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**EXTENDING THE AUTHORIZATION OF THE WATER  
RESOURCES COUNCIL  
AND  
EXPANDING THE STATE GRANT PROGRAM**

DOCUMENTS

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**HEARING**  
BEFORE THE  
**COMMITTEE ON WATER RESOURCES**  
OF THE  
**COMMITTEE ON**  
**ENVIRONMENT AND PUBLIC WORKS**  
**UNITED STATES SENATE**  
NINETY-SIXTH CONGRESS

FIRST SESSION

ON

**S. 480**

A BILL AMENDING THE WATER RESOURCES PLANNING  
ACT TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEARS  
1980 AND 1981

**S. 833**

A BILL AMENDING THE WATER RESOURCES PLANNING ACT  
OF 1965 TO IMPLEMENT STATE WATER MANAGEMENT AND  
CONSERVATION TECHNICAL ASSISTANCE PROGRAMS, AND  
FOR OTHER PURPOSES

APRIL 2, 1979

**SERIAL NO. 96-H8**

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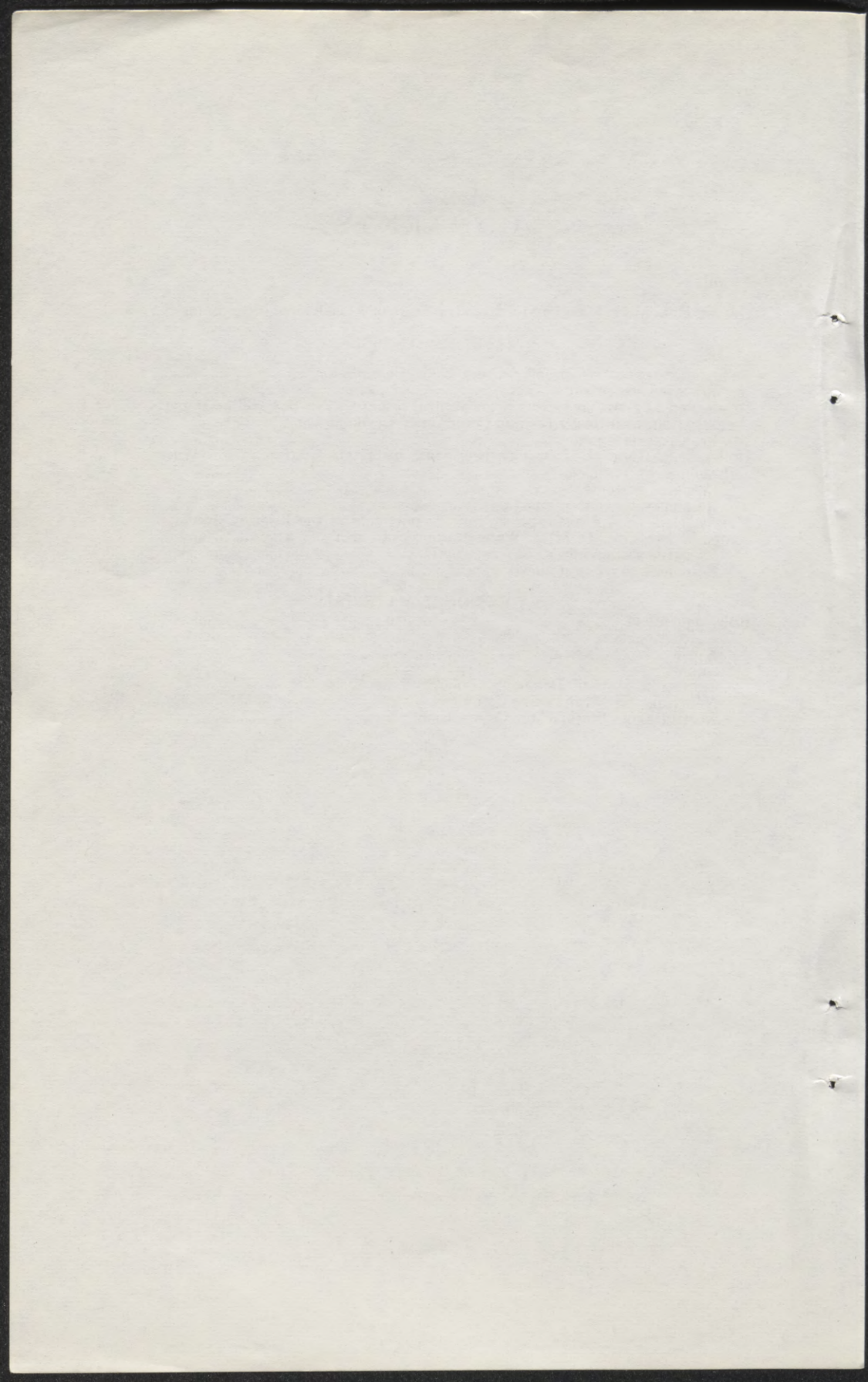
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# EXTENDING THE AUTHORIZATION OF THE WATER RESOURCES COUNCIL AND EXPAND- ING THE STATE GRANT PROGRAM

MONDAY, APRIL 2, 1979

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
SUBCOMMITTEE ON WATER RESOURCES,  
*Washington, D.C.*

The subcommittee met at 10:05 a.m., in room 4200, Dirksen Senate Office Building, Hon. Mike Gravel (chairman of the subcommittee) presiding.

Present: Senators Gravel, Domenici, Simpson, and Pressler.

## OPENING STATEMENT OF HON. MIKE GRAVEL, U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. This hearing will come to order.

This morning the Subcommittee on Water Resources will conduct a hearing to consider proposed legislation to extend the authorization of the Water Resources Council and expand the State grant program.

The administration has forwarded two proposals for amendment of the Water Resources Planning Act of 1965. The first proposes the extension of authorization for appropriations of the Water Resources Council's administrative and river basin functions. This proposal was introduced in the Senate by request as S. 480. It also includes provision for the independent review function established by executive order on January 4, 1979. The second proposal would expand the existing State grant program for water management from \$3 million annually to \$25 million annually, and would establish a \$25 million annual grant program to assist States in implementing water conservation technical assistance. These grant programs are to be on a 50/50 matching basis. This proposal was introduced in the Senate by request as S. 833.

Last year this committee reported out a 1-year extension of the Water Resources Council authorization. The House of Representatives did not extend the authorization. In conference we persuaded House conferees to extend the Council because the President had made it a focal point of his water policy implementation, and we believed that the Water Resources Council should be given the opportunity to perform its function as planned.

It is my understanding that the administration will forward additional legislation to restructure the Water Resources Council. I feel that restructuring of the Council is essential to its continued existence.

In January of this year, the administration proposed that the Water Resources Council, to include the independent review function, be transferred to a newly proposed Department of Natural Resources.

I would strongly oppose such a proposal.

I do not personally believe that an independent review can be conducted under the purview of any agency. If the administration is in fact serious about establishing an independent review of water projects, then it must be prepared to take the necessary steps to insure that such a review is free from agency pressure. An independent review under the chairmanship of any Department Secretary would be suspect.

This committee will consider various proposals and recommendations later in the 96th Congress to restructure the Water Resources Council in an attempt to make it function more in the manner it was initially intended to function. This restructuring will consider giving the Water Resources Council more teeth by making it independent from outside pressures.

Today, however, we are here to consider S. 480 and S. 833 for authorization in order to meet the May 15 budget deadline.

At this time, I would like to welcome the Assistant Secretary of the Interior, Guy Martin, a good friend, who is accompanied by Leo Eisel, Director of the Water Resources Council.

Guy, please proceed as you feel comfortable.

**STATEMENT OF HON. GUY MARTIN, ASSISTANT SECRETARY,  
DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY LEO  
EISEL, DIRECTOR, WATER RESOURCES COUNCIL**

Mr. MARTIN. Thank you, Mr. Chairman, very much. It is a pleasure to be here.

I would ask to submit my entire statement for the record, and just make brief summary remarks.

Senator GRAVEL. We would appreciate that.

[The statement referred to appears at p. 23.]

Mr. MARTIN. Mr. Chairman, first of all, thank you for your statement, and particularly for your support during the past year. I would want to acknowledge that you played and this committee played a strong role in seeing, during the period last year in which the Council was under serious challenge, that it was continued. That fact is recognized by the administration, and very much appreciated by me personally.

This is my third opportunity to appear before this committee. The first was virtually weeks after my appointment. The second was last year after I had a chance to work with the Council for about a year but not implement some of the changes that I and the administration felt necessary. At the time I appeared last year, there were three separate activities under way which had a great effect on the Council.

The first of those, as you noted in your opening statement, was formulation of the President's policy. The Council played a key role in the formulation of the policy itself. Second, we were underway with a series of administrative initiatives and regulatory initiatives that had a great deal to do with how well the Council worked. Those initiatives were designed to meet the criticism of the Council

that prevailed over the years, that it simply was not used by administrators, that it was a body not taken seriously and in fact didn't function on a regular basis. What we were doing at that time was making a priority effort to increase the level of attention given to it and to increase its responsibilities. Finally, the third thing that was going on was the reorganization proposal under study by the administration. Now each of these has come to a point where we can take stock of the results and make a final recommendation with regard to the future of the Council.

I might also note that during the intervening time since we met, one other event has occurred. That is that the Council was very much a factor in the President's decision with regard to the veto of last year's Public Works appropriation bill. One of the three or four major stated reasons was that it would have done away with funding for the Council. Now that we have these results, I think it is appropriate to report to this committee.

First, Mr. Chairman, the President has decided with regard to both his water policy and reorganization. In doing so he has decided, as noted in your opening statement, in one regard in agreement with you and another in disagreement. He has agreed with you that water, and particularly the Water Resources Council, ought not to be reorganized into a new Department of Natural Resources. He chose instead to sponsor an approach which sees that the Council itself is given a chance to carry out his initiatives under the water policy and to follow out those initiatives in its present form rather than throwing it into a reorganization at the present time. He has also decided that the Council shall continue to be chaired by the Secretary of the Interior, or if reorganization occurs, by the Secretary of Natural Resources.

In summary, he supports very strongly the authorization of the Council's program for an additional 2 years—1980 and 1981.

Mr. Chairman, individuals have suggested on various sides of this issue either that the Council should be reorganized into a new Department of Natural Resources and given substantially stronger powers, or that, to the contrary, it should not continue its activities and have those activities carried out in some other way. I think the President has undertaken a challenge, choosing not to throw it into a reorganization controversy and proposal at this time, but at the same time giving it an important and growing role in terms of his water policy. Since we met last year, there are several things that have happened on issues that we have discussed that I think are important. They raise very strongly the President's commitment to make the Council an increasingly strong and responsible body in terms of water resources.

First, he has proposed through legislation, as you have cited in your statement, to significantly expand and increase the assistance that the Council gives to States and through those States to local governments with regard to water resource planning and water conservation. A bill is before you which would expand the present State planning grant program from \$3 to \$25 billion, and would create a new program in technical assistance to States for water conservation. Those programs we think would be of great benefit, and it is a signal of the President's faith in the Council that he has assigned the Council the lead role in carrying them out.

Second, the President has assigned the Council new coordinating responsibilities. Primarily, he has assigned the work to revise the principles and standards on water conservation and, nonstructural alternatives to the WRC. These are important elements in the planning process, and include publication of planning procedures to see that the many diverse water agencies apply as uniformly a procedure as possible to water planning. Giving the Council that responsibility is something that shows the President's growing sense of confidence in the Council and his desire to give it increased responsibility.

Finally, he has assigned, as you noted, the responsibility for carrying out the independent project review to the Council. That review, which has been recommended in one form or another by everybody looking at water policy over the years, represents a key item in attempting to bring a review on the technical compliance of water projects into the process of decisionmaking. As I pointed out in previous hearings, thus far the President and the White House have relied on OMB to conduct reviews of projects before they are moved forward to the Congress. That review has never been defined and has been a point of frustration to project sponsors and agencies. What the President proposes is to formulate a procedure by which that review is done in one place and results are forwarded to the President for his decisionmaking on the project.

I appreciate very much your statement that this must be independent in order to be credible, and thus must propose a new structure for the Water Resources Council. The administration respectfully disagrees, and I think some of the disagreement may be in terms of understanding the independent project review itself. This review is a technical review for compliance under principles and standards for proper calculation of cost-benefit analysis and for compliance with the President's criteria for water project funding. It is not a policy review or review which is intended to second-guess the construction agency in their advocacy of projects. In fact, once the review is completed, a project agency may make the choice to ignore it and continue to advocate the project to the President. Rather than create a new White House agency, the President prefers to have the Council chaired by that Secretary in the Cabinet which he believes should have the lead on water policy. He wishes to prevent the growth of the White House bureaucracy, and I think he is demonstrating that here.

Mr. Chairman, in the continuation of my testimony I list, but will not detail here, a number of items which the Council has accomplished over the past year in addition to those responsibilities assigned by the President in water policy. I think it is important that the committee recognize the work done by the Council on the National Assessment, which is a fine piece of work detailing as much as possible on a national basis the various water problems that we face. I suspect, this work, a summary of which I would like to have entered in the record, which actually consists of several volumes, is a reference that will serve us well over the years until it is revised again by the Council in future years.

The Council has also adopted a consistency standard which requires that the work of regional planning groups be given a substantially higher level of respect. In Federal water project decisions

carried out under Executive Order 11988 on flood plain management, agencies are responding with floodplain management plans and in many ways carrying out the role intended by Congress.

WRC has also sponsored and cooperated with many of the regional and State and local groups doing water planning, and there is in the testimony a list of accomplishments by State and local entities which I think are important and which could not have been done easily or expeditiously without the assistance of the Council.

Mr. Chairman, let me conclude, and say in conclusion that it seems to me we have genuinely tried to carry out what I promised you initially and last year. That is to make the Council into a substantially more meaningful part of the Federal water policy establishment. It has taken on a much greater role. Its opinions are taken substantially into consideration by the President and decisionmakers in the Government. I think with your continued support it has a bright future in helping us deal with water resources.

Thank you very much.

Senator GRAVEL. Thank you, Mr. Martin.

I know you made the statement this review is a technical review, but I think it is not unknown to all of us that technical data many times are used to press various points. Where do we get this independence that is going to be in existence here?

Mr. MARTIN. Mr. Chairman, I think, frankly, we have to get final decisions from the President and from the Congress. We looked long and hard, as other water study commissions have looked long and hard, at the problems of attempting to have an independent project review. In the final analysis, no matter how you slice it, the decision on funding water projects has to be a combination between the President's budget recommendations, which are not only judgments of policy and substance but how much the budget can permit, and the Congress, which has to make the same decisions. They carry out technical, substantive and political decisions. Trying to create an agency which in a broad sense certifies projects as good or bad is something that has to be done with the utmost care. Our intent in this is to create a body that can stand outside of the construction agency, look at the computations and compliance with technical planning standards and then make a public record of what it finds. If there is to be balance and independence, it has to come from public exposure, the President and his recommendation to Congress, and from people like yourself in the Congress.

