWER MATTERS

Mr. GOLDSTEIN. This morning we delivered to the committee the Commission's report on the bill, and I am here today to talk about matters set forth in the report on the bill. And my colleague Mr. Sander will discuss the criteria that will be followed in a hearing before the Commission. Mr. Sander will discuss the criteria set forth by section 10(e) of the Federal Power Act and the Commission's regulations thereunder, which govern applications for exemptions from annual charges, such as the pending applications of the two Sabine Authorities who are joint licensees for Project No. 2305.

The Sabine River Authority, State of Louisiana, and the Sabine River Authority of Texas, have filed applications for exemption. Yesterday the Commission issued an order setting the matter down for a prehearing conference. The order is attached to our report; it is in the back of our report.

The order provides for a prehearing conference on October 29, to be followed by a hearing at a later date set by the administrative law judge.

Since the application for exemption from annual charges is pending, neither Mr. Sander nor I is in a position to predict the probable outcome of that proceeding, which I know is a matter of keen interest to this committee.

And as our report states, Mr. Chairman, since the five Commissioners of the Federal Power Commission will have to pass on the application in their judicial capacity, the Commissioners have not deemed it proper to express a view on the bill itself at this time.

I would now like to turn to Mr. Sander, who is prepared to review the criteria which would apply to such a hearing, unless you have further questions of me.

Mr. RARICK. Mr. Goldstein, I want to point out that today is October 9; is that not correct?

Mr. GOLDSTEIN. That is correct, sir.

Mr. RARICK. And the date of the order setting the hearing on the request for the exemption was dated October 8; is that correct?

Mr. GOLDSTEIN. That is correct, sir.

Mr. RARICK. That was yesterday.

Mr. GOLDSTEIN. That is correct, sir.

Mr. RARICK. Have you or any member of your staff communicated to my office any indication that you were going to proceed with your hearing?

Mr. GOLDSTEIN. Mr. Chairman, I was called on Friday by the Secretary of the Commission at about 4 o'clock and told that he had received a call from Anita Brown of the committee's staff that there would be a hearing and that our report and attendance were requested. I believe some time or other this week I spoke with Mr. Ashmore of your staff and told him that the report was coming. And I believe I also told him that we would supply a witness if that is what the committee wanted. And Mr. Ashmore indicated that witnesses should be provided for this hearing. I do not recall discussing with Mr. Ashmore the matter of whether the pending applications would be set for hearing.

Mr. RARICK. You are aware that the legislation before us, H.R. 15320, was introduced June 11, 1974.

Mr. GOLDSTEIN. That is correct; yes, sir.

Mr. RARICK. And is it your position at this time that even though you indicated there will be a hearing on the exemption, which was filed the day before this subcommittee hearing—and we have these witnesses now from Louisiana and Texas—that you desire to make no statement on the merits of the legislation itself?

Mr. GOLDSTEIN. Mr. Chairman, it is not a question of my desires. The policy judgment has been made by the Chairman and four Commissioners of the Federal Power Commission that it would be inappropriate to comment upon the merits of the legislation in view of the pending proceeding.

Mr. RARICK. You were present when our colleague from Louisiana, Mr. Waggoner, testified?

Mr. GOLDSTEIN. Yes, sir, I was.

Mr. RARICK. And he indicated that even though this legislation and similar legislation had been filed in two preceding Congresses, it had been delayed because of an idea that the FPC could have accomplished administratively what this legislation asks for, and no action had ever been taken; is that not correct?

Mr. GOLDSTEIN. That is correct.

Mr. RARICK. You were also present when Mr. Wilson from Texas just testified that he had been in contact with the Federal Power Commission about the possibility of administrative hearings and that they had indicated that they would not even grant the hearings; is that not correct?

Mr. GOLDSTEIN. I heard Congressman Wilson say that. I have no personal knowledge of any communication between Congressman Wilson and the Federal Power Commission.

Mr. RARICK. We are approaching the twilight zone of this congressional session, and for me it is a late date, being a lame duck member. I will not be led astray by suggesting to my colleagues on the subcommittee that we defer any further legislative action because there has now been an administrative hearing set, as of yesterday, effective the 29th. I believe we would be doing a great disservice not only to my colleagues who have testified, but to all of the witnesses present; would you not say so?

The Federal Power Commission has had 6 years to schedule these hearings. Some amicable agreement could have been reached on the merits of the application without this legislation. Is this what you are

suggesting to me, that the committee postpone further consideration of this matter?

Mr. GOLDSTEIN. No, sir, I have not suggested that you postpone the committee's consideration of this matter.

Mr. RARICK. Mr. Goldstein, you have just said that you did not even want to make any statement on the merits of the legislation.

Mr. GOLDSTEIN. I just got through saying that because of the pending proceeding, the Federal Power Commission, not I, personally, it is not a question of my personal choice; I am here in a representative capacity for the Chairman and the full Commission, and they have decided, sir, that it would be improper for them, under the *Pilsbury* case and other cases, to express an opinion about a subject which was before them in their judicial capacity.

Mr. RARICK. You are the Assistant General Counsel for Legislation at the Federal Power Commission?

Mr. GOLDSTEIN. Yes, sir, I am.

Mr. RARICK. And do you not agree that the legislation, H.R. 15320, would accomplish the purposes for which Mr. Waggonner has testified?

Mr. GOLDSTEIN. I am not sure whether the bill would go backwards in time, Mr. Chairman. It is true that no annual charges have been paid by the two Sabine Authorities, but it is not clear to me, just reading it as an attorney, whether the bill is purely prospective or whether it would be retrospective as well.

Mr. RARICK. Let me ask you this, whatever your answer, will this legislation before us create an exemption?

Mr. GOLDSTEIN. Yes, sir, but I do not know whether it would only apply for the time period subsequent to the enactment of the legislation or whether it would be retroactive to the first year for which annual charges would have otherwise been due.

Mr. RARICK. That would go to the intent of the legislation itself, would it not?

Mr. GOLDSTEIN. Yes, as well as the wording. If you turn to the bill itself, the bill itself says, "shall, after the date of enactment of this act and notwithstanding any other provision of law, be exempt from the payment of any annual charges and tolls for the purpose of recompensing the United States for the use, occupancy and enjoyment of its lands within the Sabine National Forest, Texas."

Mr. RARICK. So, it would accomplish the purposes for which the administrative hearing was called, would it not?

Mr. GOLDSTEIN. I am not clear, sir, as to whether that would apply only to the time period commencing with the day of enactment of the legislation or whether this could be construed to go back to the time when the project became operational and started selling power sometime, I believe, in 1969, although I am sure that the gentleman here from the authorities can be more precise than that.

Mr. RARICK. What I am trying to bring out, Mr. Goldstein, is even though the Federal Power Commission's order, which was issued yesterday, October 8, does purport to set up hearing for possible exemptions, sometimes proposed hearings get postponed, they break down in negotiations or they never become a reality. So, the sought after remedy is often never realized.

But on the other hand, if the legislation H.R. 15320 were enacted into law, the exemption sought by the States of Texas and Louisiana would then become a reality, would it not?

Mr. GOLDSTEIN. I hate to sound tiresome but it certainly would apply forward from the date of enactment, sir. But I am not at all sure whether it would relieve the authority for the amounts due for prior years.

Mr. RARICK. I am not even talking about prior years. To me, that is immaterial. I am saying that there would be relief granted once this legislation were enacted into law, if that be the desire of Congress.

Mr. GOLDSTEIN. That is correct, sir.

Mr. RARICK. On the other hand, by postponing our hearing, all we would be accomplishing would be delaying the matter, which could politically be interfering in the November elections. I think the hearing is set for what, October 29?

Mr. GOLDSTEIN. Sir, that is the prehearing conference. The administrative law judge who presides at that will, I assume, attempt to define the issues and will set a date on which the parties can meet for the presentation of evidence.

But, sir, I have never suggested that you postpone your deliberations. I hope I have not been misunderstood to suggest that.

Mr. RARICK. No; I am not suggesting that you did. I am only trying to say that you have indicated as the Assistant General Counsel you were not authorized to make any discussion on the merits and that it may well be that the other members of the subcommittee may feel that since a hearing has been set we might defer further action awaiting the hearing by the Federal Power Commission to see what, if anything, it accomplishes.

Mr. Vigorito, have you any questions?

Mr. VIGORITO. No questions.

Mr. RARICK. Mr. Gunter?

Mr. GUNTER. None.

Mr. RARICK. We thank you very much, Mr. Goldstein. I believe you said Mr. Sander also has a statement.

Mr. GOLDSTEIN. Yes, sir.

STATEMENT OF DONALD A. SANDER, ASSISTANT GENERAL COUNSEL FOR WATER POWER MATTERS, FEDERAL POWER COMMISSION

Mr. RARICK. Mr. Sander, you are Assistant General Counsel for Water Power?

Mr. SANDER. That is correct.

Mr. RARICK. Which is also with the Federal Power Commission.

Mr. SANDER. That is correct, sir.

My statement focuses on the criteria which would be involved in the hearing. If you have any questions about what the procedure is in the hearing, I would be glad to discuss that first. Otherwise I will proceed with my statement.

Mr. RARICK. I have no questions on the hearing, at this time.

Mr. SANDER. All right.

The reasonable annual charges under the Federal Power Act are to be fixed and collected, as previously mentioned, to reimburse the United States for the cost of administration of part I of the act, and to recompense it for the use and occupancy of lands, and this is under authority of section 10(e) of the Federal Power Act.

Under the same section there are several exemptions from annual charges which are available to State and municipal licensees and these are based partly to the extent at which such power generated at the licensed project and is sold to the project without profit.

Now appendix A attached to my statement has a copy of section 10(e) of the Federal Power Act attached to it. This is, in turn, implemented by regulations promulgated by the Commission section 11.24, which is also cited in the Federal regulations as 18 CFR 11.24 (1974). This deals more specifically with the bases of exemption from annual charges available to State and municipal licensees, and provides that such licensees may claim total or partial exemption on one or more of three following grounds:

The first, that the project was primarily designed to provide or improve navigation; second, to the extent that power generated, transmitted, or distributed by the project was sold directly or indirectly to the public, the ultimate consumer, without profit; and third, to the extent that power generated, transmitted, or distributed by the project was used by the licensees for State or municipal purposes.

Now appendix B attached to my statement has the entire section 11.24 that I am talking about. Since the only question raised so far in connection with the Authorities' claim for exemption deals with the question of whether power generated at Project 2305 was sold to the public, the ultimate consumer, without profit, I will confine my remarks to that issue, unless you have some questions.