Senator GRAVEL. I think, though, that we would have to come away with sort of an overall view that we are just adding another layer of the review process when we come down and answer any question and say the final objectivity is going to rest with the Congress and President. I know and you know the President is not going to have that much time to focus individually on the projects; it is going to be structured into it. Congress simply is going to have its political factors forced upon it by constituencies. Unless you find another way where we can cut back, all we have done is taken another body of human beings and put them into the chain of the approval process. So we haven't added a degree of objectivity. We have added more people that must be instructed and educated on the projects, and added their voice to the approval process.

Mr. MARTIN. I have two comments on that.

First, I think there may still exist some misunderstanding of what is likely to come out of the review. This review is not going to deliver a priority ranking, nor a maximum number of projects that can be advanced for budget recommendation by the President. I think that we both know that there are far more projects which meet planning requirements, which correctly compute the cost-benefit analysis and have a good cost-benefit analysis and which meet the present criteria than we have ability as a Nation to fund. I expect the independent project review—in fact I know the independent project review will not either rank those, nor will it limit the number it approves according to some set budget number. It will probably approve and pass more projects than either the President will recommend or in good conscience put in the budget in 1 year. So there is not going to be an intent on the part of this review to limit and to rank the projects. That will have to be done as the President makes his budget decisions. Contrary to what you said, I assure you in the past 2 years the President has spent the time to personally look at and make these decisions.

Second, in terms of duplication—that is, the idea it creates something new and duplicative as opposed to replacing old functions—I would like to submit for the record a summary of the independent project review which I insisted upon being formulated by OMB in cooperation with the White House and WRC. What it does is set out very clearly that the functions that the independent project review does will not only not be duplicated, but will be removed from the work done by OMB. In fact, we contemplate some of those people working on that will either have to be delegated or work with the Water Resources Council. So we are not proposing this work be duplicated, and with the independent review function, that that same function will stop in OMB. OMB will still have to carry out their role for the President of advising him on the overall budget. I think there is no way we can avoid that. But they will stop doing the work on the adherence to good planning principles, the cost-benefit analysis and other functions that would be purely duplicative. I can give you that assurance.

Senator GRAVEL. I think I and others would want more than assurance. If you are talking about the work of the Corps of Engineers, and you are going to review their work from a technical point of view, that is what their job is. If you are talking about reviewing the work within the corps with respect to cost-benefit ratio, that is what their work is. If they are not coming up with proper cost-benefit ratios, somebody ought to be fired. To say you are going to reach down to the bowels of these organizations and cut out Charlie who is the supervisor of Andy, who has just worked up some computations, I doubt you are ferreting those people out, because they will have a job description which will go much beyond their review function to the primary performance of the task.

Mr. MARTIN. Mr. Chairman, I did not mean to imply that the people that would be cut out would be people in the bureaucracy of the construction agency. Those people certainly would continue, and it would continue to be their primary job to put projects together. The duplicative work would be the independent review function in WRC and the work done to review projects in OMB. There would not be a second cycle of review by OMB.

Many persons in the past have accused the OMB review as being "black box," with approved or disapproved based on some dimly perceived standard.

The difference between that and what we propose is bringing the process into the open. The short advisory review of projects advanced by the construction agency, would be done within 60 days and in no event would it take more than 90 days. The purpose of replacing the work done by OMB is to put it on the stand publicly.

I might point out this is not intended to be a veto over projects. It is simply intended to be a review which puts items on the record, which the agencies are free to disagree with, or if they choose, to appeal to the President if they feel the independent project review has not correctly reflected what they intended or has not been a proper review.

Senator GRAVEL. Look at the structure you are creating now. You are telling us it will take only 60 days. There are some funding problems, so we don't know when that is going to be. Two, if they do raise some points of criticism, then this will have to go back for review. The brouhaha occasioned by what could be independent objectivity or biased reporting could occasion a year or more delay. What defense do we have of that when now it takes 15 to 20 years to get a project going?

Mr. MARTIN. First, Mr. Chairman, I assume that you would be as interested as we are in seeing that a project that is badly planned or for which there are known errors in cost and benefit ought not to be advanced in the process. We don't think that this in itself is an injurious result. We don't think the controversy from having it identified would be any less regardless of who does it.

What we propose to do is not to guarantee that a project be sent back in every circumstance, but to leave the construction agency in each case free to decide whether or not the problems that are pointed out by the review are something that should be appealed from or something that should be remedied. What we have done is to provide an open and accountable framework for doing that, rather than what happens now, which is to have projects lost in OMB without any clear indication of why they are disapproving them or not moving them forward. We think it is a proposal that can move these forward. As you know, there have been projects sent to the President not completed in 60 days, but longer.

Senator GRAVEL. But there is still nothing stopping OMB from black boxing us on projects after that.

Mr. MARTIN. I doubt whether we can fully prevent that in all cases. Think of the difference in leverage, however, if we have a project which has demonstrably and openly been reviewed by the independent project review, in which there has been an open acknowledgment the cost-benefit ratio has correctly been calculated, that the planning process has been positive. At that point, imagine how difficult it would be as a publically credible matter for OMB to black box it.

Senator GRAVEL. Every step of the process, from the very beginning when the Corps hold public meetings, has input. And you are telling me that we need an agency like this, or a group like this, to go ahead and ascertain the accuracy of the arithmetic in question. I think it is a waste. I think I could have pursued it if you came

forward with so many slot cuts in the Corps area, so many slot cuts at OMB where these people presently do the review function. But you now want to put it at a higher level. Because if they are performing this review and you want to pull to some central point, fine, but show us where you are specifically going to cut. Because we know the law of bureaucracy around here. People aren't just going to disappear. We are going to have another layer and another time element.

Mr. MARTIN. Mr. Chairman, I think we can probably show some gains in OMB, but we wouldn't want to show any in the construction agency because we wouldn't want WRC to do the job they do. What we would like to do is to try to supplant some of those jobs now done at OMB. One of the reasons the process takes so much time is it is loaded on people already doing other jobs.

Senator GRAVEL. I tell you from my personal experience with the Secretary of the Interior, that getting black boxed by OMB or getting black boxed by Interior is not going to be very much different. So I must say that his department has very little credibility with respect to my observation. So if you are talking about an agency that is going to be independent of the Secretary of the Interior, then I think you might fall under receptive ears. But when you talk about an agency, which in my mind has been prosecuting one particular point of view since its very existence, and I think not particularly fairly and I think in some cases with an abuse of power, then I must say I have no credibility to share with the Secretary that you are now asking me to set up an agency and telling me it is going to be independent when he has expressed through empirical action no independence at all. He has got a particular point of view. I think it would be a detriment to projects, used as a device. That may not be your personal view. I think that would be the outcome, unless we were guaranteed there was a cut-back in areas that are presently performing review that must be inadequate. So if they are doing an inadequate review, let's fire those people and hire these other people you are suggesting.

Mr. MARTIN. Mr. Chairman, the review that is done, again, is not a policy review. Notwithstanding your personal feelings about the Secretary, I do not think there is any track record of bias in terms of the Secretary's actions as chairman of that Council. If there are, I would have to bear that responsibility personally.

Senator GRAVEL. Let me tell you about a project in Alaska, a dam project, which is only in phase one. We want to collect the necessary information to ascertain the voracity of the project. It has been black boxed by OMB. The Secretary himself has put this in the wild and scenic river area. It hasn't prevailed in the Congress. On a couple of occasions I know he has made an outright effort to see there be no dam built on it. That is the person who is going to be in command of an independent review board. My God, he doesn't even want to see the information collected so he can make a review.

Mr. MARTIN. Mr. Chairman, that is not accurate. I have simply done nothing to foreclose gathering information on that area.

Senator GRAVEL. I didn't say you did. I am saying the Secretary.

Mr. MARTIN. I don't think he has.

Senator GRAVEL. Wait a minute. The Secretary in legislation proposed to the Congress was the Tonsina River be made a wild and scenic river. Is that inaccurate?

Mr. MARTIN. Yes, but I can't understand that it is invalid to put that before the Congress, and it is being done at the same time we are not opposing further gathering of information. The issue is a difficult one, but it is put up in the context of two objective-(d)(2) and project planning. There is no effort on the part of the Department to prevent the gathering of information. If the Congress refuses to make it a wild and scenic river, I assume we gather information, and proceed on.

Senator GRAVEL. You wouldn't interpret that as a basis where he had powers in other areas that he might use the power to thwart that effort.

Mr. MARTIN. I know you have disagreement with the Secretary on that, to put areas in Alaska under protective systems. If Congress decides to suspend action on (d)(2) there is no reason to not go ahead on susitna. His proposal for a wild and scenic river is not accompanied by any restriction on funding on the investigation. It is the kind of choice that Congress really has to make.

Senator GRAVEL. Since the first of last year and before that, he has made executive actions totaling over a hundred million acres without the advice of Congress, and he usurped a great deal of power in the process. That is the individual that you want to have me believe is going to be objective as the supreme new authority in this. I don't want to beat a dead horse. What I would like to do is submit to you some additional questions for written response.

Mr. MARTIN. I get the feeling you want this debate to end as quickly as possible. I agree.

Senator GRAVEL. Senator Domenici, do you have questions?

Senator DOMENICI. Yes, Mr. Chairman.

Let me ask if my two colleagues on this side are going to be able to stay for any length of time.

Senator PRESSLER. I cannot stay for more than 5 minutes, but I will submit written questions.

Senator DOMENICI. Why don't you ask some questions.

Senator PRESSLER. The preamble of the State planning grant program talks about the nationwide emphasis on conservation. But from a South Dakota point of view, our idea of conservation seems to be different that what is usually thought in Washington or thought by national groups. We think of conservation as a development in soil and water conservation use. Since the grants to the States are justified in recognition of increasing need of conservation of water, does conservation mean use less, as it seems to be in Washington, or is it broad enough to include the concept of storage, which would be a western or South Dakota wording? What is the WRC's definition of water conservation?

Mr. MARTIN. Senator, I think that the definition of conservation is something that can never be pinned down with great specificity. It is clear to me there are common definitions accepted that have existed for decades that regard conservation, up to and including the building of dams and storage facilities and saving water from running to the sea. That is an acceptable and permissible use of the term.

When the President adopted his policy and subsequently directed the WRC, he made it clear that the emphasis he wanted was on conservation, and the definition he wanted adopted for purposes of his policy was one which related to reduction of use, reduction of demand and subsequent efficiency of use. That may or may not capture the whole field from the standpoint of any region of the country, however, it doesn't seem to us that it impairs any water storage programs. They are going on. A large percent of what the Bureau of Reclamation is basically dedicated to is diversion or water or storage of water in projects.

In terms of the emphasis the President wants to place in the policy is an attempt to find ways to reduce demand and find more efficient uses of water. It is not an all or none choice.

Senator PRESSLER. I guess I am concerned if we pass this, it would set up this counsel and this broader group, that they, in essence, might have approval of State water planning. They basically have a veto power, I suppose, in one form or another. There seems to be a growing difference between what people in the western coalition of Senators think regarding the whole concept of water conservation. It would seem to me we would be essentially giving up the decisionmaking authority to a Washington-based group, wouldn't we?

Mr. MARTIN. First, Senator, let me say nothing of that type is intended, and if we can work with you to make sure it is not, I will be pleased to. No veto power is intended and none is sought.

What we have done here, and which is the predominant place of your concern, is the creation of a \$25 million program for technical assistance in water conservation. That is accompanied by \$25 million in water planning.

In the program on water conservation, it would be the President's desire to use that money, as I stated, for technical assistance related to demand of reduction and efficiency of use. That would be in addition to the multimillion dollar programs not only in the planning program for States, but also the entire planning programs of the Bureau of Reclamation, which direct themselves to all aspects of water development, including storage.

So while in that one program we are after reduction of demand and efficiency of use, virtually the entire rest of the water program is dedicated to the other objectives of water resource management, including storage.

Senator GRAVEL. Would the Senator yield on that?

Senator PRESSLER. Certainly.

Senator GRAVEL. Supposing there are three States involved in the planning process for a specific area of water, and one of the States does not come up with its matching 50-50. What would happen to the total planning capability of the other two States and the Federal Government?

Mr. MARTIN. Any State that would not meet—it is the same as in any matching program—any State that would not make a match even where they are a vital part of an interstate program, would lose at least that Federal share. It seems to me, though, that those instances are relatively infrequent, and when it does happen, we try to compensate for it by additional Federal assistance.

Senator GRAVEL. You are saying that I don't have to put in my 50?

Mr. MARTIN. No; you would under this program.

Senator GRAVEL. Right, so the point I am making is if there are three States, Senator Pressler's State and two others, side by side who were to do the planning for a total area, then if one of the States did not want to match because the benefits were minor, you couldn't enter in the planning process for this area of water?

Mr. MARTIN. I am not sure if your question is directed to the matching requirement or not.

Senator GRAVEL. No, I am trying to find out if these are devices to to stop the planning project.

Mr. MARTIN. No, sir, none is. First of all, if the benefits in one State are slight, then I would assume their role in the planning would be commensurately small. It would be true they would lose those funds. I don't see any reasons why the States with the greater interest could not carry on, or the alternative, if it were important, that the Federal Government wouldn't carry it itself. We think this program really offers some benefits to the States, particularly those interested in planning.

Senator GRAVEL. I shouldn't say nefarious purpose, but I have known the Federal Government to say here we are to help. I yield.

Senator PRESSLER. Thank you, and I thank my colleagues for yielding to me in advance.

Senator DOMENICI. You are most welcome. We are glad that you are on the committee and delighted to have you here today.

Let me say I have a number of specific questions. If I don't get through them, Mr. Secretary, I will submit them for the record.

I have got to tell you I am more than a little concerned about the two new \$25 million programs. I was one who over the last couple of years began to see the demise of the Council, and I didn't think that was a good thing. As you well know, I said they ought to be doing more. Let me tell you where I think you are, and you address it for me.

First, I think from your standpoint as Administrator, you would want a loosely drawn statute and those two programs subject to loose interpretation or being flexible. From my standpoint, I see grave risk in that. As I see the Nation's water problems, I think they have been properly assessed by and in the President's statement when he indicated that we have a \$10 billion a year water resource program, but no focal point, and with many Federal agencies doing different things, using different standards, all of which I tend to agree with.

I wonder if we are talking about this Council, which has an appropriate sounding name, like it ought to really have something to say about national policy, yet it hasn't in the past, as you well know to any real extent, and we are saying just as a matter of gathering up information, we would like it to have two new programs to help the States—one for water planning purposes and one for water conservation. That is where we are.