Notwithstanding the fact that the Authorities have not complied with the requirement of subsection 11.24(d), that certain counts should be kept, the staff has proceeded with processing the applications and the licensees have cooperated with us in providing information bearing on the issue of whether or not power generated was sold to the public.

Now in establishing an exemption on this basis has a two-fold aspect. First, a State or municipal licensee must show that sales of power from a licensed project to the public did not result in a profit. And second, and more important in this case, that the power sold for resale was sold to the ultimate consumer without profit.

Now the Commission's interpretation of section 10(e) and the legality of the regulations under it have already been tested in court. In affirming the Commission's decision on a similar question of entitlement to exemption in 1947, the court in *Central Nebraska Public Power and Irrigation District v. Federal Power Commission*, 160 Fed. 2d 782, at 785 summarized the Commission's practice as follows:

The practice of the Commission has always been to allow exemptions from annual charges only to those State and municipal licensees whose annual accountings disclose no net balance of receipts over costs for the period. It has made no distinction in accounting requirements between the municipal licensees like the District whose gains from operation inure ultimately to the public benefit, and others, and its position has been and is, that it is the intent of the Act to require annual charges from all licensees whose sales of electrical power result in an excess of receipts over costs during the annual period as shown by the accountings.

The court then concluded its opinion on the conditions for exemption by saying that the Commission's construction of Section 10(e) of the Federal Power Act conformed to, and I quote, "the legislative intent shown by the form and wording of the statute

One of the factual issues in this case was whether or not in determining a net balance of receipts over costs you could include both depreciation and debt retirement. The effect of the holding in this case was that both items could not be considered an accounting cost. In other words, a licensee could not recover its investment by both depreciation and debt retirement.

The criteria to be applied and the holding of this case was discussed in another court decision some 17 years later in 1964 in the Power Authority of the State of New York versus the Federal Power Commission, and the case is 339 Fed. 2d 269, page 274.

In that case while distinguishing the fact situation the court accepted the reasoning of the earlier case as still being fully applicable.

Now I have indicated to you that the Nebraska Irrigation District case was one of the leading cases on interpretation of section 10(e) of the act and regulations promulgated pursuant to it. The Commission's decision in this same case also contains a statement of policy concerning the second aspect, and as I have indicated, the most important aspect of this case, namely, the requirement of a showing to be made that power from a licensed project sold for resale, reached the ultimate consumer without a charge containing an element of profit. I refer you to five Federal Power Commission Reports, page 165, In the Matter of the Central Nebraska Public Power and Irrigation District.

On page 171 the following language appears :

There is one final aspect of the profit question to which we should refer. This concerns the profit on resales by those purchasers who did not buy power for their own use. As we have said, most of the power purchases from System was bought in wholesale quantities for resale at retail to consumers. Even if District had shown that it had not earned a net income or profit each year, we would not be authorized to allow the present claims for exemption on its sales for resale without a showing that the power was resold to the consuming public without profit. Although in an earlier order in this case, we denied District's application for exemption because of its failure to show that power was being resold without profit, thereby putting District on notice of the importance we attach to such a showing, the present record is devoid of any evidence on that point.

In a later opinion on The Power Authority of the State of New York, which I have referred to and is found on the Commission level, 31 F.P.C. 93 at page 97, the above language was quoted in part with comments and while the licensee was not contesting the principle stated in the *Nebraska* case, nevertheless, in cases of sales of power for resale it was the licensee's burden, and again I quote, "to show that sales to the ultimate consumer were made without profit."

Now this issue was not litigated in the U.S. Court of Appeals.

Since the licensee for Project 2305 sells all of its generation, as I understand it, to three private utilities for resale to the ultimate consumer, it would be most concerned with the second aspect of this exemption as I have referred to it in my statement, namely, the necessity for making a showing that when these three utilities resold the power obtained from the licensed project, the charge for such power did not contain as part of it an element of profit.

Since the hearing has been provided for the purpose of receiving evidence on this issue, the Authority will have an additional opportunity to present any evidence it has in support of its claim for exemption.

It will have an opportunity to brief the matter before the administrative law judge and file exceptions to his decisions and to challenge the Commission's decision before the U.S. Court of Appeals.

That concludes the statement I have and I will be available for any questions you may have, Mr. Chairman.

[Appendixes A and B are held in the subcommittee files.]

Mr. RARICK. Thank you very much.

The legal precedents that you referred to were involving New York and Nebraska.

Is that correct?

Mr. SANDER. That is right.

Mr. RARICK. And you were in no way trying to align the facts of the Sabine Authority to those two cases, were you?

Mr. SANDER. I was indicating by reference to those cases that it indicated Commission policy on the question of sales for resale and was indicating what criteria the Commission had laid down in determining whether or not an exemption were granted.

Mr. RARICK. I understand that, but are you telling us then that you have already prejudged the facts of the *Sabine* case?

Mr. SANDER. No, sir. No, sir; I have not.

Mr. RARICK. I was wondering, because as I understood Mr. Waggoner's testimony, there had been similar legislation pending through the 91st, 92d, and into the 93d Congress. Yet the Federal Power Commission had given no hearing to determine the facts or merits. So, I was wondering if you were suggesting that the Sabine Authority had not made application, or if you had already prejudged the facts?

Mr. SANDER. No. The facts have not been prejudged.

Speaking from my own personal view of what I have seen of the applications and the evidence, I have not seen a showing which would lead me to believe that the sales to the ultimate consumer was with or without profit. I am saying there has been no showing on that point as far as I am concerned personally.

Now that is a matter which, at the hearing perhaps, possibly the Authority can show that those sales did reach the ultimate consumer without the ultimate profit.

Mr. RARICK. Your legal testimony today relates expressly to the exemption under the rules which have been laid down by your principal, the Federal Power Commission under the statutory laws of Congress or by the rulings of the Commission itself.

Is that not correct?

Mr. SANDER. That is correct.

Mr. RARICK. There is no doubt in your mind that the legislation H.R. 15320 would create, let us say, an exception to the existing exemption laws and the rulings which you have been testifying about.

Mr. SANDER. I do not know whether I would characterize them as exceptions, but I would say that the passage of legislation will excuse them from the annual charges which would be applied for the use of land. The legislation, as I understand it, would not excuse them from charges which, under section 10(e), are supposed to be charged for administration of the act part I.

Mr. RARICK. If there is no payment due to the Federal Government, then would there still be any need for administrative costs charged by the Federal Government to the States or the Authorities?

Mr. SANDER. As I understand it, yes, there would be.

Mr. RARICK. And with what regard would that be?

Mr. SANDER. The breakdown that I have, there are some—the annual charges, as I recall, run around, let me see—

[Pause.]

Mr. SANDER. To the best of my knowledge the administrative charges run to, between \$4,000 and \$5,000 per year.

Mr. RARICK. What would the Federal Government be administering?

Mr. SANDER. As I understand section 10(e) we are supposed to recover the cost of administering part I. That is figured by formula and apportioned between all of the licensees in the United States, except for those who have sold power without profit. The payment of their share would be excused. But where they do not the licensees—the effect of the formula is that all of the licensees in the United States do share the cost of administration of part I of the Federal Power.

Mr. RARICK. In other words, even though the authority were exempt from any Federal payment, there would still be a Federal charge for the administration of nothing?

Mr. SANDER. No. What I am trying to say to you, Mr. Chairman, is that the Commission figures out the total—

Mr. RARICK. Do not apologize to me. I have been in Washington long enough to realize what a bureaucracy we have. Sometimes we in Congress wonder just what administrators do administer.

Mr. SANDER. Well, let me see whether I can give you an answer that is clear.

The administration of part I of the act is determined by the cost. They have a formula through which they attempt to apportion that cost equally to all licensees. They are then billed.

Now, your bill, or the bill you are talking about, as I understand it, would excuse the charge for use and occupancy of Federal lands. But annual charges are made up of two components. One component is for the use and enjoyment of Federal lands. The other component is for the administration of part I of the act, and since we have other actions going on in connection with this project, we would be doing something with regard to the Project 2305.

Mr. RARICK. Is the Federal land that we are talking about here now covered by water?

Mr. SANDER. Yes. Most of it is covered by water, it is my understanding.

Mr. RARICK. How do you administer Federal lands which are submerged?

Mr. SANDER. Well, they are a part of the licensed project. It is a very good question and it has intrigued me a number of times, too. I suppose that we do control the use of the water over the reservoir. I suppose that we are controlling what the land is used for, to hold the water.

Mr. RARICK. In the long run the Federal lands, especially under our multiple use concept in the National Forest Service, are to be used for the enjoyment also of the people, are they not?

Mr. SANDER. Oh, yes.

Mr. RARICK. There are recreational facilities furnished to the American people.

Mr. SANDER. Quite true.

Mr. RARICK. There is additional national income derived through taxes and other matters as a result of the reservoir itself, is that not correct?

Mr. SANDER. Speaking for myself I have no difficulty recognizing all of those benefits, flood control, navigation included.

Mr. RARICK. How about wildlife? It really fits into the multiple use concept.

Mr. SANDER. Correct.

Mr. RARICK. Do you know of any other similarly located authority in the United States which is comparable to the Sabine Authority?

Mr. SANDER. The Power Authority of the State of New York has a series of reservoirs on the—

Mr. RARICK. Constructed without Federal funds?

Mr. SANDER. No. I don't know about the Federal cost involved in that. If you want to distinguish this case from other reservoirs where there was no Federal money, I cannot answer you because I do not know. But as far as the factual location of reservoirs owned and operated by another authority, the State of New York has a Project 2000 of the St. Lawrence Seaway, and it is operated by an authority again.

That is what the second case I cited was all about.

Mr. RARICK. My comment was directed to the suggestion that if we pass this legislation, we would be creating a precedent which might allow deviations nationwide. Congressman Waggoner had testified this was not the case inasmuch as the Toledo Bend project, the Sabine Authority, was the only nonfederally funded reservoir in the country. Any precedent, would be beneficial to the American taxpayers, would it not, because it might encourage similar projects in the future without Federal funds.

Mr. SANDER. Well, I have not thought that clearly through. I would say this, that if the bill were passed I am sure it would encourage other licensees to seek similar legislation, and as they are passed the recovery of funds as set forth in the Federal Power Act would gradually be diminished.

Mr. RARICK. But again, it would be safe to say that this would not be a comparable case to the Potomac powerplant or the other dams and reservoirs around the country funded primarily with Federal funds.

Mr. SANDER. In that respect it would be distinguished, yes.

Mr. RARICK. Mr. Sander, I appreciate your being here and testifying. Have you anything else?

Mr. SANDER. No. I am here for your benefit to answer any questions you might have.