But it seems to me, Guy, that we could end up using this little program as a mechanism to assess the shortcomings of the Federal law, and then the executive branch could, in turn, use these findings to hatchet substantive Federal programs that we can't get

changed up here. I don't want to see it used for that, because I think that would be the end of it. I think a little group with some really good potential might be placed in a posture under this proposal of making assessments of ongoing water projects and programs in this country in a kind of a hatchet posture, where they come back with them, and that would permit this President, or any President, to say that this Federal program is no good, this one is no good. Don't misunderstand, we may have to get to that point some day. But it seems to me we ought to do it by changing substantive law and not using a carrot that sounds like something good and expect the States to cooperate in the demise of programs. I don't think it will work. I think before we are through looking at it, that is the kind of pressure we are going to get.

What does water conservation mean? What if we don't have the same idea of it as the Feds do? Will we get it? Might they assess our State as having less than a good conservation program and do other things to us all under the guise of some bill that is generally written, such as this one?

I don't know that what I have said is. Just study it while I am concerned about it.

Let me just close with one thing that really bothers me about water policy, and you have talked with us about it. I note we have a \$2 billion project to make Dallas a seaport. I don't mean you. But that is hanging around, been thought about, engineering work being done. Six States are part of an under ground water aquifer. Not just New Mexico, but Oklahoma, Nebraska, Colorado, and the Texas Panhandle. The area produces 40 to 50 percent of the cattle; it is the Nation's breakbasket, and that aquifer is going dry. Everybody knows it. The water experts will sit up here and tell us that in 25 years it will be gone. We are going to build to make Dallas a seaport, but for a little \$600,000 EDA study, water policy hasn't addressed the Ogallah. With those kinds of situations, it just appears to me that this is either another one to put all these down on paper, or it is going to be expected to do far more than it ever could.

I will stop and let you talk a little bit.

Mr. MARTIN. You made a lot of points. Let me take the last one first.

We sincerely intend these grant programs not to be threatening, but helpful. The President recognized from the very early part of the policy something that must be obvious to you, which is, the States have very diverse capabilities with regard to water resources planning. Some, and particularly some of those in the West, are extraordinarily gifted and well established, some are not. I think back on my role as Commissioner of Resources in Alaska. When I first came there, we had almost no capability in the water planning area. It was an area that hadn't been important. The President wanted to address this diverse capability. Similarly, he did want to make conservation a key element of the policy and with the emphasis I set out. Both of these programs are intended to address that, and they are not intended as a threat.

With regard to the Ogallah, when you hold it up along side ambitious projects that have growth potential, we would hope that could be the kind of interstate study that could be done. If I can do

it either in terms of Federal leadership or providing grant funds and matching funds, I would like to do it. But the fact is many of the states may not have the capability to do this without the kind of assistance we offer. I don't see any reason it couldn't be done under this program.

Senator DOMENICI. I didn't raise the issue—and I say this in all sincerity, and knowing you are sincere—to get any commitment on Ogallah. But it is probably going to be done. All I am saying is it is incredible to me with a water policy entity around of a national nature that it did not surface until someone surfaced it in a committee over here as something we ought to do as a nation to evaluate and look at it. It was just kind of glossed over while we were doing some of these things that I have just described.

Now the reason for all this is that one of the things we find to be wrong with the national water policy, to wit, personal involvement by Senators and Congressmen in getting projects started, because they are running for office or they are needed by a constituency, and we add that up over the years and we know that is obviously a bad water policy, and it is no question.

On the other hand, some of these things are brought to the congressional level only because of that kind of activity. There is no question about that in my mind if we waited around the national government wouldn't do some of them that elected representatives force upon us. So I don't know wherein the balance lies there.

But let me get back to your point here. Tell me again with reference to what happens. We have some words in here, "protection of management of instream values." The Council may approve the State water management plan, and the plan must involve protection in management of instream values. What does that mean?

Mr. MARTIN. Let me ask Dr. Eisel to talk about that.

Dr. EISEL. I believe the key word there is "may." And the general idea is coming out of the President's water policy, that one of the areas that was discussed was what to do about instream flows, which is a very critical area, and yet what could the Federal Government do without really getting into State water laws, which is something we did not want to do. The idea was simply to bring out here that the opportunity did exist for States using this Federal money to look at various ways that they could study to solve a few of their instream flow problems.

Mr. MARTIN. Senator, it is not intended to create a veto of a State plan. If you want that clarified, we would be glad to do so. The President tried to walk a delicate line with regard to instream flows, with some people insisting we ought, because of the nature of the problem, to dictate something from the Federal perspective. He wanted to build into all Federal programs a maximum amount of emphasis to regions to account for regional stream flows at the time they build new projects.

Senator DOMENICI. But the problem we have is a may must—you may approve the plan, but it must include. That is the way I read it.

Mr. MARTIN. I will be glad to look at that, Senator. If the fear is it tends to create a new burden which can veto a plan for that region, it is not intended to do that.

Senator SIMPSON. Mr. Martin, it is good to see you again, I remember our good visit in December, and I sense a sincere effort on your part to resolve problems that you and I have discussed, and I appreciate that.

As I understand it, there are 19 separate task forces or review groups with specific assignment under the President's water policy implementation program. Would you inform us on the subcommittee how many legislative proposals and in what areas are likely to result from this study?

Mr. MARTIN. Yes, sir. There are several. The first is that cost-sharing proposal for a cost-sharing of Federal projects, which is not yet up, I expect it to be up within the next week to 10 days. The second is a request for reprogramming which will enable the independent project review function to start up on time. That request has been before both the House and Senate Appropriations Committee according to the ordinary process. It has been approved in the Senate and is pending approval in the House.

There are two grant programs that are before this committee today—the water planning grant and technical assistance for water conservation program. There is a proposal, which has not yet been put in form, which has to do with the conservation pricing of water. It is a local-State option. It is not expected to be up here for many weeks. There is also the overall proposal for the WRC that is before this committee today.

There may be others, but I think those are the main ones.

Senator SIMPSON. Which of those proposals do you feel that the administration is placing in highest priority?

Mr. MARTIN. I don't think I could single any one out. I think that we place a high priority on the cost-sharing proposal, the continuation of the WRC and the grant programs that are before this committee and the institution of the independent project review. They are pretty much all an emphasis of the policy.

Senator SIMPSON. Does this administration, in your opinion, intend to review nonlegislative proposals with the Congress to determine their support before they are implemented?

Mr. MARTIN. Sir, last year this question came up, and my direction is that we would review to the maximum extent possible through consultation with Congress. I believe we have been trying to do that. The President gave us directions and a timetable for completing those functions, and some of those are moving forward. But for the most part, we are trying to do as much consultation as possible.

I might also note you and some of the others on this committee were signatories on the Congressional Record statement, which I read with great interest, which urged us to do more consultation, and gave credit for increasing our activities in that regard.

Senator SIMPSON. I think one of the things that really concerns me, and I don't want to lapse into the philosophical, but I could easily where we are talking about water. I am reminded of a Churchill statement: "Never have so many done so little on an issue so important." We find in the Western States, especially Wyoming, South Dakota, New Mexico I am sure, that we have these various groups all formed to do something about water—to

talk about it, to churn it around, to protect it, to use it to go to beneficial use, to use it or loose it, and on and on it does.

We have in our own State many overlapping agencies, all of them with a great apparent sincerity to do something about water, either its conservation or whatever aspect of it is apparent. And yet I see now we are coming to that same arena on the Federal level, which to me is appalling, because if we can't control the various agencies that are looking into water on the State level, we are surely not going to get it done on the national level.

I sense this whole thing as I look at water policy implementation, and 19 task forces and lead agencies and lead individuals and some of the scope of those 19, that I have a very serious reservation about continuing to give anything further either in the way of grants—especially a \$25 million caper and then another \$25 million caper added on to that. I see a Federal intrusion coming into the State on water from the January 18, 1979, proposal. That is my feeling.

I would like to hear your views about those possible philosophical issues.

Mr. MARTIN. Senator, thank you. I know from talking to you about this that our dialog has been good.

First, let me address the issue that is most important in your statement, and that is this issue of Federal intrusion. With all due respect, I think that the one thing that the President did do in his policy, and very carefully, was to do all he could to avoid intrusion.

In the area of State water rights, groundwater, instream flow and others, we tried assiduously to try to come up with a program that gave States assistance but which left their prerogatives untouched. I suggest we have done that, and I would be willing to spend any amount of detailed time talking through that. The key State spokesmen in that regard, who had objected to intrusion, said to us publicly after the articulation of the policy, that he didn't see intrusion. Governor Matheson of Utah and other Governors didn't register that as a problem with the policy.

Now, with regard to the intent of the policy in terms of whether or not these programs are intended to help or hurt, I can only tell you that \$25 million, although we tend at the Federal level to be somewhat cavalier with regard to large sums, is a miniscule amount compared to the amount of problems and the magnitude of the issues the States face. When you think of this amount being divided up among 50 States, we think it is a modest program indeed to begin to give the States some assistance. Because it is a matching program—and we argued strongly that it be a matching program—it asks the State to make a commitment to water resource planning at the same time. One of the strongest lessons we found in the water policy review was that the capability of the States to deal with water resource problems varied widely. While we may be giving \$500,000 to the State—take California, for instance, which has tremendous capacity in water resource planning, other States may be just almost destitute in terms of willingness of their legislature, the ability of their political climate to enable this kind of planning. We think it is a positive step forward.

I guess when you look at the balance between the State and Federal Government, we think the only way the States are going to

come to balance is to give them additional capability. If that grant bill is overreaching, then we are going to work with you to narrow it down and make the rules more precise. We didn't intend to make the bill too restrictive, because we think a certain amount of flexibility does make sense.

Senator DOMENICI. Mr. Chairman, I am going to have to leave, but Senator Simpson has indicated he will remain for the balance of the hearing.

I just want to give you kind of a simple problem I see in my State and ask you if we are singular, or is this kind of symptomatic of the Nation. I am going to give you a fact situation, then expand to add one other subject and you will get the idea of what I have in mind.

Since I have been a Senator, just in the area of flood protection in a little State like New Mexico, when I came into office, I put somebody on the staff that is supposed to be on top of flood and water problems in my State. So they checked around with the water engineers in the various Federal agencies and they came up with a list. We have about six flood protection projects going, a couple under construction, and a couple have been on the books for 18 years, one or two have just been passed, and we are starting to study them. Then I go out to my State to meet the constituents, and three of the first seven small towns I go to, what the county commissioners want to talk about is flood protection. I am saying, well, I thought we had everything kind of moving along with these eight projects, what about yourselves? And they tell us about a new flood situation and give us a history of this small town and said that 25 years ago it got half wiped away, and I write down those towns. Four months later I go through on another tour and I hit another town and they want to know where its flood protection is, because the corps and Bureau are supposed to do this. So I find another one and I bring that back.

The upshot of when I go and try to look, my State has no flood protection plan, has not even made a flood protection assessment, but rather, certain Senators and Congressmen have plugged in these projects at times in history. One incident began as \$22 million and now is \$160 million, 11 years later, and we haven't turned the first shovel; 404 is the latest culprit because Fish and Wildlife hadn't approved it. So now they are looking at that because the law says they have to. That is what I found on flood protection.

Then I ask about water for municipal, industrial, and people use, and I find—as refined as New Mexico's water engineer is—we don't have a statewide water assessment of potable water demands and industrial demands versus availability. We don't have such a thing.

Let me just ask you, wouldn't it be a good, and perhaps appropriate, role for the Federal Government to set in motion a matching grant program and say to each State: Do this assessment with Federal experts; take a couple of years and put down a list of all the flood protection you need; come up with a water assessment program; don't decide what it should be, just assess it; then come back and decide what is the Federal role and what is the State role.

Have I found a problem or is it only unique to New Mexico?

Mr. MARTIN. No, sir. I would say your problem is shared nationwide. I would say it is one of the most common water resource problems along with supply, either quality or quantity. I would only say to you this is the exact sort of purpose we intend to be served by the grant program. We have not got so far as you have gone in terms of dictating that it be used for flood planning. We think that is a decision that ought to be made by the people at the State or local government level. If they say they want to match for new water supply exploration or flood protection planning, we will respond to that. There is nothing in the bill that would prevent us from making the match on that basis.

The key word, and I believe it was suggested by someone from the Department—this planning money, which is just an expansion of the present program—is “glue” money; it is gluing together the various solutions to these problems, particularly flood plain problems. As you know very well, the immediate solution is always to build an upstream dam, where in many cases the better solution is a combination of things which involve maybe storage, or a dam, but also land-use planning or something. But to find the money to put that plan together is exactly the key.

If you want to expand that to have a mandatory Federal program and report to somebody, I would think it would be possible. We didn't think we should dictate the program to that extent.

Senator DOMENICI. How about setting priorities; don't you think that is a problem that we haven't addressed?

Mr. MARTIN. We found during the water policy review, in spite of the fact there would be common denominator problems, like quality of water, floodplain, and so on, that the problems themselves were so diverse that by attempting to set rigid priorities, you almost always leave somebody's State interest out. So we left it somewhat broad. There may be things you would want to exclude from a program so you have a class of priorities.

Senator DOMENICI. What I meant was, aren't States capable of setting priorities, and they haven't, and should we encourage that?

Mr. MARTIN. We would encourage that, and that is exactly what is in the consistency policy that WRC adopted that bound Federal programs to the work done through regional planning in the absence of a State public reason to the contrary. We have to respect that planning.

Senator DOMENICI. Thank you very much.

Senator GRAVEL. Senator Simpson.

Senator SIMPSON. Thank you, Mr. Chairman.

To get more specific, Guy, with regard to what I recognize has been defanged a bit, and that is the issue of Federal intrusion, but to come back to two areas which are very important in at least some Western States, and that is continuing in the water policy implementation list two interesting items ongoing—Federal reserve water rights and Indian reserve water rights. Those two specific issues, if carried to their most grotesque and horror story ending, could effectively knock the appropriated water rights, the doctrine of prior appropriation, in the Western States simply because of the dates of treaties, the dates of establishment of national parks for us. You and I have discussed that.

What legislation is beginning to form from the present hearing and discussions you are having with regard to those two issues?

Mr. MARTIN. Senator, there is no legislation intended. Let me describe our approach to those, because they are obviously sensitive, as you suggest. Contrary to being defensive about it, I am quite proud of how the policy handled Federal reserve water rights. The issue has always been a fear on the part of the Western States and water systems of Western States that there would be, at some time in the future, a huge and unrelenting assertion of Federal water rights which would cause a legal or legislative confrontation and at the minimum just completely disorient the entire system. That fear has been fueled to a large extent in the past by individuals in the Department of Justice who have taken the line of advising people throughout the history of this problem that the Federal Government ought to make the maximum possible assertion of its rights. And, because you are a lawyer, you know that means throwing in everything but the kitchen sink in terms of what you claim.

The President made what I think is a very significant decision in promulgating his policy to direct that we would attempt to resolve that problem by negotiation rather than by legal confrontation. If you read the policy carefully, he specifically used the words, something to the effect of "make the assertion of Federal rights reasonable, rather than all potential rights." What that is is a directive to the Department of Justice to treat this problem not as an ultimate legal case, but one over reasonable parameters of negotiation.