Mr. RARICK. I apologize that none of my colleagues are here. The bells have been ringing and everyone else seems to be running to vote.

Mr. SANDER. One other aspect which has not been mentioned, the project occupies considerable lands other than Forest Service lands. I think the Forest Service lands, I think the reservoir surface is 181,000 acres, 35,000 or more cover—I may not be exactly accurate on that, but it is in that magnitude.

Mr. RARICK. Well, this is, of course, the land that you are asking them to continue to pay to administer. It is covered with water?

Mr. SANDER. You are quite correct on that.

Mr. RARICK. We are happy to have both of you gentlemen here to testify. We thank you for your appearance.

Should you desire to remain, we would be happy to have you or you may stay over in case any of the other members do return.

Mr. SANDER. Fine. I would be glad to answer any questions.

What I was trying to get across was the criteria which in the hearing will be stressed.

Mr. RARICK. Again, I believe the conclusions you led us to are that the Sabine Authority is already shot down before they come to your hearings, although they will be allowed to present their case.

What is the Federal terminology, "We will listen to you with great care before we turn you down"?

Mr. SANDER. If you got that impression, it is incorrect. I have not said that they are shot down. I have said to this point in time, and that is my own personal evaluation, I have not seen evidence that would make a showing that the power sold for use did reach the ultimate consumer without a profit.

Now the hearing, one purpose of the hearing is to enable the Authority to make that showing.

Mr. RARICK. Again, sir, you did not schedule or call the hearing?

Mr. SANDER. No, I did not. I had no input—I had no involvement in that decision.

Mr. RARICK. I am still operating on the earlier testimony that the request of the Authority has been pending for 6 years.

Mr. SANDER. You are quite right.

Mr. RARICK. It is unfortunate that we have to go to this additional time and expense today to even consider the possibility of legislating another exemption when in reality the Commission could have gone ahead and had their hearings, come to their conclusion, and, as you say, declined to make an exception. But at least the people would have had the feeling that they had had their day in court. And, as I understand it, the big problem with the average taxpayer and man on the street today is that he is concerned about too big a centralized government which is insensitive to consideration of any exceptions in the gray areas of facts and findings. Especially, involving his tax money.

Mr. SANDER. With all the comments I get from telephones and letters I do not feel very immune.

Mr. RARICK. We thank you.

Our next witness this afternoon is Mr. R. Max Peterson, Deputy Chief of Programs and Legislation, Forest Service U.S. Department of Agriculture, Washington, D.C.

Mr. Peterson, we are happy to see you today, sir.

**STATEMENT OF R. MAX PETERSON, DEPUTY CHIEF FOR PROGRAMS
AND LEGISLATION, FOREST SERVICE, U.S. DEPARTMENT OF
AGRICULTURE**

Mr. PETERSON. Thank you, Mr. Chairman.

I appreciate the opportunity to testify on H.R. 15320. If you will permit me a personal digression, I would like to express our apprecia-

tion for your great help over a period of time as it relates to agriculture and forestry.

We will miss your insight into the many problems, and we hope that your journey back to the great southland where I had an opportunity to live for a while, will be an enjoyable one.

Mr. RARICK. I look forward to it. I have no alternative.

Mr. PETERSON. Our legislative report has been cleared by OMB and will be forwarded to the committee in a few days. I regret we were unable to have it actually signed to present to you at this time. The testimony I am about to give follows the position that is taken in that report.

The Department of Agriculture has a major interest in this bill which would recognize direct benefits to the United States from construction of the Toledo Bend Dam and Reservoir and exempt the Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from further charges for the use, occupancy and enjoyment of 35,000 acres within the Sabine National Forest in Texas.

Benefits cited in the bill include decreased costs for siltation control, improved navigation potential, improved conditions for fish and wildlife, and recreational benefits. We defer to the Corps of Engineers regarding the effects of the project on siltation and navigation. While the Toledo Bend project has some unique organizational and financial aspects when compared to other Federal Power Commission licensed projects, the benefits stated in H.R. 15320 regarding fish, wildlife, and recreation are not distinguishable from the consequences which have resulted from the construction of other large dams and reservoirs.

All Federal Power Commission licenses for projects such as Toledo Bend require the licensee "to develop suitable public recreational facilities upon project lands and waters and to make provisions for adequate public access to such project facilities and waters." The development of recreational facilities at Toledo Bend is covered by a memorandum of understanding between the Forest Service and the Sabine River Authorities.

The Toledo Bend project is only one of 200 major projects along with 1,200 smaller projects licensed by the Commission which involve national forest land. A special congressional exemption from annual charges for the Sabine River Authorities would set an undesirable precedent in the administration of other Federal Power Commission licensed projects involving Federal lands. It would also be inequitable to hundreds of special-use permittees throughout the national forest system who pay annual fees based on the value of the land and the type of use.

Furthermore, enactment of H.R. 15320 might be inconsistent with the provisions of title V of the act of August 31, 1951, in which the sense of Congress was expressed that fees and charges should be made for licenses and other authorizations for use of Federal property and services.

We understand, as has already been testified to here this afternoon, that the Sabine River Authorities, as agencies of Louisiana and Texas, have applied to the Federal Power Commission under section 10(e) of the Federal Power Act for exemption from annual charges to the extent their power is sold to the public without profit or is used by licensees for State or municipal purposes. The Commission has not yet

acted on the application. We believe the request for a special exemption by the Sabine River Authorities should be decided on its merits under the Federal Power Act by the Federal Power Commission, rather than through special legislation such as H.R. 15320.

This concludes my testimony. I will be happy to answer questions you may have.

Mr. RARICK. First, let me thank you for appearing, Mr. Peterson, and let me ask you, you had indicated that the benefits under the legislation are not distinguishable from consequences resulting from other small dams and reservoirs. There are no Federal funds involved, in the case under consideration.

Would that be a distinguishing factor?

Mr. PETERSON. Yes, I think the fact that no Federal funds were involved in the construction of the project is distinguishable. Unfortunately, that is not stated in the Federal Power Act as one of the bases for exemption from payment. The Federal Power Act deals with recreation and other benefits, and to that extent we do not consider this project distinguishable from the others as far as recreational benefits are concerned.

Many other large Federal Power projects do provide substantial recreation. In fact, the licensees in many cases have built substantial recreation facilities on their reservoirs. So that is what the thrust of this statement pertains to.

Mr. RARICK. But again, so far as the Sabine Authority does not have Federal funds, there is a distinguishing feature from other projects.

Mr. PETERSON. Yes, sir. I think that factor is a distinguishable feature of this project, as I understand it.

Mr. RARICK. The same would apply to your testimony then where you refer to the special exemption creating an undesirable precedent. I have talked to Mr. Sanders or Mr. Goldstein and indicated that if the Sabine Authority were the only authority without Federal funds and was given a special exemption, then there really would be no undesirable precedent, but rather a proper precedent. It certainly would not be undesirable, would it, to keep the Federal taxpayers out of this reservoir building business and allow the States and the local people to finance and control, or do you feel that local participation is desirable?

Mr. PETERSON. Well, the legislation as now framed talks only about the benefits accruing from fish, wildlife and recreation. If it were cited in the bill, that is, the States having built the project without Federal funds, and if this were an additional distinguishable feature, I personally think that would be a stronger basis for considering the fee question. But I do not see the benefits it provides as being distinguishable from the benefits of other projects.

For example, the State of California has an extensive reservoir system under Federal Power Commission's licenses that provide substantial amounts of recreation. Now, the extent to which they have any Federal financing, I am not sure. You see, that again would be the distinguishing feature, not the question of whether it provides multiple benefits.

Mr. RARICK. If this were the case, certainly the legislation would not create an undesirable precedent as you have testified.

Mr. PETERSON. The undesirable precedent would be if the legislation stated that the basis for exemption was these benefits, which are similar to other projects.

Mr. RARICK. Except there are no Federal funds in the Sabine Authority.

Mr. PETERSON. That is not presently stated in the legislation as one of the rationales for not charging for land use.

Mr. RARICK. But we are talking about an expressed exception, not for all existing or future projects. We are only talking about an exception for the Saline Authority, is that not correct?

Mr. PETERSON. Yes, and I think should the will of Congress be to go this way, it should be made clear that such an exemption would only apply where Federal funds are not involved in construction, and that this would not be an exemption to apply to other projects.

Mr. RARICK. Mr. Peterson, are you an attorney?

Mr. PETERSON. No, sir.

Mr. RARICK. I do not believe there has been any suggestion either by the authors or by the legislation itself that H.R. 15320 would except the Toledo Bend Dam Reservoir project of the Sabine River Authority from any of the existing general laws enacted by Congress.

Mr. PETERSON. Yes, sir, I recognize that. I was only speaking to the fact that I can foresee that many other projects providing recreation and other benefits would seek a like remedy.

Mr. RARICK. I reassure you that there have been many such people before the subcommittee, and they have not found the doors to the treasury open, have they?

Mr. PETERSON. Yes, sir, I recognize that.

Mr. RARICK. I am sure the gentleman is aware of that.

Mr. PETERSON. Yes, sir.

Mr. RARICK. I again apologize inasmuch as there is apparently floor activity and there are no other members of the subcommittee present at this moment to ask any questions, but it is a pleasure to see you again, Mr. Peterson.

If you desire to remain, we would be happy to have you stay should any of them come back and want to inquire of you on any point affecting the legislation.

Mr. PETERSON. Thank you very much, Mr. Chairman.

Mr. RARICK. Our next witness is Mr. Roy Aguillard, chairman of Sabine River Authority for the State of Louisiana, and I notice he gives a Baton Rouge address.

Mr. Gibson, are you testifying?

Mr. GIBSON. Mr. Chairman, I am here on behalf of Mr. Aguillard, in that he is not able to be here.

Mr. RARICK. You are Mr. Richard Gibson, a member of the Board of Public Works of the State of Louisiana.

Your address?

Mr. GIBSON. My address is Coushatta, La.

I would like to introduce Mr. R. D. Morgan from the Sabine River Authority, who has a prepared statement.

I would ask that you accept Mr. Morgan's testimony, and I will endorse it wholeheartedly.

Mr. RARICK. There being no objection the testimony will be inserted

completely in the record at this point, and the endorsement of Mr. Gibson will be noted.

Mr. Morgan?