What we are doing is beginning that effort by going through a systematic inventory of what the Federal right might be. Once that is done, I suspect a series of negotiations will begin with the States over ways to amicably settle that problem. What we have done is taken not a giant step but a moderate-sized step to bring about a compromise resolution of that problem.

On Indian water rights the problem has been similar in the sense that many States have taken the view that there is either no right at all, or if it does exist, it is very much limited to reservation uses that exist at a certain point in time. On the other hand, a large number of Indian representatives have taken the view their rights are subject only to resolution in court, and they are unprepared to do anything unless there is maximum assurance of those rights. We saw no way to meaningfully guide that issue by dictated solution. The President was unwilling to undertake legislation which extinguished those rights. So what we proposed to do was enter into a period of negotiation in which we look for the very best area in which unresolved Indian water rights are a problem. One area may be in Washington, where resolving Indian water rights stands at the heart of getting a project underway. Another area is Montana, where the Indians have demonstrated a willingness to come forward with a water resource program. What we are doing is appealing to the most rational and compromise-minded interest of Indian and Western State constituencies to attempt to find some area, set an example, to resolve by negotiation something that will take decades to resolve by litigation.

Senator SIMPSON. I have found in my travels there are very few compromise-minded ranchers in Wyoming when it comes to water,

and that is the issue. Even in the legislature of Wyoming, when I was a member, we had a water policy amendment type procedure that we proposed which had had a great deal of input from ranchers and farmers. When it actually came to voting on it, they couldn't seem to stir their juices because they can't see a change in what has been before, especially in the area of appropriated water.

The other issue is, I think, one that I would always hope to prevent, and that is that we end up litigating either Federal reserve right or Indian claims in Federal District Court in the District of Columbia instead of out on the ground in Colorado or New Mexico or Alaska, or wherever that may be. And for that reason the people of Wyoming passed a law in the middle of the night and started their lawsuit in the district court, which sent shockwaves through the Department of Justice, because they were going to do this remarkable thing with Indian rights and Federal reserve rights. Those are some of the things that concern me. And I don't get at all hysterical with it, but it is something I now have an opportunity to get one vote on. I have shared some of those things with you and those concerns.

Mr. MARTIN. If I could just add one footnote. I don't think we minimize the problems you cite at all. Ultimately, somewhere down the line it is clear there is going to be more litigation on Indian and Federal reserve rights. But the policy the President has adopted is to attempt to find the best possible words of compromise on both of those that allow us to develop water now. We think if we can find two or three places where there is a capability to develop additional water, and do it in the context of having the Indians compromise on what their rights are—in other words, turn paper assertions of water rights into water—we think that is a monumental step forward.

Similarly, if we can get to a place where we have identified Federal water rights that are desired to be asserted by the Park Service or Fish and Wildlife, but in the concept of a true negotiation with State Government, we can find a way to get a balance in terms of water use, we think we have made a kind of stride forward in not letting it go the court.

Senator SIMPSON. I think when we address the idea of paper water rights, we are in the middle of the solution of the problem in the Western States, because there are many who choose to hold those paper water rights simply so they can sell to industry—the issue of use it or lose it. We find the issue is impaled on the fact of paper water rights. So I will look forward in my tenure in working with you and members of the subcommittee to try to resolve this.

I just have a couple more questions, Mr. Chairman.

Dr. EISEL, at a time when the administration is consciously reducing and eliminating programs with demonstrated soil and water conservation efforts, such as USDA resource conservation and development program, the RCB and Great Plains conservation programs, I think those are programs which demonstrate, at least to me, some on the ground success and local support. If that is so, why should we now support funding of a new grant program through the WRC?

Dr. EISEL. I can't speak to the exact reasons for the reduced funding for the programs you listed. But from my own experience I

would agree there are a lot of very good things that do come out of those programs.

As to your question concerning why should the Congress support a grant program for the Water Resources Council, I would like to first make the point this is not an entirely new grants program. At the present time, the Water Resources Council has had for about the past 12 years the grants program, from \$3 to \$5 million a year of money passed directly through the States for purposes of planning. This has been done without very many strings. I think I would take this time to speak to one of the earlier questions, to make the point I think the States have been very happy with this program as it now stands because it is now free of strings. And, consequently, the \$25 million program that Guy spoke about is really just an extension of this existing program, that we do not see a major change in the rules and regs. I would be happy to work with you or your staff to kind of point out the differences we see between the existing \$3 to \$5 million program and the \$25 million program. And we very much hope to see the freedom that this existing program has allowed continue.

I think Guy also made the very good point about the kind of concept here is to give to the States some money that they can use for the overall purpose of water resources planning to take better advantage of existing Federal programs, to kind of fill in between the cracks where there is not a Federal program, but to put together a comprehensive water resources plan for their State. I guess I might emphasize this is in no way the Federal Water Resources Council dictating to the State what they should do. It is giving them the money to have technical experts in the State, to set up funds whereby they can put together, glue together, the various existing Federal-State programs.

Here again, I spent 4 years as head of a State water resources agency, and I can testify that I think this money will definitely come in handy for that purpose. I think it is very important.

As far as the conservation of water and \$25 million there, here again I think over the past at least 50 to 100 years that the Federal Government has been actively involved in water resource management, that the major funding and management type of effort that has come from the Federal Government has gone into the construction of projects to increase water flows to provide water where it was not available. Here the idea basically is to provide a balance, to in no way say that Federal funding for increased storage projects in the West should stop, but simply to again give the State the money to kind of balance out the past efforts on increasing storage and to allow them to look at other ways to meet their water resource demands through conservation of water.

We look on this as fulfilling some needs not being met. I guess I would offer my 4 years of State experience, and I would look on it favorably of allowing me, the State water resources leader, to do some important things that the money is not available through the State of existing Federal programs.

Senator SIMPSON. I was interested in the comment that we want to be certain that the States are able to absorb and utilize these funds when they come on down. I really don't have any qualms

about believing that they will find a way to sop those up somehow. I don't think that should be a concern.

My final question. There are at least a dozen major Federal cost-sharing programs for planning and development of water resources, and if we give congressional approval to this new proposal, what effort will there be to coordinate these established programs with this new endeavor?

Dr. EISEL. I think that the major purpose of this grant money is to allow the States themselves to coordinate these programs, to some extent to allow them to hire some staff and to essentially coordinate various programs from Interior, for example, concerning the construction of reservoirs, with those from other agencies for the development of a small water supply system for a town. So I would look upon this as giving the wherewithal to the States, who in turn, if they wish, can pass this through to local water entities, to towns, to cities, to water districts, to assess, to do this kind of coordination you are speaking about. Maybe you were speaking more about the cost-sharing element.

Senator SIMPSON. No, I was speaking about the Federal Government having 12 major types of planning and development of water project operations and what efforts will be made if we can, when on stream with the new plan, to consolidate and coordinate the presently established programs at the Federal level, not the State level?

Mr. MARTIN. Senator, I think there is no plan right now to consolidate those. I think the primary emphasis is going to put the Water Resources Council in a strong enough position with enough confidence from the President to do the necessary coordination work. To some extent we are burdened with the statutes themselves which carve out different roles for the Corps of Engineers and the Bureau of Reclamation. I can personally give my assurance we will do all we can to consolidate. I think after the President's decision on reorganization, recognizing that these are separation functions, the idea of consolidation wasn't attractive. The idea of coordination is attractive.

Senator SIMPSON. I would hope there might be some legislation that would do that so we don't add program No. 13 on the other 12 and have these simply lapping over.

Mr. MARTIN. Senator, several elements in the policy itself are intended to do what you are suggesting. For one thing, the work on the planning end under the principles and standards is something we feel has been long overdue, because what happens is the planning of each of the agencies has to proceed along certain unique characteristics. We don't mean to impair that. Where it need not be unique by statute, we would like to make it as uniform as possible to the public who has to view that program. That is an effort to try to make those programs as uniform and commonly understandable as possible.

Similarly, the independent project review, we think, has a benefit of, at some point along the line, subjecting proposals that come forward to a common analysis, even if it is a short-term analysis. That mandatory effect at least puts them in a common distance, and everybody in the public and Congress can see them compara-

tively. So there are things to make these programs work more closely together.

Senator SIMPSON. Thank you very much.

Parenthetically, unfortunately, or fortunately, I have the same concern as the chairman of the committee with regard to the independent review process. I am going to have to hear some more about that part of it. Thank you very much. I appreciate your courtesy.

I do have some additional questions from Senator Domenici, and I will submit those in writing and would appreciate your responding in that manner.

Senator GRAVEL. Thank you. We will submit additional questions to you as well.

[Mr. Martin's prepared statement and responses to written questions follow:]

WATER RESOURCES COUNCIL

Statement Before  
Senate Environment and Public Works Committee  
Water Resources Subcommittee  
April 2, 1979

By  
Guy R. Martin, Alternate to the Chairman

Mr. Chairman, it is a pleasure to appear before you today to testify on legislation to authorize activities of the U.S. Water Resources Council (WRC) in FY 1980 and FY 1981, and to authorize a considerably expanded State grant program. We are aware of the Senate's desire, as expressed in Senate Resolution 83, that water policies developed by the executive receive full congressional review. Since the WRC is deeply immersed in the implementation of that water policy, I trust today's hearing will provide a good opportunity for just such review.

This is my third opportunity in as many years to appear before the subcommittee to discuss the WRC. The first came in 1977 only days after I assumed my present position, and well before I was able to assess the situation. The second opportunity, only one year ago, came after a year of experience and investigation, and amidst the final weeks of work on the President's water policy message, which was announced on June 6, 1978.

I am not unmindful of what I said on these occasions, and as you may recall, it was a candid judgment of the lost potential of the WRC and efforts this Administration was beginning to take to improve the organization. Last year, for example, I said:

"First and foremost, the Chairman and the Committee should understand that the present Administration was no happier than you may be about the short history of status of the WRC as we found it when we took office just over a year ago. We have no desire for an ineffective Federal coordination body or for a poor mechanism for the complex Federal water bureaucracy to deal with the States, or for a weak parent organization for regional water agencies as Congress does. Our intent, and yours, is the same: to have a strong effective Council, capable of coordinating Federal actions, providing good policy and helping the States."

At that time, three separate efforts were underway to investigate and bring about substantial improvements in the Council, and in the overall manner in which the Federal Government carries out its water resource responsibilities.

The first, of course, was the formulation of the President's water resource policy. This effort, which began in mid-1977, resulted in a message to the Congress and announcement of a national policy on June 6, 1978. This was the first time in recent history that a President had specifically adopted such a comprehensive policy. The WRC had a prominent role in formulating the policy, and has been given major new responsibilities as a result of it, which I will discuss in detail later.

The second was a series of administrative initiatives intended specifically to strengthen the WRC, expand its role, and help it to live up to its potential.

These included a commitment to a higher level of policy attention in Member agencies, more frequent meetings, a better relationship with States and river basin commissions, and a substantially larger role in policy development.

The third initiative was the study of reorganization in the natural resources area, which continued throughout 1978, and which culminated with the Presidential announcement on March 1, 1979. Water resources and the WRC were a major aspect of the reorganization review, and while not included in the reorganization, proposal, it was carefully considered by the President. He has decided to pursue water policy reforms and to evaluate their effectiveness rather than to propose reorganization of water policy functions.

Also during the intervening time since my last appearance here, the existence of the WRC was threatened when no funds were included in the Energy and Development Appropriations Act which the President vetoed last fall. As you may recall, the continued existence of the WRC was one of the major items cited by the President in his veto message. Ultimately, of course, funds were included to continue WRC's operations for FY 1979. However, as the conferees on the FY 1979 authorization bill made it clear, the WRC should be considered in 1979 in the context of the President's water policy. Let me quote briefly from the joint statement of the conference committee:

"The managers on the part of both the House and Senate certainly do not intend, by inclusion of language to continue the Council, to approve the past actions of the Water Resources Council. The one-year extension of this authorization will allow the next authorization of the Water Resources Council to be addressed in the context of the establishment of a national water policy as the House and Senate consider the President's proposed water policy."

The conferees' directive was carefully and thoughtfully considered by the President and the Secretary as the water resources events of the past year

developed. With the recent announcement of the reorganization proposal, I believe the President's position on the WRC and its role in national water resources matters has been made clear.

The President wants the WRC to continue, led by the Secretary of the Interior or, if reorganization is adopted, by the Secretary of Natural Resources. He wants to continue the expansion of WRC's responsibilities and capabilities under his national water policy and to continue to improve the role the Council plays in the water resources decisions of the Federal Government. As a result, the Administration strongly supports the authorization of the Council's programs for an additional two years -- FY 1980 and FY 1981.

Some have suggested strongly that the reorganization should have included all water resources agencies, including WRC; others have argued not only that the water areas should be omitted, but that WRC should be discontinued as well.

The President has made, both with regard to his national water policy and with regard to WRC, a commitment to water resources issues which exceeds that of any Administration in recent years. President Carter, uniquely in the recent history of the Council, has expressed keen Executive Office interest in the Council's activities. He has assigned significant new responsibilities to the Council and I think the Council has been diligent and successful in carrying out these responsibilities thus far.

For example, the principal new directions specified by the President in his water message and in subsequent directives and Executive orders, include the following:

First, to significantly expand and increase the assistance to States in State water management and in implementing water conservation. Proposed legislation to amend the Water Resources Planning Act to increase the authorization for Title III planning grants to the States program from \$3 million to \$25 million per year has just been presented to the Committee. In addition, \$25 million per year in grants would be authorized for water conservation technical assistance. Those grants would provide for pass-through to local units of government at the discretion of the State.

Second, to supervise the effort to revise, where necessary, the Principles and Standards to emphasize water conservation and use of nonstructural alternatives, publication of a manual of procedures to provide consistent application of planning criteria in all of the water development agencies, improved enforcement of existing environmental statutes, improve Federal enforcement of floodplain management policies, improved Federal activities to promote water conservation, development of cost sharing reform legislation and other responsibilities.

Third, to establish and implement an independent water project review function which will ensure that project plans meet all requirements of contemporary planning, economic and environmental laws, regulations and procedures. We have submitted a reprogramming request to the Committee on Appropriations to begin this effort by April 1, 1979, using

existing FY 1979 funds. We are seeking a small supplemental appropriation for FY 1979, and we have included in our proposed authorization and appropriation requests for FY 1980 adequate funds for a full year's operation. On March 23, Chairman Johnston approved our reprogramming request. However, Chairman Bevill advised Chairman Andrus on March 20 that: "the Energy and Water Development Subcommittee will not be able to approve your request at this time."

Mr. Chairman, this significant increase in responsibilities and expanded duties followed the active role played by the Council in the preparation of the President's message itself. The Council and its staff demonstrated they can and should play a major part in developing national water policy initiatives. We do not expect this momentum to be lost. The Council and its staff are now, and should continue, to play a major part in implementing the President's initiatives. Their expertise and experience is critically required to continue the reforms which were started by the President, and which should provide a more open and effective water resource policy.

In addition to development of the water policy, Mr. Chairman, much has been done by the WRC in the past year.