STATEMENT OF R. D. MORGAN, CHIEF ENGINEER, SABINE
RIVER AUTHORITY, STATE OF LOUISIANA

Mr. MORGAN. My name is R. D. Morgan. I am chief engineer of the Sabine River Authority, State of Louisiana. The Sabine River Authority, an agency of the State government, is responsible for the development and management of the natural resources of the portion of the Sabine River and its watershed that adjoins or lies within the State. The Authority in the exercise of its power and responsibilities under the constitution and laws of Louisiana and the provisions of the Sabine River Compact has cooperated together with the Sabine River Authority of Texas to jointly construct a water supply and hydroelectric project on a portion of the stateline reach of the Sabine River. This facility, known as the Toledo Bend project, was constructed at a cost of \$70 million, all of which was funded by the two States by a combination of revenue bonds and allocations of other funds from the States' own resources. No Federal funds were involved in the construction of the project.

A license was granted by the Federal Power Commission for Project 2305. Among its conditions is a requirement that the Authorities pay \$84,000 annually to recompense the United States for the use of the national forest lands that were inundated by the waters of the reservoir. The legislative source of authority for the imposition of this fee will be found in section 10, paragraph E, of the Federal Power Act, codified as 16 U.S.C. 803. At the time the license was granted the practice of the Federal Power Commission in establishing the annual charges for all Government lands followed the following formula. All lands were assumed to have a value of \$60 per acre. Four percent per annum was thought to be a fair reimbursement. Therefore, the annual charge per acre of land was established by the Commission at \$2.40 per acre. The acreage involved is 35,000 acres and the annual charge is \$84,000. Section 17 of the Federal Power Act specifies that the annual charges thus received pursuant to order of the Commission shall be paid and distributed as follows: 12½ percent thereof is appropriated to be paid into the Treasury of the United States and credited to miscellaneous receipts, 50 percent of the charges arising from the licenses for the occupancy and use of public lands and national forests shall be paid into reserve and appropriated as a part of the reclamation fund created by the act of Congress known as the Reclamation Act approved June 17, 1902, and 37½ of the charges arising from such licenses and fees shall be paid by the Secretary of the Treasury of the State within whose boundaries any of such lands are located. The practical effect of the foregoing results in a perplexing dilemma wherein the State of Louisiana and State of Texas equally would have to pay the fee whereas 37½ of the total fees thus paid would be returned solely to the State of Texas for use as may be determined by the Texas Legislature with no return possible to the State of Louisiana. The Texas constitution prohibits the grant of any of its funds to any other State.

A like provision appears in the constitutions of most States, including the State of Louisiana. The attorneys for the Authorities have sought to determine if an exemption under the existing laws of the United States could be granted regarding the Toledo Bend Dam and Reservoir project and find after research and conferences with the legal staff of the Federal Power Commission that such is not possible. Even though the Authorities are classified as municipalities they are not entitled under the present laws and decisions of the courts to any exemption under the authority of a decision handed down by the U.S. Court of Appeals, Second Circuit, on the 8th day of December 1964, involving the *Power Authority of the State of New York v. Federal Power Commission*.

Nevertheless, upon recommendation by congressional sources, the Authorities have made application to the Federal Power Commission for relief under section 11.24 of the regulations under the Federal Power Act which allows an exemption from payment of fees by a licensee if the power is being sold at no profit. While it is felt that the fact that the authorities do not make a profit from the sale of power has been established, the Commission has not acted on the application. Applications have been submitted for each of the calendar years 1969, 1970, 1971, 1972, and 1973. The Commission had not pressed for payment until May 1974 when a demand was made that the payment due for the calendar year 1973 be made at once. The payment has not been made because the application had been submitted for exemption.

REASONS THE AUTHORITIES SHOULD BE EXEMPT FROM ANNUAL CHARGES

1. The feasibility study of the Toledo Bend Dam and Reservoir project prepared by Forrest & Cotton, Consulting Engineers of Dallas, Tex., and reviewed by the Corps of Engineers, Galveston office, expressly recognizes the fact that the construction of the dam will result in a direct financial benefit to the United States by reason of the fact that silt normally carried by the river and deposited in the Sabine-Neches Waterway in the vicinity of Port Arthur and Orange will be retained behind the Toledo Bend Dam. This aspect of the Toledo Bend Dam and Reservoir project is discussed in volume 1 of the feasibility report under "Navigation Benefits." A reproduction of the four pertinent pages is attached. On page XII-4, you will note that the annual benefit was indicated at \$66,000. This is based on a cost of 20 cents per cubic yard for maintenance dredging annually of about 330,000 cubic yards of silt from dredged channels. Construction costs have taken a sharp rise since the above mentioned report was made and the value of the reduced dredging will be in excess of \$100,000 at present day prices.

2. The impounded waters of the reservoir provide an inland lake with navigable waters for a distance of about 60 miles. The report on the Comprehensive Basin Study Sabine River and Tributaries, Texas and Louisiana completed in December 1967 indicates that the construction of a barge channel from the mouth of the river to Longview, Tex. will become economically justifiable in the year 2000 at which time the lake created by this project will constitute an important segment in the navigation system.

3. The Toledo Bend project has created a tremendous recreation benefit to the United States of a type and nature that would be classified as a nonreimbursable expense up to 15 percent of the cost of the project had the project been constructed by the Corps of Engineers or other Federal agency. The project is located in an area of great natural beauty and has a shoreline of about 1,250 miles, much of which is deeply indented and heavily wooded. Drawdown of the reservoir for power generation will not exceed 10 feet and a drawdown in excess of 9 feet will not prevail for more than 5 percent of the time. The reservoir is readily accessible and has a population within a 70-mile radius of approximately 1,200,000. It is conservatively estimated that the annual attendance for recreation will be 3,000,000 visitor days. It is estimated that recreation expenditures induced by the project will be about \$12,500,000 per annum. It is believed that the benefits accrued from the project for fish and wildlife and recreation on a similar Federal project would be sufficiently large to justify a minimum of \$7 million to \$10 million of the project cost on a non-reimbursable basis. In effect, then, the States of Texas and Louisiana, through their respective agencies, are providing a national benefit in the magnitude of \$10 million without cost to the Federal Government or, in turn, its taxpayers. It should also be noted that Public Law 89-72 permits the U.S. Government's participation in the recreation, and fish and wild life enhancement up to 50 percent of the cost of separable cost of recreational development and all of the joint cost allocated to recreation. At the present time 32 sites are planned for recreational development in the Toledo Bend Reservoir. Seven of the Texas sites are proposed for development by the Federal Government through the U.S. Forest Service. Area proposed for development by Sabine River Authority of Louisiana is 2,734 acres; by the Sabine River Authority of Texas 760 acres; and by the U.S. Government Forest Service 1,939 acres.

4. It should further be noted that the U.S. Forest Service will have remaining in the Sabine National Forest after the inundation of the lands affected by Toledo Bend approximately 250,000 acres of land. The shoreline created by the Toledo Bend Reservoir adjacent to the Sabine National Forest lands owned by the U.S. Government is approximately 205 miles in length. Viewed from the point of view of the individual land owner, the U.S. Government has enjoyed and will enjoy as a result of the reservoir a tremendous gain in value of its land holdings by reason of the construction of the reservoir. For example, the lands bordering the lake which prior to the construction of the reservoir were valued at approximately \$40 per acre now have an indicated market value of approximately \$2,000 and up per acre to an average 2-acre depth. A rough computation based on shoreline mileage to a 2-acre depth indicates that 8,200 acres thus made into lakeshore acreage would now be valued at \$16,400,000, as opposed to their original value of \$328,000. The estimated value of the lands to be inundated in the amount of approximately 35,000 acres based upon an average value of \$40 per acre would be \$1,400,000. These facts alone would seem to justify an exemption of any fees for the use and enjoyment of the lands that are inundated. Certainly a private owner would view the matter in such fashion. It should be further noted that under the terms and conditions of the license issued by the Federal Power

Commission for the Toledo Bend Dam and Reservoir project that the seven recreation sites proposed by the Federal Government adjacent to the reservoir within the Sabine National Forest were improved at the cost of the two authorities for the benefit of the Federal Government by special types of clearing in and adjacent to the recreation sites to make the same suitable for Federal recreational development. While no specific dollar amount has been determined as to the cost of complying with this requirement under the license, the same is thought to be substantial.

It has been suggested that the proposed legislation would create inequities in relation to other licensees and that an undesirable precedent would be set. We believe that a desirable precedent has already been set where the two States working through their agencies, the Sabine River Authorities, have cooperated together to construct, at a cost of \$70 million, a project of great national significance and value. We know of no other project in the Nation of the scope and cost of the Toledo Bend project that has been undertaken without at least partial Federal assistance. Accordingly, we believe that the proposed legislation establishes no undesired precedent that has any relation to other licensees of the Federal Power Commission.

The Congress, by enacting this legislation, would set a precedent encouraging the States and local governments to undertake locally financed projects looking to the conservation of the Nation's resources. A charge for the use of the inundated lands without taking into consideration the many fold increase in value of the remaining shoreline property in the national forest has the effect of discouraging the development of projects such as this one. We believe that the Congress should make every effort to encourage this type of enterprise and that the desirable aspects of the precedent being established here greatly outweigh the undesirable effects due to the possibility of its extension to other licensed projects of the Federal Power Commission.

A project of the size and scope of Toledo Bend has necessarily consumed a large segment of the financial resources of the two States. Income from the sale of power is a fixed annual amount with the bulk of it allocated to debt service. The balance, which is to be used for maintenance and operation of the facilities, is fixed and is the only resource available to the two authorities for this purpose. The rise in cost of labor, supplies, materials, insurance, and so forth, has rendered inadequate the approximately \$300,000 available annually for operation and maintenance. The payment of the Federal Power Commission must come out of this fund. Its payment will reduce the funds available for essential maintenance to a dangerous and unacceptable degree. As inflation continues the value of the fixed operating income will continue to be eroded. With inadequate maintenance, the facility will become a hazard to the area rather than the great asset it presently is.

Fifty percent of the cost of the project is financed and paid for with funds received from the sale of power. The balance was financed by the two States for which they expect to receive future benefits which are of national significance. The potential for the improvement of the economy of the depressed area in east Texas and west Louisiana has been greatly heightened by the increased dependable water sup-

ply and by the numerous recreational opportunities created by the large new body of water of excellent quality (181,600 acres).

Additionally we would point out that hydroelectric power makes use of a recurring source of energy rather than consuming our rapidly dwindling supply of fossile fuel. Its generation is not accompanied by pollution of atmosphere or water supply and is a small step forward in solving the problem of protecting the environment as well as alleviating the present critical shortage of energy.