The Second National Water Assessment is complete and in final form. I have provided to the Committee and would like to include in the record a recent Council publication, "The Nation's Water Resources: 1975-2000." This is Volume 1, the Summary, of the Second National Water Assessment by the WRC. (Our first Assessment was published in 1968.) The Second National Water Assessment shows that since 1968 significant achievements have been made in using water for beneficial purposes. Interest in

water conservation and environmental protection has particularly grown, yet still greater efforts are needed. Without intensified dedication to careful management of our water resources, pressures from our technological society will continue to deplete and degrade the Nation's water supply. The many water and related land problems identified by the Assessment are characterized by competing forces with legitimate interests. There are no easy answers to these problems, and the Assessment's findings are not free of conflict. However, the information presented, much of it available for the first time in a nationally consistent form, will contribute to the planning and decisionmaking that will lead to adequate resolution of the more critical water management problems.

Three additional volumes of the Assessment are now in the final stages of publication. They will present water quantity, quality and related land considerations, a wealth of analytical data, and a most useful set of regional reports, and provocative analysis of water management problems. Together these volumes provide a planning and management tool never before available to the Congress, States and local governments or the Federal Executive agencies.

In addition to this important accomplishment, the WRC has worked over the past year to carry out other significant mandates of the 1965 Water Resources Planning Act. To ensure that the significant Federal investment in comprehensive planning has a payoff, the Council last May adopted a "consistency" policy. This policy states that selected Federal agency

water resource programs and projects shall be consistent with approved regional water resource management plans. Effective at the start of 1979, budget submissions of Member agencies must certify that their implementing actions are consistent with approved plans or provide adequate justification for any inconsistency. This policy will generate renewed State confidence in the value of coordinated planning by ensuring that agency projects and programs aim squarely at the targets set forth in the regional plans.

Executive Order 11988 on floodplain management demands that Federal activities on floodplains be designed to preserve their natural values and to minimize or reduce the dangers and losses of floodplain use. Following general guidelines prepared by the Council, 30 agencies have prepared appropriate procedures. An additional 45 agencies will be issuing floodplain management procedures shortly. A revision of the 1976 Unified National Program for Flood Plain Management to increase emphasis on the natural environmental values of floodplains has been issued by the Council and is now out for public comment. The Council-supported case study on structural floodplain management measures in the Connecticut River Basin is underway and proceeding well.

Assessments of the water resource impacts of energy technology development have progressed throughout the past year and will soon be completed: coal in the Missouri Basin in May, coal and oil shale in the Upper Colorado in March, and coal in the Ohio Basin in September. Assessments

of other technologies in other regions are now underway with completion scheduled in FY 1980.

Activities of the six river basin commissions established under Title II of the Act continue to focus on the resolution of regional issues where they arise -- in the region. Let me highlight for the Committee some of their successful efforts which have been encouraged and supported strongly by WRC and the Administration.

- o Out of the New England River Basins Commission's New England River Plan has come a NOAA program of local training for flood disaster preparedness, Massachusetts' revision of its State building code to include the National Flood Insurance Program measures, and Executive orders by the Governors of Connecticut and Massachusetts for improving State floodplain management activities.

- o New York and Vermont have agreed as a direct result of the Lake Champlain Basin Study, to reconsider their independent and sometimes conflicting programs for water quality management.

- o The Great River Environmental Action Teams (GREAT) and members of the Upper Mississippi River Basin Commission were instrumental in the resolution of the Locks and Dam 26 controversy. Legal action to halt channel dredging activities of the Corps of Engineers has been suspended as a result of the GREAT program. The Commission is now at work on the Master Plan dictated by P.L. 95-502. (The Administration, incidentally,

was a strong supporter for having the Upper Mississippi River Basin Commission conduct this study, rather than creating a new independent commission.)

o The Minneapolis/St. Paul Level B Study led to the Minnesota Governor's designation of the Twin Cities Mississippi River Corridor as a State critical area and generated a ground water feasibility study for the Minneapolis water supply.

Mr. Chairman, in the Administration's supplemental budget request for FY 1979 and budget request for FY 1980, the President is requesting additional funds to improve the Council's work with the States. In FY 1979 supplement request, for example, \$49.2 million is requested to significantly expand the program of grants to the States, to fund the first year efforts of the Upper Mississippi River Basin Commission in carrying out their responsibilities for the Upper Mississippi River System Master Plan, and to partially fund implementation of the independent water project review function. Authorization to expand the Title III grants must, of course, be enacted by this Committee before the FY 1979 supplemental appropriations could be approved.

More detail on the Council's programs and the Council's past year's accomplishments is included in our budget justification document which were previously submitted to the Committee. Because I believe it is a factor you must consider, I have also submitted a summary of some

important past WRC accomplishments. For whatever its faults, this is a body which has been of value to the Nation, and with proper support, can serve a substantially greater role.

Mr. Chairman, I believe the foregoing establishes a record of genuine Administration commitment to the water resources area, and to the increased role that WRC can and should execute. I cannot stress too strongly,

Mr. Chairman, the strong support this Administration has for the WRC. It has been utilized as a key instrument to develop and implement consistent national policies for water resource policy reforms. It has had problems. However, we believe our dedicated efforts over the past year have helped us turn the corner. We now stand at a point where the Council's missions are better understood, its tract record has improved and its future role is significant.

By no means, however, do we consider the task complete. Legislation expanding the Title VII State grant program, which is a key WRC responsibility, is genuinely needed. To continue an orderly flow of projects for authorization and construction recommendations, the WRC independent project review function must begin without delay. We hope this activity can be initiated and running smoothly in a very short period of time. Finally, the need to enact legislation to reauthorize the Council for two additional years will provide the necessary framework upon which we can ensure a strengthened WRC.

The Administration also intends to analyze further steps that may be necessary to improve the Council's effectiveness, whether by legislative or administrative action, and we will keep the Congress informed on the results of this examination as it proceeds.

We pledge to continue to take administrative actions to make the Council function better and more effectively as a policymaking body. We have made some internal procedural changes which will have significant payoff in the next two years.

Mr. Chairman, I feel that the Council has played a key and increasing role in recent water policy events and that its future is important. With the assistance of this Committee, I believe we can work together to establish an institutional framework which will help, not hinder, wise use of this Nation's water resources.

Mr. Chairman, this concludes my statement. I would be most pleased to answer any questions you might have.

LENNING RANDOLPH, W. VA., CHAIRMAN  
 JIM JONES, S. MUSKIE, MAINE  
 MIKE GRAVEL, ALASKA  
 LLOYD BENTSEN, TEX.  
 QUENTIN N. BURDICK, N. DAK.  
 JOHN C. CULVER, IOWA  
 BARRY HART, COLO.  
 DANIEL PATRICK MOYNIHAN, N.Y.  
 ROBERT T. STAFFORD, VT.  
 HOWARD H. BAKER, JR., TENN.  
 PETE V. DOMENICI, N. MEX.  
 JOHN H. CHAFFET, N.J.  
 ALAN K. SIMPSON, WYO.  
 LARRY PRESSLER, S. DAK.  
 JOHN W. YAGO, JR., STAFF DIRECTOR  
 BAILEY GUARD, MINORITY STAFF DIRECTOR

United States Senate  
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
 WASHINGTON, D.C. 20510

April 2, 1979

Honorable Guy Martin  
 Assistant Secretary  
 U. S. Department of the Interior  
 18th and C Streets, N. W.  
 Washington, D. C. 20240

Dear Guy:

It would be appreciated if the following questions could be answered for the hearing record of April 2, 1979 on amendments to the W.R.P. Act for 1965, no later than April 16, 1979:

Questions from Senator Mike Gravel (Alaska):

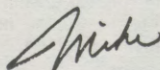
- a. Although the Independent Water Project Review function has been established by Executive Order, I note that about \$1.5 million of the appropriation authorization will be needed to support that function. What assurances can you give us that the review and findings will be truly independent and not subject to interference from the Council chairman?
- b. You anticipate reviewing all authorized projects which are not yet under construction. In your March 7 draft version of the "Planning Manual", you state that "a project shall be under construction when Federal funds have been appropriated for final design, land acquisition and/or construction activities." Using Corps of Engineers reporting procedures, please define final design. Is that their Phase II General Design Memorandum? At what point in the agency process is the project "under construction" for each water agency?
- c. It appears that many authorized projects which have progressed toward construction may need special planning reports prepared for review. Please provide an estimate of the number of such reports by agency, and the cost and time for preparation.
- d. There are many preauthorization studies now in various stages of completion; many with commitments made by local interests. These studies were made without the benefit of the "Planning Manual" or your review criteria. How much recycling and wheelspinning do you anticipate for these preauthorization studies to conform with your criteria?

- e. Would you please tell us the basis for singling out Indian Tribes as a special group to receive allocations? Would the amount allocated to the tribe be subtracted from the respective States when determining that State's share?
- f. Can the grants be used for construction or for the State's share of Federal project costs?
- g. Your target date for initiation of report review was April 1. Since you are having problems with funding and staffing, has that date changed? When do you think you will have the review function staffed adequately to begin the review function and complete report review within the 60 day time frame?
- h. How many people have been allocated to the WRC to administer the expanded State Grants Program? Is that amount sufficient? If not, how many spaces are necessary to monitor and administer the program efficiently?

Questions from Senator Daniel Patrick Moynihan (New York):

- a. Have you any information which shows the distributional effect of the President's proposed water policy reforms? Are these reforms expected to change the historic regional pattern of federal spending on water projects?
- b. As you know, there are water supply systems throughout the country which pose serious environmental and economic threats to the municipalities in which they are located. The federal government has not in the past been very active in support of rehabilitation of these single purpose projects, and have not much helped to alleviate the problems of municipalities faced with the problems of deteriorated systems. How is this issue being addressed by the Administration in its reform of national water policy? What is the role of the Water Resources Council in this reform?
- c. There will be much debate over the roles the Congress and the Administration should play in the development of a national water policy and the implementation of specific program and project decisions. How does the Water Resources Council view the relative roles of the Congress, the Administration, and state and local governments in developing our nation's water resources?

Sincerely,



Mike Grave

cc: Dr. Leo M. Eisel  
Director, Water Resources Council  
2120 L St., N.W.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

APR 19 1979

Honorable Mike Gravel  
Chairman, Subcommittee on  
Water Resources  
Committee on Environment  
and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Senator Gravel:

Thank you for your letter of April 2 requesting answers to several questions relative to the recent hearings before your Subcommittee on amendments to the Water Resources Planning Act, P.L. 89-80 of 1965.

Your first question relates to the "independence" of the project review. First, the process itself will be a technically-oriented review under stated standards, carried out in a thoroughly open process, and with the results published and available to all. In our view, there is no better guarantee of objectivity than public access and accountability. Because it is not a policy review, nor one which sets priorities, it will be carried out not by the WRC member agencies through policy representatives, but by the professional staff at the Council. The findings will be advisory, rather than binding but will provide much needed public documentation of project costs and benefits.

Those findings must accompany the project report when it is submitted to the OMB for consideration in the annual budget of the President and when the report is sent to the Congress. Also, the review findings will be made available to project sponsors and any other interested persons.

The chairmanship of the Council itself is not considered a major factor in the independence of such a review. The executive director of the Council is hired with the concurrence of all members, and the professional staff is hired by the Director. Although I have heard it suggested from time to time that the chairmanship affects Council decisions, I am not aware of any specific instances where this has been the case. The President obviously agrees, and feels that adequate objectivity will be provided by the present structure, carrying out an open and accountable process.

In regard to the second question, while no final decision has been made, the most likely is that a project would be considered under construction once the project has been authorized and Federal funds have been appropriated to construct all or part of the project. Post authorization funding for final design, land acquisition, and/or construction activities would place a project "under construction." For the Corps of Engineers, funding for final design work in their Phase II General Design Memorandum would place a project "under construction." For the Bureau of Reclamation, post authorization funding for final design, land acquisition and/or construction activities would place the project "under construction." For the Soil Conservation Service (SCS), appropriate congressional committee approval of a project which enables funds to be expended from the annual budget of SCS for final design, land acquisition, and/or construction activities would place the project "under construction."

In regard to your third question, generally, we plan to review available information and not require preparation of new or special reports by agencies. The review will be based on those documents that are prepared during various stages of the planning process and on available technical supporting information. In those instances where information is not sufficient to determine if the report meets WRC criteria, additional information will be requested. Until we have some experience in the review process, it is impossible to say how many requests will be made for additional information or how long it will take for the agencies to furnish this information.

In regard to your fourth question, the amount of additional planning required will be kept to a minimum to prevent undue loss of time or expenditure of public funds. Although there is no final decision yet, the most likely plan would allow the Secretary of each Department the discretion to exempt certain projects for which preauthorization planning is now complete or will be complete by the end of FY 1980. Those projects which will not have completed planning by the end of FY 1980 would be most affected by the planning manual; however, the amount of additional planning for these projects can be minimized by agency planners by adopting the new procedures early in the planning process.

The reports will not be tested against the planning manual until it has been adopted by WRC. Until that time, the Principles and Standards, Water Policy message, and agency manuals will be the standard against which the projects will be judged.

In regard to your fifth question, the identification of the Indian Tribes to receive annual planning grants under Title III of the Water Resources Planning Act is in recognition of the trust responsibilities

of the Secretary to the Indians. It furthers the intentions of the President's water policy for the development of Indian water resources. In this regard, note the copy of the President's directive of July 12, 1978 (attached), particularly the last page. The grants would allow the Indians to conduct their own water resources planning and would not be subtracted from individual State shares.

In regard to your sixth question on the use of the planning grants, they cannot be used for construction, nor can they be used by the States to meet the requirement for "front end" financing of Federal projects in the proposed cost-sharing legislation.

In regard to the date for initiation of the independent project review at the WRC, no reports will be received until mid or late April pending resolution of the reprogramming request now before Congress. Upon resolution of the reprogramming issue, we plan to implement the report review process immediately, with borrowed resources if necessary, to complete the reviews within a 60-day time frame. Permanent staff will be added as rapidly as possible, at that time. At best, we have lost some time, but we are making every effort to overcome this delay.

A total of seven personnel slots have been allocated to the WRC to administer the expanded State grants program under Title III of the Water Resources Planning Act. That number will be sufficient to accomplish the task.

In response to the three questions from Senator Moynihan included in your letter, please note the following answers.

The President's water policy reforms are not expected to change the geographic pattern or distributional effect of projects nor the usual array of project purposes. The basic statutory authorities for the individual water resources programs and the agency responsibilities are not changed. The requirement for State financing of part of project costs includes a limitation on the annual payment obligation of one-fourth of one percent of a State's general revenues per project and assures that wealthy States will not be dominant. The limitation is a protection against a severe financial impact. Besides, the proposed legislation provides that the States will share in project revenues from vendible project purposes in proportion to the State's share of the financing of the purposes.