It has also been suggested that the act might be inconsistent with title V of the act of August 31, 1951, in which the sense of Congress was expressed that fees and charges for the use of Federal property and services be assessed the users. No fees or charges are assessed the U.S. Corps of Engineers for the use of national forest lands in a multiple purpose project such as the Sam Rayburn Dam a few miles to the west of Toledo Bend, obviously because the corps is a Federal agency. The Sabine River Authorities are agencies of the two States as the Corps of Engineers is an agency of the Federal Government. The States derive their powers and existence from the constitution of the United States and the acts of Congress as well as from their own constitutions and legislative acts. As such, these States are governmental agencies as is the Corps of Engineers and should be so considered by the Congress. The two Sabine River Authorities are agencies and instrumentalities of the States and, consequently, are governmental agencies, and since the Corps of Engineers does not pay user fees, these authorities should not be required to pay them.

In summary, we believe that the Congress should enact the bill for the following reasons:

1. The precedent being established here is not undesirable. The whole concept of the Toledo Bend project is precedent setting, in that it is the product of two States working together which, to our knowledge, has not been done on this scale before. Enactment of the legislation will establish no undesired precedent relative to the situation of other licensees.

2. The policy of the Congress should be to encourage rather than discourage undertakings of this type by State and local governments.

3. Payment of the required annual fee will place an excessive strain on the Authorities' operating budget, destroying their capability of maintaining the project in a safe condition.

4. Benefits from the project are significant to the economy of the Nation as a whole since a large economically depressed area in two States is involved.

5. Other agencies of the Government, for example, U.S. Corps of Engineers, are not required to pay user fees for the use of national forest lands. It is not equitable that the States be required to make these payments.

From the foregoing brief analysis of the impact of the Toledo Bend Dam and Reservoir project upon the Nation, it will be seen that very substantial and very real benefits do flow to the Federal Government and to the Nation at large as a result of its construction, the cost of which is being borne solely by the States of Texas and Louisiana

through their respective agencies. A lengthy discussion could have been written urging support of an exemption by reason of the fact that the reservoir will produce in excess of 2 billion gallons of good quality water per day, which is certainly a great stride in averting the readily foreseeable water crisis in this Nation. Further, it could be pointed out that the Congress has already expressed its desire to encourage such developments by the States and municipalities on their own initiative by the passage of other legislation of a similar type. For example, Public Law 278 passed by the 83d Congress, now codified as 16 U.S.C. 807, and the following, modifies the Federal Power Act to reduce administrative charges imposed under the act to the actual cost of such services where the licensed project is owned by a State or municipality. The preamble to this bill stated that such was being undertaken "in order to facilitate the development and construction by States and municipalities of water conservation facilities."

The one question germane to the proposed exemption of the Authorities from annual charges for use of government lands is "does the Federal Government want to encourage States at their own expense to develop water conservation projects by making available its necessary forestlands at no cost the same as would be the case if the Federal Government through a Federal agency constructed the project at the expense of the taxpayers of the Nation."

XII—NAVIGATION BENEFITS

12-01. *Suspended Sediment Load of Sabine and Neches Rivers.*—The Sabine and Neches Rivers both carry a considerable load of suspended sediment and an unknown bed load, which are deposited in the navigable channels and basins of the Sabin-Neches Waterway, the U.S. Naval Anchorage Basin, and in Sabine Lake. The average annual suspended sediment load of these streams is estimated to be approximately as follows:

	<i>Average annual suspended sediment load (cubic yards)</i>
Sabine River:	
Toledo Bend Dam Site-----	1, 506, 000
Ruliff Gage-----	2, 370, 000
Neches River:	
Evadale Gage-----	1, 058, 000
Total Sabine and Neches Rivers at Ruliff and Evadale Gages---	3, 428, 000

It will be noted from the above table that the suspended sediments originating above the Toledo Bend Dam site are approximately 64 percent of the total suspended sediment at the Ruliff Gage. In the following discussion it will be assumed that 64 percent of the maintenance dredging caused by sediments in the Sabine River will be eliminated by the construction of the Toledo Bend Reservoir.

12-02. *Maintenance Dredging.*—An estimate of the average annual maintenance dredging in the several channels and basins of the Sabine-Neches Waterway, that would be affected appreciably by the deposit of sediment from the Sabine River, and in the U.S. Navy

Anchorage Basin in the Sabine River at Orange, Tex. is shown in the following table:

Reach	Average annuals maintenance dredging (cubic yards)	
	Existing channels	Authorized channels
Waterway and limit of reach:		
Sabine River, mouth to U.S. Highway 90	94,000	125,400
U.S. naval anchorage	31,700	31,700
Total reach 1	125,700	157,100
Sabine-Neches Canal, mouth Neches River to mouth Sabine River	102,900	125,600
Sabine-Neches Canal and Port Arthur Canal, mouth Neches River to Sabine Pass	1,339,400	1,339,400
Total	1,568,000	1,622,100

The above estimates of maintenance dredging, excepting the U.S. naval anchorage, were furnished by the District Office, Corps of Engineers, U.S. Army, Galveston, Tex. The estimate of maintenance dredging for the U.S. naval anchorage was made by this office.

It is estimated that about 75 percent of the maintenance dredging required in reach 1 of the preceding table is caused by the deposit of sediments from the Sabine River, and that the construction of the Toledo Bend Reservoir will reduce that part of the maintenance dredging which is caused by Sabine River sediments by 64 percent. Hence, Toledo Bend Reservoir would reduce maintenance dredging in reach 1 by about $(157,000 \times .75 \times .64)$ 75,400 cubic yards per annum.

In reach 2 of the preceding table, it is estimated that about 50 percent of the maintenance dredging is caused by the deposit of sediments from the Sabine River and that the construction of the Toledo Bend Reservoir will reduce that part of the maintenance dredging caused by the Sabine River sediments by 64 percent. Hence Toledo Bend Reservoir would reduce maintenance dredging in reach 2 by about $(125,600 \times .50 \times .64)$ 40,200 cubic yards per annum.

In reach 3 of the preceding table, sediment is deposited by both the Sabine and Neches Rivers. It is estimated that these rivers jointly cause at least 50 percent of the maintenance dredging required in this reach and that they contribute approximately equal amounts. It is estimated that the Toledo Bend Reservoir will reduce the maintenance dredging caused by Sabine River sediments by about 64 percent. Hence Toledo Bend Reservoir will reduce maintenance dredging by about $(1,339,400 \times .25 \times .64)$ 214,300 cubic yards per annum.

12-03. *Summary.*—In accordance with the preceding estimates, the total reduction of maintenance that will be creditable to the Toledo Bend Reservoir would be as follows:

Reach :	<i>Reduction of average annual maintenance dredging (cubic yards)</i>
1 -----	75,400
2 -----	40,200
3 -----	214,300
Total -----	329,900

12-04. *Navigation benefits.*—The above estimates indicate that the construction of the Toledo Bend Reservoir will reduce the average annual maintenance dredging in the channels and basins of the Sabine-Neches waterway and the U.S. naval anchorage by 329,900 cubic yards. The current cost of maintenance dredging is about 20 cents per cubic yard. Hence the average annual benefit to navigation creditable to Toledo Bend Reservoir will be about $(329,900 \times .20)$ \$66,000.