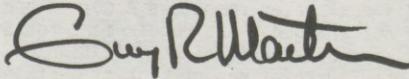
In regard to municipal water systems, the President's Intergovernmental Water Policy Task Group established as a result of the water policy, has undertaken a study of present programs, problems and

policy options relative to municipal water supply. The task group is composed of four representatives each of the National Governors' Association, the National Association of State Legislatures, the National League of Cities, and the National Association of Counties. The report and recommendations of this group will provide the basis for further policy consideration. The member agencies of the Water Resources Council and staff representatives of the four organizations composing the Intergovernmental Task Group are providing the technical support and coordination for the study.

In regard to the respective roles of the governments involved, the Water Resources Council recognizes that the Congress, the States, and local governments each have significant responsibilities and concern in the development of water policy and its implementation. The Congress and the Administration have interdependent roles in policy development with dual opportunity for initiatives which require consultation and discussion both before and during the formal legislative process. The States have the primary and direct authority and responsibility for water rights and allocation, and consequently there is a natural partnership with the Federal government in planning and decisions on development and management. The views and needs of the local governments are reflected through the Federal-State system. The interrelationships in planning and management between the three levels of government have been institutionalized in differing degree through various river basin organizations in some areas within the framework of congressionally-approved compacts, court decrees, or statute law.

We are pleased at the opportunity to answer your questions, and we stand ready to confer further with you upon your request.

Sincerely,



Assistant Secretary for  
Land and Water Resources

Enclosure

cc:  
Honorable Daniel Patrick Moynihan

THE WHITE HOUSE  
WASHINGTON

July 12, 1978

## MEMORANDUM FOR

THE SECRETARY OF THE INTERIOR  
THE SECRETARY OF AGRICULTURE  
THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT  
THE SECRETARY OF THE ARMY  
THE ATTORNEY GENERAL  
THE CHAIRMAN OF THE TENNESSEE VALLEY AUTHORITY

SUBJECT: Federal and Indian Reserved Water Rights

In my Water Resources Policy Reform Message of June 6, 1978, I noted the importance of addressing as part of this Administration's water policy reform effort the problems associated with Federal and Indian reserved water rights.

Federal Reserved Rights

The Federal Government, in setting aside tracts of land for national parks and forests, wildlife refuges, and other Federal purposes, also reserves sufficient water pertinent to the reserved land to accomplish the purpose of the land reservation. This water is a Federal reserved water right. The quantity and priority of these reserved rights are important to other water users. Therefore, I would like to facilitate the resolution of reserved rights controversies in a timely and fair manner.

To this end, I am directing each of you to take the following actions in close consultation with States and water users:

- Increase the level and quality of your attention to the identification of Federal reserved water rights. Focus particularly on areas where water planning and management will be improved, where the protection of Federal water uses is of highest importance, and where it is essential to reduce uncertainty over future Federal assertions of right.

Seek an expeditious establishment and quantification of Federal reserved water rights consistent with the priorities set out above. This action should be accomplished primarily through administrative means, seeking formal adjudication only where necessary. Resolution of disputes involving Federal water rights shall include a willingness to negotiate and settle such rights in an orderly and final manner, seeking a balance with conflicting and established water uses. Where adjudication is necessary, it shall be actively pursued by the agency to a speedy resolution.

Utilize a reasonable standard when asserting Federal reserved rights which reflects true Federal needs, rather than theoretical and hypothetical needs based on the full legal extension of all possible rights. In consultation with the Department of Justice, each of you shall develop procedures and standards for the purpose of implementing these directives. These procedures and standards shall be developed by June 6, 1979.

#### Indian Reserved Rights

Indian water rights derive from the establishment of Indian reservations. These Indian water rights are an important component of the long-term resolution of water problems in the West.

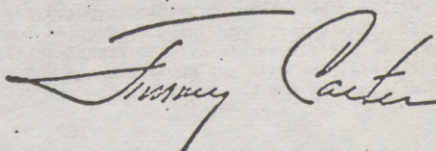
The priority and quantity of these rights must be determined by examining the documents establishing each reservation. Particularly because judicial resolution of these questions is a time consuming and costly process, negotiation is favored. However, where negotiation is unsuccessful, the rights should be adjudicated in the Federal courts.

In order to facilitate the negotiation process, I am asking you to take the following actions in close consultation with Indian tribes:

The Bureau of Indian Affairs, through the Department of the Interior, will develop and submit a plan for the review of Indian water claims to be conducted within the next 10 years. The plan will include the development of technical criteria for the classification of Indian lands which reflect and make allowance for water use associated with the maintenance of a permanent tribal homeland. This plan shall be developed by June 6, 1979.

Each of you will establish procedures to be used in evaluating projects for the development of Indian water resources and to increase Indian water development in conjunction with quantification of rights. These procedures will be consistent with existing laws, principles, standards and procedures governing water resources development. These procedures will be developed by June 6, 1979.

The Secretary of the Interior is assigned lead responsibility to organize and coordinate these efforts. Reports on actions taken to implement these directives shall be submitted by June 6, 1979 to the Secretary of the Interior who, with the assistance of the Office of Management and Budget and the Council on Environmental Quality, will ensure implementation of this directive.

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

FACT SHEETINDEPENDENT WATER PROJECT REVIEW

Executive Order No. 12113, January 4, 1979, assigns to the U.S. Water Resources Council (WRC) technical review responsibilities for Federal water project reports. Presently, this technical review as well as a policy review (relationship of the proposed project to the program of the President) is conducted by the Office of Management and Budget (OMB). This fact sheet serves to clarify the new division of responsibilities between WRC and OMB.

1. WRC will produce a statement of findings for each water project reviewed. The statement will include a factual analysis of compliance or noncompliance with the Principles and Standards, planning manual, environmental statutes and other applicable laws and regulation. The statement will provide factual information on the technical adequacy of the agency report in addressing important planning aspects such as the benefit cost ratio, cost allocation, cost sharing arrangements, consideration of alternatives, and public participation.
2. Reports submitted to OMB will not be accepted unless a statement of WRC findings is included.
3. WRC review will normally be limited to 60 days (absolute maximum of 90 days) and will replace the OMB technical review that has previously had an unknown duration.
4. The WRC finding statement will be made available to the Congress and to the public for information on the project.
5. The appropriate agency head will decide whether to amend or modify the project report in light of WRC findings before submittal to OMB. The WRC review process should not be construed as veto authority on an agency project report.
6. OMB will review (a) authorization reports for consistency with Presidential policy, and (b) construction funding requests with regard to their consistency with Presidential policy and budget priorities. OMB will not duplicate the WRC review of planning aspects, but will accept the WRC findings.

## RESPONSES FROM THE WATER RESOURCES COUNCIL

Senator Gravel: The 1972 Water Act amendments required that Level B basin plans be prepared for every basin in the United States by January 1, 1980.

- (a) What is a Level B plan?
- (b) Will they be ready on time?

Mr. Martin:

Level B studies are to integrate regional planning efforts of Federal, State and local agencies, resolve complex and interrelated water and related land resource problems and identify and recommend action plans and programs to be carried out by responsible Federal, State and local entities. State involvement and public participation are heavily stressed. Level B studies have made and continue to make significant contributions to the development of regional water resource plans. Almost one-third of the approved regional water resource plans of the Title II river basin commissions are made up of adopted Level B studies. Level B studies are based primarily on existing information and are usually conducted within a two-year period at a cost of approximately \$1,000,000. A cost sharing ratio of 75/25 Federal/State is required.

The authority of Section 209 (P.L. 92-500) has not been fully utilized and the goal of nationwide Level B coverage by 1980 cannot be effectively met. To increase their effectiveness, a review of Level B studies is being made. This review grew out of the need to increase the impacts of Level B studies on regional problems and decisions. Specifically, the review objectives are:

- a. to determine if Level B study products met the study and Council objectives for the program.
- b. to determine the effects of Level B studies on actual resource planning and management decisions by Federal, State and local governmental and nongovernmental officials, and
- c. to determine those changes in the program which would increase the ability of Level B studies to meet study and Council objectives, to have greater effects and to have greater usefulness to decision-makers.

The review findings will be used during Fiscal Years 1979 and 1980 to improve study administration and to make recommendations for revised study objectives and improvements in study management and planning processes. Review recommendations will include improvements in the studies to help implement the new objectives of the President's water policies and may include changes in the manner in which the program relates to the total structure of water resource planning at the regional, State and Federal levels.

- Senator Gravel: The Water Quality program has been criticized for not being well integrated with other water resource efforts. Is this criticism fair?
- Mr. Martin: That is true. Much of the Federal water quality program is single purpose oriented and thus consideration of water quantity issues and problems are not reflected in the decisions. We believe that there are considerable benefits if both water quality and water quantity are considered in trying to decide the proper utilization of our resources.
- Senator Gravel: The President's Water Policy Statement identified 25 agencies that spend \$10 billion a year on water resources. This federal hodgepodge was described by the Director of the California program as follows: "National water policy at this time is a jumble. Each of the federal agencies has, in effect, its own policy and mission which it seemingly pursued with little or no coordination with any other agency. Superimposed on this actuality is the theoretical policy by which the U.S. Water Resources Council is designated as the agency responsible for coordinating federal policies and programs. The council has been quite ineffective in achieving this mission." Please comment.
- Mr. Martin: That is precisely the dilemma that we are faced with in water resources at the Federal level. To coordinate the many Federal programs, the Council is the only mechanism that makes an attempt to provide consistency. You have a valid criticism of the Federal water program. However, while the Council is criticized for being weak, any attempt to strengthen it is criticized also. Even with its limitations, I have tried to make it work as effectively as possible with the assistance of the other Members.

Sen. Gravel: Over the years, some have suggested that the Council be given a policymaking role, with an ability to enforce its decisions when there was no consensus. Do you concur?

Mr. Martin: Title I of the Water Resources Planning Act of 1965 does direct the Council to appraise the adequacy of existing and proposed policies and programs and make recommendation to the President with respect to Federal policies and programs. This certainly suggests the Council has been given a policymaking role -- or at least strong involvement.

The National Water Commission recommended in 1973 that, "The Council needs a policymaking component, with an ability to enforce decisions when consensus cannot be reached." Council Members are presently actively considering this issue and discussing various options for the Council to best use in making and enforcing decisions.

I personally concur in your suggestion and expect the Council to soon decide whether to seek legislative direction in this area.

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Sen. Gravel: Is there presently any investment strategy at the federal level that assures that emerging problems in the water resource area are being systematically attacked.

Mr. Martin: There is much strategy but it is unfortunately imperfect. The annual and multiyear budget preparation and review process under OMB direction and guidance serves this end.

Additionally, the Council's recently-published Second National Water Assessment provides a nationally consistent set of water needs for now, 1985 and 2000. The Council has the ability and I believe is now developing the interest to compare these needs with our present pattern of investments. The results of this comparison should be most helpful in improving our Federal investment strategy.

Senator Domenici: The preamble of the State planning bill talks of a "nation wide emphasis on water conservation". Since the grants are justified "in recognition of the increasing need for conservation" of water, does conservation mean "use less" (Eastern view) or is it broad enough to include the concept of "storage" (Western view). What is the WRC's definition of water conservation? What specific kind of assistance is contemplated by the program of "water conservation technical assistance", which is defined as work to "(1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water, or (3) improve land management practices to conserve water?"

Mr. Martin: Senator Domenici, in the State Water Management Program, water conservation means "projects or programs designed to (1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water, or (3) improve land management practices to conserve water." Given the differences in State makeup and the relative availability of water in different sectors of the country, it is important to view water conservation in a somewhat broader perspective than the normal east/west delineation of the term. The term is being interpreted broadly enough in this program to recognize specific State perceptions of water conservation. The vehicle used to achieve conservation can be a strict reduction in demand or an improvement in land management practices. The operational phrase, however, is probably "improve efficiency in use."

Surely in the West, because of a scarce water supply, it is very important to harbor snow runoff and in the East it is important not to exceed supply with the overaddition of demand. Therefore, the definition of water conservation may be viewed to fit the needs of the State. However in programs developed or amended in response to the President's Water Policy Message the term takes on a somewhat narrower definition. The clear intention is to consider water conservation and non-structural alternatives to construction.

Although the definition of water conservation maybe somewhat broad and flexible and may be viewed as such in program planning, the intended use of the water conservation technical assistance funds under this program are somewhat less flexible. Because of various program and legal limits, the cost of construction projects would not be allowable under this program. The authorized funds would be intended for such activities as public education, information dissemination, feasibility studies, water system analyses, on-site consultation, and establishing and implementing water exchanges. For example, given a situation where a community faces an extended drought period; funds from this

program could be used by the local government to provide water conservation assistance in the form of information or on-site consultation in an effort to dampen the effects of the drought. A second example could be that of a water-rich area requiring an economic feasibility study for renovation of an outmoded supply system -- many older eastern cities face this problem. A third example -- the development of contingency plans for anticipated water-short years.

The three examples point out the possible diverse use of the conservation technical assistance funds. They also point up the fact that in each State there are several considerations for the use of the funds which extend beyond the in-place construction of project oriented Federal planning grants.

Senator Domenici: The bill also says the Council may approve a State water management plan, and that the plan must involve "protection and management of instream values." What is that declaration intended to mean?

Mr. Martin: Senator Domenici, the protection and management of instream values, as were all of the other elements listed in Section 303(a)(1), were included as major areas of consideration in the President's Water Policy Message. The intention of Section 303(a)(1) is that States would address each of the listed elements in their internal planning process. Each of the areas is viewed as a possible important component of a State plan, depending on the State. The inclusion of the elements does not, however, mandate that the States concentrate only on those areas or plan for any specific programs in those areas.

Senator Domenici: Would a State lose its planning grants if it failed to adhere to the WRC's view of water conservation? If a State lost its grant, what affect would this have on the ability of a State to obtain other water resources funds, including Federal projects?

Mr. Martin: Since the definition of water conservation in the grant program is considered sufficiently broad to meet any State's water conservation needs, it is not anticipated that any State would lose their grant for such a reason. On the other hand, State's must, when signifying their use of the water conservation technical assistance funds, adhere to the rather broad parameters set forth in the program. These parameters include the regulated purchase of equipment and prohibition of the use of grant funds on construction projects.

If for some reason a State did not meet the standards set forth in law and in guidelines and their grant was terminated, their ability to obtain other water resources funds would not be hindered in any way. There are no other federal programs tied directly to the funding of this proposed program.

Senator Domenici: Under the bill, the Council is given 120 days to "prescribe guidelines by rule ... to carry out its functions and responsibilities" for this program. "The Council may also establish other procedures, arrangements, and provisions that it deems necessary." Doesn't the bill give to the WRC enormous latitude?

Mr. Martin: Senator Domenici, the intention of the sentence to which you refer is to allow the Council to establish administrative guidance procedures consistent with Federal law and rules and regulations. For example, WRC's responsibilities as a Federal grantor agency change periodically because of changes to Federal grants administration circulars, such as OMB circular A-102. This provision in the proposed legislation would allow WRC to alter procedures consistent with changes to A-102. The revisions to circular A-102 in the past two years have been designed to lessen the red tape and paperwork burden on States.