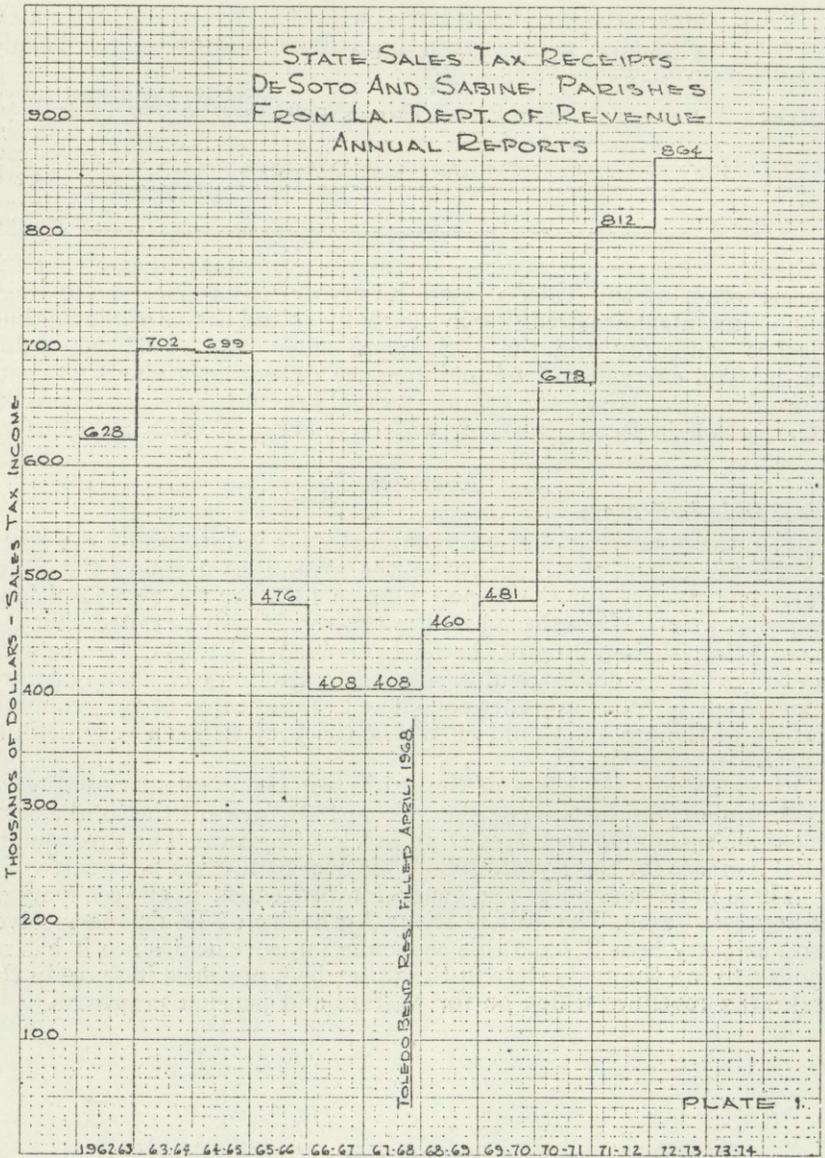
APPENDIX I

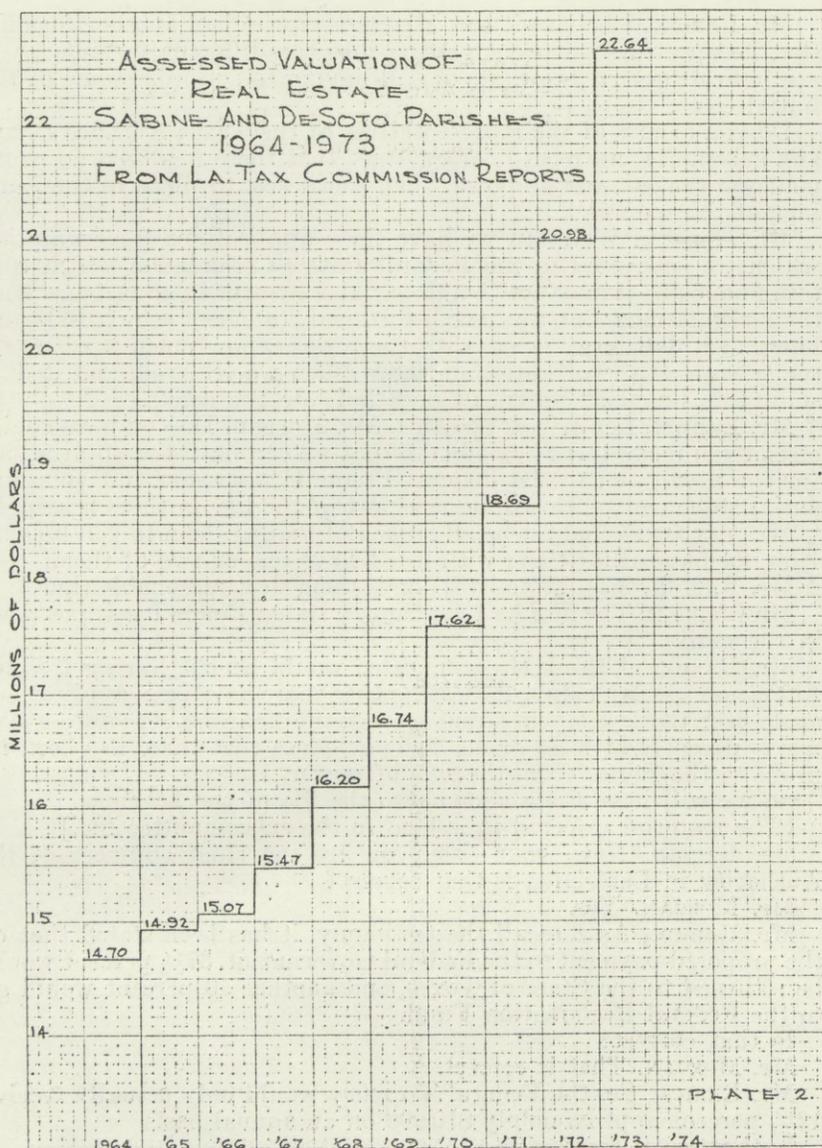
Economic indicators

The accompanying charts are presented as indicators of the effect of the project on the economy of the area. Plat 1 shows the State sales tax revenue for the period 1962 to 1973 for the two Louisiana parishes principally affected by the project. It will be noted that the completion of the filling of the reservoir in April 1968 coincides with a change from a down trend in sales tax collection to a sharp upward movement. If retail sales are considered an indicator of the economic health of the area, it would seem that the project has a very definite effect.

Plate 2 shows the effect of the project on the assessed valuation of real property in the two parishes. From 1967 forward the total assessment shows annual increases at an accelerating rate. The average annual increase for the 7 years 1966-73 is over \$1 million per year.

These indicators point to a general improvement in the economy of a depressed area. The Sabine River Authority of Louisiana receives no monetary benefit from this economic improvement since it has no power to tax the real estate in the watershed, nor does it share in the sales tax revenues which go for welfare and pension programs.





Mr. RARICK. Let me ask you this. As I understand your testimony and that of Mr. Waggoner, you indicate that the Sabine Authority has not sold for profit any electricity from this project.

Is this correct?

Mr. MORGAN. This is essentially correct, yes, sir.

Actually, if you take the project as a whole, it costs the two States, after the income, after you take income from the sale of power, which is roughly \$2 million a year, it still costs the two States in interest and depreciation, approximately \$1,300,000 per year for the whole project.

Mr. RARICK. I believe it was Mr. Sander who had another formula that he applied so without getting into the different formulas, you are indicating that the State is still having to subsidize some of the initial costs.

Do you or any of the representatives of the Texas Authority have any substantiating records or evidence that there has been no profit made on the sale of the power that you desire to place in the hearings at this point?

Mr. MORGAN. Well, sir, we have these applications for exemption which we submitted to the Federal Power Commission which contain financial—it may not be a financial statement in accordance with their regulations, but we have a financial statement which indicates how much money we spent with the project, how much it costs, actually costs the two States, and how much we received, and it does show this financial statement does indicate the assets.

Mr. RARICK. Let me ask you this, Mr. Morgan. Do you have copies or can you make them available so that we can have the applications for the exemption to the Federal Power Commission and your financial statements enclosed made a part of the file on these hearings?

Mr. MORGAN. Would it be all right if I mailed them to you because I do not have all of them with me. I have one or two of them.

Mr. RARICK. Yes. If you will mail them in a reasonable time.

Mr. MORGAN. The minute I get back to Baton Rouge I will put them in the mail.

Mr. RARICK. I think the committee would benefit having this information available, first indicating that there have been applications made over the last 5 years, and second, the financial structure showing apparently at least prima facie evidence that there has been no profit to the States from the sale of power.

So we will have these added into the file of the hearings.

[The material referred to is held in the subcommittee file.]

Mr. RARICK. Now, your title, you are the chief engineer of the Authority in Louisiana, is that correct?

Mr. MORGAN. Yes.

Mr. RARICK. As I recall the testimony, it has been stated that of the proposed payment to the Federal Government, 37½ percent would be returned to the State of Texas, and another 50 percent would go to the Federal Reclamation Fund.

Is that correct?

Mr. MORGAN. That is correct.

Mr. RARICK. So, the Federal Treasury would only actually receive 12½ percent approximately \$10,000 on an annual basis.

Is that not correct, sir?

Mr. MORGAN. That would be my interpretation of it, yes, sir.

Mr. RARICK. And in reality, the States would be losing 37½ percent, if there was no payment because that would be an administrative deduction going back into the States, and the real loser then would merely be the Reclamation Fund.

Mr. MORGAN. That is correct.

Mr. RARICK. I note your comment that you do not feel that this exemption would create an undesirable precedent.

Of course, I am aware that my good friends from the Forest Service and the corps are a part of the Federal bureaucracy and many times

their statements coincide more with an overall national policy than the thinking of their own departments. The corps in this instance would acutally be saving money, and the only criticism I could see about the legislation itself would be, unbelievable, I guess, that the taxpayers are saving money.

I do thank you, Mr. Morgan, for your appearance this afternoon.

Mr. MORGAN. I appreciate the opportunity to be here.

Mr. RARICK. I do hope that you will communicate my best to Mr. Aguiard. Perhaps I will have more time to do some fishing over there now.

Mr. MORGAN. I hope you will. I am from Baton Rouge also, and I viewed with dismay the events which happened a couple of weeks ago.

Mr. RARICK. I thank you so much, sir.

Our next witness is Mr. Sam Collins, the assistant general manager of the Sabine River Authority of Orange, Tex.

Mr. Collins, we are happy to have you here this afternoon. I notice that you are accompanied by Mr. Maynard Nelson, Mr. E. A. Meek, and Mr. D. N. Beasley.

Do they have a statement, or is the statement confined to your testimony, sir?

Mr. COLLINS. The statement, as I understand it, sir, will be confined to my testimony. Those gentlemen have been introduced previously by our Congressman Charles Wilson.

**STATEMENT OF SAM COLLINS, ASSISTANT GENERAL MANAGER,
SABINE RIVER AUTHORITY OF TEXAS, ACCOMPANIED BY MAY-
NARD NELSON, E. A. MEEK, AND D. N. BEASLEY**

Mr. COLLINS. It is a pleasure Mr. Chairman, for us to be here today with you. I would like again to remind you Mr. Meek is the president of SRA of Texas; Mr. Beasley, chairman of Joint Board of Toledo Bend Operations. That is the board that looks over the day-to-day operations of the whole project and sets policy. They met yesterday and they fully endorse our appearing before your committee, and they endorse the House bill before you.

I would like to say also, I am not being in disagreement with Congressman Waggoner, but as I said in 1961, Mr. Chairman, the Toledo Bend and Sabine River join Texas and Louisiana together. They do not separate us, and I just wanted to get that into the record. But I appear here before you today on behalf of our State agency to offer our full support on H.R. 15320. H.R. 15320 seeks to exempt the Sabine River Authority of the State of Louisiana and the Sabine River Authority from the State of Texas from further charges and previous obligations for the use of lands necessary for the Toledo Bend Dam and Reservoir project.

The Federal Government in recent years has encouraged the States and local governments to assume a larger role in the conservation of the Nation's resources, and continues to urge that the cost of such projects be borne primarily by those receiving the benefits.

The Toledo Bend Dam and Reservoir project is a major conservation project undertaken solely by the States of Texas and Louisiana through their agencies, the Sabine River Authorities. One of the

major beneficiaries of this project, as is clearly evident, is the Federal Government.

The use of approximately 35,000 acres of U.S. forest lands was necessary for the reservoir project. I would like to note, if you would note in exhibit A, the map shows the acres around the project, and of the 35,000 acres, a portion is now flooded and is used by people for boating, fishing, and skiing. The remaining acreage is flooded only occasionally and is used for growing timber and providing food crops for waterfowl, as well as by many thousands of Americans for camping, picnicking, and other outdoor recreation purposes along over 200 miles of scenic shoreline created by the reservoir on National Forest Service lands. My exhibit C attached also shows a study, prepared by the Forest Service and other agencies, relating to the uses of the Toledo Bend Reservoir.

The U.S. Forest Service has, for several years, sought to implement on national forest lands the multiple use concept. We feel that the lands used for the reservoir are a part of that concept. We feel that, No. 1, the lands were not "taken" for the project but were enhanced along with the adjoining lands; and No. 2, the assessment of a charge for the use of the lands originally was improper and contrary to the urging of the Federal Government for those receiving the benefits of the project to participate in its cost.

Further, in assessing the charges, the total value of the land "as if taken" in fee was considered, and no value was placed on the special and direct benefits accruing to the U.S. Government and National Forest lands used in the project and to the adjoining lands comprising many thousands of acres along over 200 miles of shoreline. Since the project was constructed, the land values have skyrocketed from \$40 to \$60 per acre to \$2,000 to \$3,000 per acre along the shoreline, and here I direct your attention to exhibit E, which shows clearly that even the U.S. Forest Service is purchasing land along the shoreline of the Toledo Bend Reservoir at these prices. These are some of the purchases that they themselves have made. The Federal Government acknowledges this enhancement and is acquiring additional lands along the shoreline at these prices. With no monetary compensations, the Federal Government has been "made whole" many times over in direct benefits, and in addition will continue to be compensated in all ages to come with indirect benefits including scenic enhancement, increased fish and wildlife propagation, broadened recreational use, water conservation, et cetera, et cetera.

In addition to the direct and indirect benefits accruing to the lands involved in the project, many other benefits to the Federal Government and the general public are evident. These include the following:

(1), decreased annual maintenance costs on the Sabine-Neches Waterway as a result of the siltation control of the project.

(2), water conservation and improved water quality.

(3), low cost hydroelectric power and water storage necessary for future electrical generating plants.

(4), benefits to the economy, which has changed from a severely depressed and declining sawmill economy to a growing economy based on recreation, tourism, and industry attracted by the project. And I invite your attention to exhibit D, which shows a 10-year period in the

1960's of what has happened to the counties and parishes surrounding the Toledo Bend Reservoir.

The financing of a project of the magnitude of the Toledo Bend project would have been a major task with Federal assistance. Without any Federal funding, it was an even greater undertaking. Only \$300,000 annually is available for operation and maintenance of this project. This fixed amount is insufficient for the desired level of maintenance, and our being required to pay the \$84,000 to the U.S. Government general fund would further deplete operation and maintenance funds. This would cause the maintenance and operation to be seriously inadequate and would curtail any further betterment of the project.

One might ask why the authorities would agree to such a stipulation for payment in the first place, if only to object at a later date. When this stipulation was included in the Federal Power Commission permit, serious objection was voiced in 1963—and I might add that Mr. Beasley was a signer of the letter attached as our exhibit B on my testimony here today—and many appeals have been made to have it excluded. The urgency of the project and time necessary to resolve the matter dictated that the project must begin with the stipulation for payment and with the understanding that further appeal would be made on this issue. Moreover, the policy which prevailed at the time was applicable to private development. We were a "first" as a government entity to build a project of this magnitude. We point out, again, we too are public and government. The issue has been appealed repeatedly since that time to the Federal Power Commission, but without relief. We therefore seek this relief by legislation.

In summary, we believe that Congress should enact House bill 15320 for the following reasons:

(1) the States acting through their respective agencies are carrying out a Federal goal for such conservation projects as Toledo Bend to be accomplished at State levels, a goal that will not be reached without reasonable cooperation on behalf of the Federal Government.

(2) the Federal Government, as shown, is a major beneficiary of the project and has made no monetary contribution, which is seemingly inconsistent with the policy now urged by many in the Federal establishment.

(3) the national forest lands for which an annual fee is being required were not taken, but are still federally owned, and used by the public in accordance with the "multiple use" concept; and the adjoining national forest lands have been increased in value, so that the Federal Government has been made whole for any use of lands for the project.

(4) numerous other indirect benefits have accrued to the Federal Government in the form of a better economy in a depressed area, improved water quality and siltation conditions, and so forth.

(5) the annual payment creates a hardship on agencies of Louisiana and Texas who have built and are now operating a major water conservation project without any Federal funding, and the continued imposition of such fees will seriously affect future operation and maintenance of this project and might possibly affect the plans of other States in providing water resources development through real and practical State/Federal partnership relations.

For the above reasons, we urge your favorable consideration of this bill, and we are attaching for your further study of this matter several letters, statements, and maps as evidence of our efforts in this matter.

Thank you very much, Mr. Chairman. That completes my statements, which I have made, by the way, on behalf of Mr. John W. Simmons, our general manager and executive vice president; who regrets that, due to a prior commitment, he was unable to be here today. But he does send his best regards to you, and again, I invite you to note that I would like to make a part of my statement—the exhibits attached to my statement, sir and if you have any questions, I will try to answer them.

Mr. RARICK. It is so ordered. The exhibits will be made a part of the statement of Mr. Collins.

[Exhibits A, B, C, D, and E are held in the subcommittee files.]

Mr. RARICK. Mr. Collins, I noticed in the statement that there are certain direct benefits which have accrued to the United States as a direct result of the dam and the reservoir; and I believe that in the testimony delivered by yourself and Mr. Morgan, that you have adequately stressed these benefits and tried to place a dollar value on them to both the Forest Service, the Corps of Engineers, and to the Federal Government. I do not know how anyone could accurately—I guess evaluate these benefits. But may I ask; has there been any type of feasibility study? Have any of these economic experts gone into research to try to place a dollar value on the Federal benefits?

Mr. COLLINS. Not per se in that matter, Mr. Chairman. I would say that several different aspects of the benefits that are derived, that possibly different people have arrived at different benefits. For instance, in our feasibility report, our engineers did come up with certain benefits that would be derived by the Federal Government with regard to siltation and navigation benefits. As to the land values around the reservoir, we take the probable sales, the purchases by the U.S. Forest Service themselves. We do know what has happened to land values in that area. I am a native of that area. I am familiar with them. They have been greatly enhanced.

By the way, we did purchase all of the other land in the reservoir in fee title, and it is covered with water; and of course, we look upon that kind of like in buying the land; we had to, in purchasing for the reservoir. One old gentleman said that he ought to get as much as anyone else got, because his land would hold just as much water, and I guess this is kind of the way the Forest Service may feel. But we do feel that if you try to put an annual cost, maybe, or a total dollars cost, it would probably be in the magnitude of \$25 to \$30 million would be the benefits of this particular reservoir to the Federal Government. I do know, in working with the Corps of Engineers on their projects, they try to get contracts with you before they start out. They set forth what the benefits are before you ever start, and maybe we should have done this to start with. I do not know. We felt that the two States were attempting to accomplish something here that had never been accomplished before, and by the way, we feel that we did do something that had never been done before, and we are quite proud of our progress, Mr. Chairman.

Mr. RARICK. Did you get a chance, Mr. Collins, to review the report of the Corps of Engineers. It's signed by Secretary Callaway.

Mr. COLLINS. Yes, I did read it over hurriedly, just as the hearing began.

Mr. RARICK. Let me ask you this. The Army's disagreement with the legislation seems to be on the lack of factual data to support the Federal benefit allegations in the bill itself. For instance, we find the comment that the Corps of Engineers has not conducted a study to determine if, in fact, the benefits as enumerated in the bill are accruing, and are sufficiently widespread to warrant the claim of a direct Federal interest. You would feel, of course—it is your testimony—that you can produce ample evidence to satisfy Secretary Calloway that the corps has benefited from Toledo Bend, by your authority.

Mr. COLLINS. We would attempt to. We feel that we have. But whether we could or would is something else. But we feel like our engineers, as we stated earlier, did to some extent. I certainly would hate to see this legislation held up, waiting on a corps report.

Mr. RARICK. Please say Corps of Engineers, not corps.

Mr. COLLINS. All right, Corps of Engineers. How does that sound? I know that it takes—I am sure that there are reasons, and they have their problems, but I know how long it takes to come up with answers to some of our problems over there.

Mr. RARICK. Reading from the Secretary's report here, he, of course, goes back into the precedent that this would create, resulting from the construction of a non-Federal project on Federal forestry lands; and I believe we have adequately discussed the merits of what kind of precedent it would be, if any. This really is an exception to the general rule, inasmuch as the Sabine Authority has received no Federal funds. Have you ever even applied for Federal funds?

Mr. COLLINS. Yes. We came up and applied for some EDA funds at one point in time, attempting to get some money for clearing the reservoir and limited financing of the constructing of the reservoir. We were unable to set aside enough funds to entirely clear it, as we thought it should be. So we worked for about 1½ years—Mr. Beasley and myself, Mr. Morgan, several of us—tramped these halls up here looking for some Federal agency who would like to help out a little old project like this, sir; and we just did not convince them that they ought to do it at that time.

We were attempting to get some funds, though, to do some additional clearing—

Mr. RARICK. And have you ever received any Federal funds?

Mr. COLLINS. No, Sir; we sure have not.

Mr. RARICK. Would you dare hazard a guess what might happen if the authorities of Louisiana and Texas, say, went broke?

Mr. COLLINS. We thought about that, and maybe I should go off the record on this, but I am going ahead and say it anyway, Mr. Chairman. If the Federal Power Commission is persistent in this, they might find that they have themselves a project to operate. We might let them repossess it from us.

Mr. RARICK. Would there be any doubt in your mind that there would then be a direct Federal subsidy? Far more expensive than the exemption here sought.

Mr. COLLINS. Yes, sir; I think there would be. I think there would be.

Mr. RARICK. Reading further from Secretary Calloway's letter, it says they—and I would assume that is the Authorities—do not represent primary benefits which are capable of being identified on a quantitative basis.

Mr. COLLINS. I would like to comment on that. Since you say you are going to have plenty of time, we invite you to come, and I will show you the shorelines around that lake. But I think that is very quantitative. I feel like I can put my finger right on the shoreline properties. I think I can show you the water in the reservoir that will be available for the public, and for the American people as a water supply project. I think that we can—how readily we could assess the siltation control and the lessening of dredging would be something else, but I do think quantitatively I can show you 60 miles of open, navigable water.

Now, granted, they will have to come up from the Gulf coast with a canal to the dam. But we do have 60 miles of navigable waters there that were not there before. At some point in time, I venture to say, it will be navigable, and this will lessen the cost at some future date to the American people. Now, those things I do feel that we can put a finger on.

Mr. RARICK. To your knowledge, has Secretary Calloway ever visited the reservoir, or been a guest of the Authority?

Mr. COLLINS. No, sir; I am not aware of it if he has. He has not visited the Texas Authority, to my knowledge. I would be glad to have him. I would like to show him around. I would show him a comparison between Sam Rayburn and Toledo Bend.

Mr. RARICK. I am sure that you are aware of who Secretary Calloway is—a very fine gentleman from Georgia, a very capable man. But I think we should discuss a few of these things and give you a chance to respond, since they will not be testifying.

Mr. COLLINS. Thank you, sir.

Mr. RARICK. He says the Department of Army feels that the division is inequitable, since other non-Federal interests are making payments for the use of similar lands at other non-Federal reservoir projects. To your knowledge, is there any other non-Federal project similar to the Sabine Authority which is making payments to the Federal Power Commission?

Mr. COLLINS. Not to my knowledge, sir, I am not aware of it. There could be.

Mr. RARICK. Mr. Calloway does not identify these, so, again, we do not know just what he is referring to. Maybe it is a Hilton Hotel on some army camp.

Anyway, he concludes his statement by stating that lands herein involved are under the control and management of the Department of Agriculture, and the Department of the Army defers to their views concerning payment for the use of national forestland.