The sentence is not intended to allow WRC to mandate a more stringent or objectionable program on the States without the benefit of legislative authority.

Senator Domenici: Both grant programs are to be distributed by formula (not spelled out in the bill), and the Federal money must be matched by State funds. The WRC's description of the bill says the money will be distributed under the formula for the current \$3,000,000 program. Doesn't the bill actually give the WRC the freedom to distribute the money almost any way it wants?

Mr. Martin: Senator Domenici, if enacted as written, the proposed legislation would allow some flexibility in the manner in which a funding formula(s) was developed. It does, however, specify that each State would be eligible for an equal amount, currently \$100,000 in a Council of Members approved draft of program guidance, and for the water management program "such factors as population, land area, financial need, and need for improved water management." For water conservation technical assistance the same equal share applies along with "such factors as population and the need for water conservation."

In each case the Council proposes to utilize the factors listed in the legislation. With the exception of the need for water conservation each factor has been used in the past under the existing program. They remain the most reliable surrogates for determination of the formula amounts. The freedom allowed by the phrase "such factors as" would allow the Council to add a new pertinent factor or delete one that is no longer indicative of the program. In each case such a change would require formal publication in the Federal Register and a public review and comment period. Although allowing WRC necessary administrative prerogative, there is no intention to abuse the prerogative by arbitrarily changing the funding formula to suit any one particular interest. The program remains comprehensive in nature, therefore the distribution of funds should closely reflect this comprehensiveness approach.

Senator Domenici: Are the States capable of absorbing \$50 million in matching planning grants and technical assistance grants?

Mr. Martin: Senator Domenici, a totally accurate answer cannot be given to this question because neither the States nor the Council have as yet explored the range of current and projected State programs which could be used as match for the expanded State Water Management Program. Part of the problem in obtaining such information lies in the fact that the proposed program would transcend the responsibilities of traditional grantee. For example, in the State of Nebraska, seven different State agencies have some responsibilities with water and land-related programs. Although Nebraska is one of the more progressive States in terms of agency coordination and comprehensive planning, their efforts are relatively young and not mature enough to process such specific information.

Given that a totally accurate answer cannot be presented, the next best alternative is to look at the matching possibilities, in a few States, for only the traditional Title III grant recipient. The figures used below reflect the matching funds available in FY 78, for use in comprehensive planning only. (This information was taken from FY 78 Grant applications to WRC).

	<u>Title III Grant</u>	<u>Available State Match</u>
Alaska	\$ 82,700	\$ 245,000
Colorado	58,500	870,000
Iowa	56,300	240,000
Maine	43,200	55,000
New Mexico	54,200	55,000
New York	79,300	280,000
North Dakota	57,200	365,000
Rhode Island	46,000	200,000
South Dakota	54,000	700,000
Tennessee	49,700	68,000
Texas	83,700	1,400,000
Vermont	44,200	200,000
West Virginia	51,000	92,000
Wyoming	55,000	190,000

As indicated by the table many States have significant means for matching funds. With the expanded scope of the program other State agency and local government programs also come into play. Therefore, the perception that all States can't absorb their total share under a \$50 million appropriation is probably not true. It is true, however, that some State would have more trouble than others as the above figures indicate.

Many States including California, Georgia, North Carolina, Nebraska, New York and Texas have adopted a comprehensive approach to water management. In some instances several offices have been combined and in others a coordination body has been created. In terms of this program the gist of their action has been to pool the resources of several different offices or programs into a more cohesive unit. In most instances the process is so new that not only will the funds received be matched but they will be put to immediate good use.

Senator Domenici: The Corps of Engineers is authorized to distribute up to \$5,000,000 a year to the States for work on State water plans. How does your new program mesh with that Corp's program?

Mr. Martin: Senator Domenici, the Corps of Engineers program you refer to is authorized under Public Law 93-251, Sec. 22(a) (Water Resources Development Act of 1974): "The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of water and related resources of drainage basins located within the boundaries of such State and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans."

The Corps of Engineers does not grant to, or contract with, States in this endeavor. Rather, upon State request, the Corps engages in planning activities in functional areas which contribute to State water planning efforts. Examples of recent Corps activities under Section 22 include:

Minnesota: a study to determine the value of wetlands on flood flow retention.

West Virginia: flood damage evaluation.

Kentucky: identification of flood elevations in the Kentucky river basin; environmental inventory of eight streams the State has designated as wild and scenic.

Ohio: baseline data for the State water plans; study of alternatives for the City of Columbus water supply, identification of flood damage areas and estimated damages.

Tennessee: hydrologic and hydraulic reports on selected streams.

Indiana: completed flood plain evaluation for the White River as part of the State water plan.

Corps of Engineers activities under Section 22 respond to State request and cannot exceed \$200,000 in cost for any fiscal year. This figure is seldom reached because of certain capability limitations.

The proposed expanded State grant program would coordinate with this ongoing Corps activity.

Senator GRAVEL. Our next witness is Mr. Neil Grigg, Assistant Secretary for Natural Resources, State of North Carolina.

**STATEMENT OF NEIL S. GRIGG, ASSISTANT SECRETARY FOR  
NATURAL RESOURCES, NORTH CAROLINA DEPARTMENT OF  
NATURAL RESOURCES AND COMMUNITY DEVELOPMENT**

Mr. GRIGG. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify today. I come from a State where we are supposed to have plenty of water. We have not made as many attempts to testify on this water question as the Western States.

We are just as much concerned with water resources as Western States. I will describe the reason and tell you how important the Water Resources Council is to us. It is an essential program.

Governor Hunt of North Carolina has given us full authority to take advantage of the opportunity that we have to work with the Council, and new policy initiatives to attack our difficult water resources problems. In fact, I have just been handed responsibility to reorganize North Carolina's water resource management and to address some of these difficulties you have been previously talking about. We have some very difficult water resource problems which are not unlike those of the Western States. I say that because I spent 12 years in Colorado working on water problems, as an engineer, and on the faculty of Colorado State University. I worked as a consulting engineer and I worked with the State engineer of Colorado and heard a lot about the good work he was doing. So I learned all about this appropriation doctrine.

Then when I got to the East 2 years ago, and looking at the problems here, I find they are not much different than out there. Although there is a lot of rainfall, water is not thoroughly managed. There is not a tradition of comprehensive water resources management at the State level.

Senator Domenici said that New Mexico was behind in planning for flood control and water supply systems. We find this in North Carolina, too. At the same time that the State is going to implement a policy of balanced growth and economic development and to assist in the economic development of our communities, water supply is not always there. We have droughts and instream flow problems. We have industries and cities who want to go and pump streams dry with little water planning, and it is a difficult problem.

In looking at our achievements in comprehensive water planning, as opposed to just water quality, this tiny title III grant program that the Water Resources Council has provided over the last 12 years has been the seed that has allowed us to have any growth at all. If it hadn't been for the Water Resources Council, I predict we would have almost nothing in the way of comprehensive water resource planning.

That is not a criticism of State planning. It is just a statement of what is well known—that we haven't done it in the States and it is going to require strong Federal leadership.

Another program that we have just started, with the sponsorship of the Water Resources Council, is the level "B" study. It has given us a chance to work between the States of North Carolina and

South Carolina on a tough interstate problem. We are hoping to get a similar study between the States of North Carolina and Virginia in the future. Again, without the Water Resources Council program, we wouldn't be able to undertake solutions to these level "B" problems. I doubt we would be able to have a grip on them without this level "B" program availability.

I really just wanted to bring the message that the Southeastern States have water problems that are just as difficult as those of the Western States. With our population density and our agricultural development we have coming up, we are going to stress our water resources like they have never been stressed before. Unless we have some way to better plan and manage our water resources in river basins, we are going to be in trouble.

I have been participating in another very good series of events that has been funded by a companion agency, the Office of Water Research and Technology, whereby we have put on, through the assistance of the regional network of water research institutes, a series of workshops on these tough problems that you have been discussing this morning. In the Southeast these include water supply, water law, storm water, nonpoint pollution, ground water management, and flood control. This series of workshops, which has brought together the top water officials from eight States has been uniquely valuable to us in sharing experiences and giving us a chance to get on top of these water problems. This is just a kind of program the Water Resources Council gives us a chance to participate in, because the planning and coordination they do are just unique.

The last point I would like to make on a specific basis is that the requirement for a 50-percent match in a grant program will probably be difficult for us. The sums of \$25 million for the planning program and \$25 million for water conservation, we feel very good about, not just because we would like the additional Federal funds, but because I think without them we won't be able to do much of a job in comprehensive planning. However, if the funds come all of a sudden and we want a 50-percent match, the first years it is going to be difficult. The North Carolina General Assembly is meeting just now on appropriations. They are not planning for these matching funds for the next 2 years. Other States probably have the same story.

I would like to summarize that the use of Water Resources Council funds up to now has been an enormously effective thing to us in the State, and particularly in the East. I can say from my experience in the West, it has been effective there as well.

The figure was mentioned that we have a \$10 billion national water program. I would like to tell you, Mr. Chairman and members of the committee, that the water industry of the United States is not \$10 billion, it is at least a \$50 billion industry. Most of these funds are spent by local government, State government, and by industry. If we don't have a Water Resources Council, it is going to be like a ship on the water with no navigation device. We have a fragmented industry. There are over 100,000 different water agencies in the United States. Everybody is going in a different direction. The Water Resources Council is the one group that has a

chance to bring some order out of all of this. This small investment that we are looking at here gives us a lot of promise.

I appreciate the opportunity to testify, and I would be happy to answer any questions you might have.

Senator GRAVEL. How much money could you handle in the next fiscal year?

Mr. GRIGG. Currently, our comprehensive water planning is only on the order of \$100,000. We could use the full amount that is being discussed. If we had say on the order of a million, which would be around North Carolina's share, we would be in very good shape. If the annual amount was a small increase from what we are getting in, it probably wouldn't be very effective in developing our program.

Senator SIMPSON. Just a couple questions, Mr. Chairman.

With attention to the other \$25 million program, that is grants for technical assistance for water conservation, what might your State do with that program?

Mr. GRIGG. We have given some thought to that, Senator Simpson. We would rely on local governments to utilize those funds for the most part. We would seek to use it to give local governments an appreciation for what can be done in water conservation programs in lieu of developing new water. Local governments have a way of going out and developing as much water as they can, and the conservation card is the last to be played. What has resulted is a drying up of streams, an over appropriation of water. It is a very difficult problem. We would like to use those funds to get them to work together and play the card of conservation early in the game and utilize it to augment water supply.

Senator SIMPSON. Mr. Grigg, the final question. Is there a need to encourage States to participate more in the planning of Federal projects and setting of priorities within the States?

Mr. GRIGG. Yes, sir, very much so. We have just been going through a process of approaching the general assembly with our water projects. This is very difficult, because the demand for water projects in the State is greater than the State is coming forth with. We intend to implement an authorization process followed by an appropriation process in the State of North Carolina to go with the Federal program. If we could participate in the Federal program, in the authorization approach of water projects as a partner, we might be able to deal with a very real problem.

Senator SIMPSON. I have no further questions, Mr. Chairman.

Senator GRAVEL. Thank you.

[Mr. Grigg's prepared statement follows:]

TESTIMONY  
BEFORE  
THE  
WATER RESOURCES SUBCOMMITTEE OF THE SENATE ENVIRONMENT AND  
PUBLIC WORKS COMMITTEE

APRIL 2, 1979

BY

NEIL S. GRIGG  
ASSISTANT SECRETARY FOR NATURAL RESOURCES  
NORTH CAROLINA DEPARTMENT  
OF  
NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM NEIL S. GRIGG, ASSISTANT SECRETARY FOR NATURAL RESOURCES OF THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT.

ON BEHALF OF THE STATE OF NORTH CAROLINA AND THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT, WHICH INCLUDES MOST OF THE STATE WATER RESOURCES MANAGEMENT ACTIVITY IN NORTH CAROLINA, I WOULD LIKE TO EXPRESS OUR APPRECIATION FOR THE OPPORTUNITY TO PRESENT OUR VIEWS ON THE PENDING LEGISLATION BEFORE THIS SUBCOMMITTEE RELATING TO EXTENSION OF THE AUTHORIZATION FOR THE WATER RESOURCES COUNCIL AND THE ADMINISTRATION PLAN FOR STATE GRANTS FOR PLANNING AND WATER CONSERVATION TECHNICAL ASSISTANCE.

IT IS PARTICULARLY APPROPRIATE RIGHT NOW FOR THE STATE OF NORTH CAROLINA TO PRESENT VIEWS ABOUT THE NEED FOR COMPREHENSIVE WATER PLANNING PROGRAMS SPONSORED BY THE WATER RESOURCES COUNCIL.

GOVERNOR HUNT AND SECRETARY HOWARD LEE OF OUR DEPARTMENT HAVE JUST PLACED INTO MOTION A SEQUENCE OF ACTIVITIES DESIGNED TO UPGRADE AND IMPROVE OUR CAPABILITY TO MANAGE WATER AND RELATED LAND RESOURCES COMPREHENSIVELY. I AM RESPONSIBLE FOR IMPLEMENTING THESE INITIATIVES AND HAVE ALREADY TAKEN STEPS TO INCREASE OUR EMPHASIS ON MULTI-OBJECTIVE WATER RESOURCES PLANNING, FOLLOWING CLOSELY THE MODEL OF THE WATER RESOURCES COUNCIL. FOR OUR SUCCESS, WE ARE COUNTING VERY MUCH ON THE CONTINUATION OF THIS ORGANIZATION AND ON THE STATE GRANT PROGRAM.

THE WATER RESOURCES PLANNING ACT OF 1965 HAS BEEN OF TREMENDOUS HELP TO NORTH CAROLINA IN HELPING US TO DEVELOP OUR WATER RESOURCES PLANNING PROGRAM. THE STATE IS NOW REACHING THE POINT WHERE IT CAN FULLY ASSUME ITS RESPONSIBILITIES IN WATER RESOURCES PLANNING AND MANAGEMENT AS ENVISIONED BY THE PRESIDENT'S WATER POLICY. WE ARE ALSO REACHING A POINT WHERE WE CAN MORE ADEQUATELY ASSIST LOCAL COMMUNITIES IN THEIR WATER RESOURCES PLANNING EFFORTS.

DURING THE PERIOD OF TITLE III ASSISTANCE, WE HAVE DEVELOPED THE FIRST STATEWIDE WATER RESOURCES FRAMEWORK PLAN. THIS IS AVAILABLE AT JUST THE TIME IT IS NEEDED TO SUPPORT OUR BALANCED GROWTH AND ECONOMIC DEVELOPMENT POLICY. WE HAVE TRAINED A SMALL, BUT CAPABLE STAFF AND WE ARE NOW ABLE TO DEAL, ON A LIMITED BASIS, WITH WATER RESOURCES DEVELOPMENT INTERESTS IN OUR STATE TO HELP ENSURE BALANCED ECONOMIC DEVELOPMENT WHILE WE PRESERVE AND ENHANCE OUR NATURAL RESOURCES.