I'm uncertain why Mr. Calloway did submit the letter, except to give the impression that he supported the same position as the Department of Agriculture.

Mr. COLLINS, how long have you been with the Texas Authority, the Texas branch of the Authority?

Mr. COLLINS. Since 1963.

Mr. RARICK. Were you familiar with the acquisition of the submerged lands?

Mr. COLLINS. Yes, sir. I had a finger in purchasing all but about 2 acres. I believe when I went to work, they had purchased 2 acres of the land acquired for the reservoir.

Mr. RARICK. Do you have any idea, or can you furnish us with the information, as to how much the Federal Government paid for the land?

Mr. COLLINS. As I recall, back in the 1930's, the entire Sabine National Forest—that area, they purchased those lands for between \$2 and \$3 per acre back at that time. Granted, it was bad times, and they may come again. I do not know. But they did buy that land pretty cheap at that time, and of course they cut the timber off of it. It is quite a timber-growing area, as you yourself know. They have cut the timber from time to time, and managed the forest real well. We have no objection to this. They have done a good job, and we are glad to have them there, and they are doing a service. But we also feel like we are doing a service to the people of the United States, just as the U.S. Forest Service is, sir.

Mr. RARICK. What do you estimate the value of the land to be today?

Mr. COLLINS. The land today, not talking about shoreline, and knowing that the timber is on there, I would say that the way they have managed it, they have done a good job, it is \$800 to \$900 an acre. I doubt if you could buy that type of land with timber on it today over there for that amount.

Mr. RARICK. You are referring just to the shoreline?

Mr. COLLINS. No. I am talking about the whole Sabine National Forest. We do not contend that we have enhanced the value of the entire national forest by the reservoir. I would hate to try to make that contention. But we do note what the cost or the value of that shoreline property is. Here again I refer you to the exhibit, where the Forest Service bought lands themselves at \$3,000 an acre, and then they bought quite a large sum—about 2,400 acres—at \$950 an acre. Now, a lot of this was what we call backlands, not on the shoreline. In fact, I doubt if there was over about 10 miles of shoreline involved in that 2,400 acres. But those were good lands that they purchased, and they needed them to round out their acquisition. But this does give a comparable sale, you might call it, of what the value of the property in that area is.

Mr. RARICK. Is there any way you can give an overall monetary value to the benefit to the Federal Government as an overall result of the project?

Mr. COLLINS. I think on the lands and siltation control, and the navigation benefits, the water supply and the enhancement to the water quality, the dredging as permitted, I would say it has been in the area of around \$30 million or \$40 million.

Mr. RARICK. That would be at this current time, or reasonably in this current time?

Mr. COLLINS. Yes, sir; I would think so, and of course, as Mr. Meek has reminded me, the creation of new businesses. These people do make money and pay income taxes, and the changing of the economy of that area has been a—and I do know that the Corps of Engineers projects do judge these particular benefits. And this would be increasing the recreation, too. That is another thing that benefits could be built up on.

Mr. RARICK. Excuse me just a moment.

[Pause.]

If you will bear with me, the vote now appears on the Agriculture and Consumer Protection Appropriation Act, which is our agricultural money bill, which earlier was deemed as inflationary and vetoed. I do feel that it is worthy of recessing the subcommittee so that I can go cast my peoples' vote *aye*. We will stand in recess, then, until further call of the Chair.

[A brief recess was taken.]

Mr. RARICK. The subcommittee will come to order, and Mr. Collins, I will ask Mr. Foley if he has any questions of you.

Mr. FOLEY. No, Mr. Chairman. I have no questions. I am sorry I was not here earlier. I did not have an opportunity to hear the other witnesses, but their statements are available.

Mr. Chairman, the hearing record, I think, will be more than adequate to explore the reasons behind the proposed legislation, and will be available. I think that at this point, it would be desirable to move the bill to the full committee for its consideration. I would like to state that I would like to reserve the opportunity in the full committee to give further consideration to it. I think it deserves an opportunity for the full committee to pass judgment upon it. And for those reasons, I move that this bill be reported.

Mr. RARICK. The Chair will recognize the gentleman from Washington for the purpose of making a motion, and the vote then comes on the motion from the gentleman of Washington that the subcommittee report the legislation, H.R. 15320, to the full committee, with the recommendation that it do pass.

There being no objection, it is so ordered. Would the clerk call the roll? As their names are called Members will answer aye, if they favor the motion; no, if they are opposed.

The CLERK. Mr. Foley?

Mr. FOLEY. Aye.

The CLERK. Mr. Vigorito?

[No response.]

The CLERK. Mr. Melcher?

Mr. RARICK. I have his proxy. Vote him aye.

The CLERK. Mr. Gunter?

Mr. RARICK. I have his proxy. Vote him aye.

The CLERK. Mr. Goodling?

[No response.]

The CLERK. Mr. Baker?

[No response.]

The CLERK. Mr. Thone?

Mr. RARICK. I have his proxy. Vote him aye.

The CLERK. Mr. Symms?

Mr. RARICK. I have his proxy. Vote him aye.

The CLERK. Mr. Rarick?

Mr. RARICK. Aye.

The CLERK. The vote is six ayes and no nays.

Mr. RARICK. There being six ayes, and no nays the motion carries. The subcommittee is adjourned.

[Whereupon, at 4:35 p.m., the subcommittee adjourned.]

[The following statement was submitted to the subcommittee:]

STATEMENT OF HON. WRIGHT PATMAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF TEXAS

Mr. PATMAN. Mr. Chairman, I am grateful that this Committee has scheduled hearings on H.R. 15320 to recognize the contributions made by the Sabine River Authority of Texas and the Sabine River Authority of Louisiana to the United States and to exempt these non-profit state agencies from annual use charges.

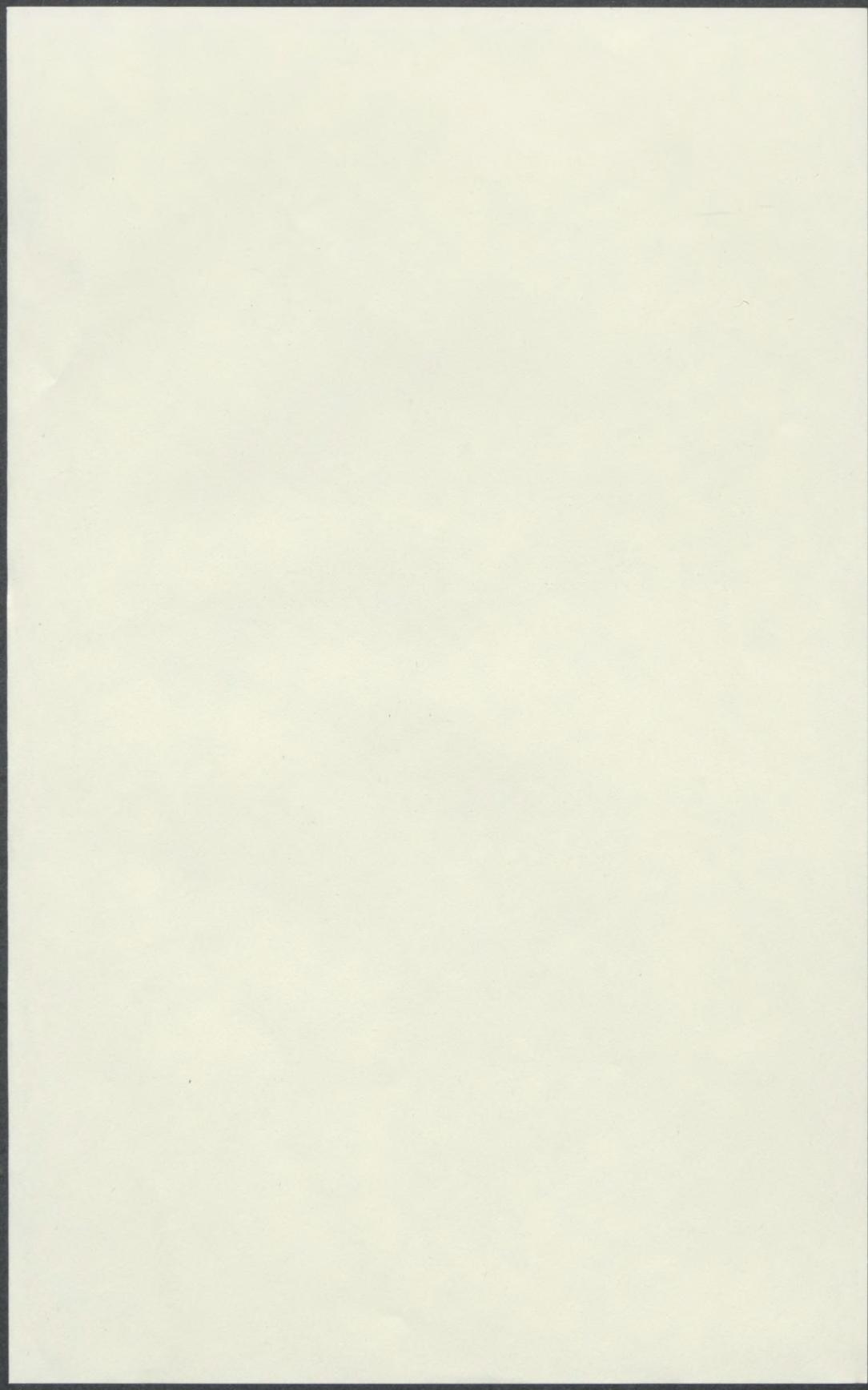
These two state agencies have provided outstanding leadership in the conservation and development of water resources in the Sabine River Basin. The massive Toledo Bend Reservoir has enormously benefitted the area and has substantially increased the value of property in the Sabine National Forest. And Toledo Bend, unlike most projects of comparable size, was not financed by the Federal government—the full \$70 million construction cost was paid by the States of Texas and Louisiana. The Sabine River Authority continues to operate this great facility and to work for development of other urgently needed flood control and water supply projects along the Sabine. The annual charges which we protest today would diminish the capacity of these non-profit state agencies to continue the important work that is so crucial to the future of the Gulf Southwest.

The statements made in support of H.R. 15320 amply document the inequity of these annual charges and I wholeheartedly endorse the testimony of Mr. Sam Collins, Assistant General Manager of the Sabine River Authority of Texas.

It makes no sense whatsoever to tax non-profit state agencies for activities that so directly and substantially benefit the Federal government and I hope this Committee will see that justice and good sense prevail in this case by approving H.R. 15320 or similar legislation.

Thank you.





THE UNITED STATES OF AMERICA

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.

OFFICE OF THE ASSISTANT
SECRETARY FOR LAND
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