WE ARE ALSO PARTICIPATING IN THE YADKIN - PEE DEE LEVEL B STUDY. THIS OPPORTUNITY TO WORK WITH THE STATE OF SOUTH CAROLINA TO DEVELOP SOME INTERSTATE COOPERATION HAS BEEN A REAL BLESSING TO US BECAUSE MORE AND MORE OF OUR WATER PROBLEMS ARE INTERSTATE, COMPLEX OR OTHERWISE WIDESPREAD.

ALTHOUGH WE HAVE MADE MANY ADVANCES IN RECENT YEARS IN WATER RESOURCES PLANNING AND MANAGEMENT, WE STILL HAVE A LONG WAY TO GO. PROGRAMS IN WATER POLLUTION CONTROL DOMINATE WATER RESOURCES MANAGEMENT IN STATE GOVERNMENT. WE NOW FIND THERE IS AN IMBALANCE IN STATE PROGRAMS WHICH COULD BE HELPED BY THE PASSAGE OF SOUND AMENDMENTS TO THE WATER RESOURCES PLANNING ACT OF 1965.

I WANT TO STATE UNEQUIVOCALLY THAT THE SOUTHEASTERN STATES NEED THE WATER RESOURCES COUNCIL, WE NEED THE STATE GRANT PROGRAM AND WE NEED MORE CONGRESSIONAL ENCOURAGEMENT FOR INTER-STATE COOPERATION AND SHARING. I HAVE BEEN A CONTINUING PARTICIPANT IN A RECENT SERIES OF WORKSHOPS INVOLVING TOP STATE WATER OFFICIALS IN EIGHT SOUTHEASTERN STATES REPRESENTING SOME 40 MILLION PEOPLE. THESE WORKSHOPS HAVE SHOWN US THAT THE STATES HAVE SIMILAR SEVERE PROBLEMS IN INADEQUATE WATER SUPPLY, FRAGMENTED AND INADEQUATE LEGISLATION, WEAK INSTITUTIONS AND A VERY STRONG NEED FOR MORE INTERSTATE COOPERATION IN COMPREHENSIVE WATER PLANNING AND MANAGEMENT. THESE WORKSHOPS WERE ORGANIZED BY THE NETWORK OF STATE WATER RESEARCH INSTITUTES WITH THE SPONSORSHIP OF THE U. S. OFFICE OF WATER RESEARCH AND TECHNOLOGY. THE WATER RESOURCES COUNCIL WORKS HAND-IN-HAND

WITH THESE GROUPS. I WOULD LIKE TO SAY THAT, IN MY OPINION, THIS KIND OF COOPERATION AND JOINT RESEARCH AND PLANNING REPRESENTS THE FINEST USE OF PUBLIC MONEY FOR WATER MANAGEMENT IN MY EXPERIENCE AND THIS IS JUST THE KIND OF RETURN WE GET FROM WATER RESOURCES COUNCIL ACTIVITIES.

WE HAVE THE STRONGEST SUPPORT FOR THE INCREASED STATE GRANT PROGRAM. TO AID US, IT WOULD BE USEFUL TO REQUIRE LESS THAN A 50 PERCENT MATCH IN THE INITIAL YEARS OF THE GRANT PROGRAM. ALSO, SOME CONSIDERATION FOR STANDARDIZING FEDERAL MATCHING FUNDS REQUIREMENTS IN THE WATER RESOURCES AREA SHOULD BE MADE. MATCHING REQUIREMENTS FOR GRANTS TO STATES FROM THE ENVIRONMENTAL PROTECTION AGENCY ARE MUCH LESS THAN 50 PERCENT. ALSO, THERE IS A STRONG NEED TO GUARD AGAINST FLUCTUATIONS IN ANNUAL APPROPRIATIONS THAT LEAD TO UNSTABLE ORGANIZATIONS AT THE STATE LEVEL.

TITLE III HAS BEEN USEFUL IN ASSISTING THE STATES IN BROAD COMPREHENSIVE WATER PLANNING AND HAS PROVIDED A MEANS FOR COORDINATION OF WATER AND RELATED LAND RESOURCES PLANNING BETWEEN THE STATES AND FEDERAL AGENCIES. IT HAS RAISED STATE ATTENTION AND INVOLVEMENT IN FEDERAL PLANNING ACTIVITIES. IT HAS ALERTED STATE LEGISLATORS TO THE NEED FOR CONSIDERING COMPREHENSIVE WATER RESOURCES PROGRAMS AND IDENTIFYING THE NEED FOR COMPREHENSIVE STATE WATER RESOURCES PLANNING. IT HAS HELPED MANY STATES DEVELOP THE INITIAL PHASE OF THEIR STATE WATER PLAN AND HAS ENABLED THEM TO PARTICIPATE MORE EXTENSIVELY IN REGIONAL

PLANNING AND DEVELOPMENT ACTIVITIES. THE PROPOSED ADDITIONAL FUNDING WILL HELP THE STATES DEAL MORE ADEQUATELY WITH THE URGENT WATER MANAGEMENT ISSUES OF THE DAY.

I HAVE BEEN FAMILIAR WITH OR WORKING DIRECTLY WITH THE WATER RESOURCES COUNCIL PRACTICALLY SINCE IT BEGAN. THIS INCLUDES SERVICE WITH ACADEMIA, PRIVATE BUSINESS, AND LOCAL AND STATE GOVERNMENT. LET ME STATE TO YOU THAT IN MY EXPERIENCE, THE FUNDS SPENT OR ALLOCATED BY THIS AGENCY HAVE BEEN ENORMOUSLY EFFECTIVE. WITH THE CURRENT FINE DIRECTOR AND STAFF, THIS PERFORMANCE PROMISES TO BE CONTINUED AND IMPROVED. I HOPE YOU WILL FULLY REALIZE THE DEFINITE NEED AT ALL THREE LEVELS OF GOVERNMENT FOR CONTINUATION OF THE COUNCIL.

MY STUDIES TELL ME THAT ALL WATER MANAGEMENT IN THE UNITED STATES REQUIRES SOME \$50 BILLION ANNUALLY. MOST OF THIS IS SPENT BY INDUSTRY AND LOCAL GOVERNMENT. UNLESS YOU PROVIDE FOR THE COMPREHENSIVE PLANNING PROGRAMS OF THE WATER RESOURCES COUNCIL, THIS LARGE ACTIVITY WILL BE LIKE A SHIP IN OPEN WATERS WITH NO NAVIGATION EQUIPMENT. THE SMALL SUMS REQUIRED TO DO A GOOD JOB IN NAVIGATING ARE ESSENTIAL AND CERTAINLY IN THE BEST INTERESTS OF OUR COUNTRY. I URGE YOU TO APPROVE AND FULLY SUPPORT THESE INITIATIVES.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I WANT TO THANK YOU FOR ALLOWING ME TO PRESENT THE VIEWS OF OUR STATE AGENCY.

Senator GRAVEL. Our next public witnesses I would like to have come to the table together, Mr. Hollenstein and Mr. James Fish. Mr. Hollenstein, you may proceed.

**STATEMENT OF GENE H. HOLLENSTEIN, FIRST VICE PRESIDENT, INTERSTATE CONFERENCE ON WATER PROBLEMS, ST. PAUL, MINN.**

Mr. HOLLENSTEIN. Mr. Chairman, my name is Gene Hollenstein. I am first vice chairman of the Interstate Conference on Water Problems.

On behalf of the board of directors of the Interstate Conference on Water Problems, I would like to express our appreciation for the opportunity to discuss with the subcommittee the issues of extension of authorization for appropriations for the Water Resources Council and the revised provisions and authorization for the title III program under Public Law 89-80.

I have previously submitted to you a bulk of testimony relating to this. I will try to condense some of this.

On the matter of Federal-State coordination of the Water Resources Council, all of the States water resources administrators who are members of ICWP have expressed concern regarding the future of State-Federal relationships in water resources management in the United States. A policy position of Federal-State coordination adopted by ICWP at its annual meeting in October 1978 at Charleston reads, in part, as follows:

ICWP maintains that it is necessary to have a strong coordinating mechanism for water resources activities to provide for better coordination between Federal agencies and foster improved cooperation with the States.

ICWP recognizes the need to maintain an interim level of intergovernmental linkage between State water management officials and their Federal counterparts until Congress establishes an appropriate coordinating entity.

Since the only existing mechanism at the present time is the Water Resources Council, ICWP suggests that the Water Resources Council be retained in its current status until specific reorganization options have been adopted by Congress.

Based on these considerations, the Interstate Conference on Water Problems is most concerned over the disposition of water resources matters during the interim period which will exist until the Congress deals with substantive changes in national water policy in 1979. The only existing mechanism for any form of coordination of Federal-State activities in water resources is contained in Public Law 89-80 for which the authorization for appropriation expires on September 30, 1979.

We fully recognize that the past record of accomplishment under Public Law 89-80 has fallen far short of congressional expectations and intentions, and we concur with the general position that major revisions and changes are necessary to establish a new program to create a better, more productive means for accomplishing viable local, State and Federal cooperation in water resources management.

It would be unfortunate, and we believe ill-advised, to simply drop the only existing legislative means for allowing at least some State participation in national water resources activities until Congress can deal adequately with constructive changes in the law during 1979.

We therefore support extension of authorization for the Water Resources Council for fiscal year 1980, but we do urge Congress to consider actions to revise and reconstitute the present Water Resources Council during this session. ICWP would be pleased to work with Congress to review existing legislative proposals and to develop new legislation which provides a better coordinating mechanism.

I have some information in the documents that I gave you relating to some of the benefits to the States of the State grants program. I shall not go through them, but would intend to try to get into the substance of the commentary.

Although we have general agreement with the proposed legislation, we do have concern in certain areas.

In section 301(a), we concur with the proposal set forth, but we feel that the references to integration should be clarified to express the intent that, integration means that the program areas are organized or structured so that the constituent units function cooperatively. The intent should not be to force the States to physically merge elements of the program areas. This is in relation to water quality and water quantity. We would be concerned that someone may take integration to mean that we would have to have one State agency. In some States that would not be a viable mechanism.

On section 301(b), we agree with the proposed increase in funding at the levels indicated, but we are concerned that the supplemental funding for fiscal year 1979 be set at a lower and more realistic level which recognizes the limited time remaining in the fiscal year and the limited capability of many States to meet expanded matching requirements for fiscal year 1979. It is suggested that a reasonable funding level might be \$12 million for the balance of fiscal year 1979.

On section 301(c), we support the prescription of guidelines by rule, but feel that the States should be afforded a better opportunity to participate in the rulemaking process. Accordingly, we propose that the language should read as follows: "The Council should prescribe, in consultation with the States, guidelines by rules, not later than 120 days after enactment of this title to carry out the purposes and responsibilities under this title." We also believe that the language relating to Council establishment of other procedures, arrangements, and provisions it seems necessary should be amended, to require that such establishment be accomplished through the rulemaking procedure in consultation with the States.

In regard to section 302(a), we agree with the general concept of allocation of funds, but stress the need for assurances that there will be a base level of at least \$100,000 per State to assure that there is annually an adequate level of funding to provide States with reasonable assurance of continuing support in carrying out management responsibilities, including maintenance of adequate staff capabilities for reasonable periods of time. This has been one of the problems which we have had in a number of States, a lack of assurances that we are going to have a continued funding at a certain level which would enable us to hire people and keep a payroll. We feel with a guaranteed base level this would be more likely accomplished.

Under section 302(f), we are not opposed to a fair and equitable allocation of funds to Indian tribes for water management efforts, but we are concerned that there be a clearly defined process for coordinating the planning efforts of the Indian tribes within each State with the planning efforts of the respective States.

ICWP has distributed a questionnaire relating to Public Law 89-80 titles I, II, and III to the water resources administrators of the 50 States. We have received the views from 48 States and are including a summary of these views in three tables which accompany this testimony. These tables indicate the State responses in terms of agreement, disagreement, or uncertainty to seven specific questions on title III, three questions on title II, and seven questions on title I.

In terms of the water resources planning and technical assistance program under title III, on the question of funding for the State water resources grant program, 44 States out of the 47 agreed that the funding level should be \$50 million per year. Forty States out of the forty-eight indicated that the matching requirement should be 80-20 Federal-non-Federal. Forty-four States out of forty-eight indicated that if the funding level was \$50 million and the match was 80-20 Federal-non-Federal, they would be able to provide the match.

However, on the question of funding at a \$50 million level with a 50-50 Federal-non-Federal match, as proposed in the administration's bill, 23 States indicated that they could not provide the match, 5 States were uncertain that they could provide the match, and only 17 States indicated that they would be able to provide the 50-50 match.

It appears that a number of States are concerned regarding participation in the program at a 50-50 match level because of uncertainties with the matching requirements and the types of State efforts which would qualify for match under the program. There may be a need to provide clearer language which indicates the degree and scope of State efforts in a very flexible framework which would allow a State to qualify under a 50-50 match program if Congress should decide that the matching requirement must be 50-50 Federal-non-Federal.

Thirty-nine out of forty-six States agreed that language should be included in legislation and in the grant contract that "no requirement for the expenditure of funds under this grant should diminish a State's rights to manage its waters." States should be required to comply with congressionally defined national interest. Only five States disagreed and two States were uncertain on this question. Forty-four States out of forty-six agreed that there should be a requirement for Federal consistency with State programs to the extent State programs do not conflict with the defined national interest.

Some ICWP members have expressed concern over the proposed staffing of WRC for administration of the proposed expanded water management and water conservation technical assistance grant program. It is our understanding that the present proposal is for a staff of about 11 persons to administer these programs, whereas the independent review function of WRC would have a staff of about 35 persons. It appears to some of us that an effort as important as

these programs should have adequate staff capability to provide necessary interaction and cooperation with the States if the program is to be successfully implemented in the best interests of the State and the Nation.

The States views regarding the future role of an Office of Water Resources Coordination Entity under title I are as follows:

One, legislation should provide for a strengthened coordinated entity at the Federal level. Forty-four States responded; forty-one agreed and three disagreed.

Two, legislation should provide for reduced overlapping functions and duplication of Federal programs. Forty-four States responded; forty-one agreed and three disagreed.

Three and four, legislation should provide for an increased State role and recognition of States rights. Forty-four States responded; forty-two agreed and two disagreed.

Five, the coordinating entity should be headed by a director appointed by the President. On this issue, forty-two States responded; thirty-eight agreed and four disagreed.

Six, a State Water Advisory Council should be formed to supply State input. Forty-three States responded; thirty-six agreed and seven disagreed.

Seven, a Federal Water Advisory Council should be established to provide Federal input. Forty-one States responded; thirty-one agreed and ten disagreed.

The State views regarding coordination of water resources planning under title II are attached for your information. ICWP intends to utilize these views and other inputs from the States in preparing recommendations on possible revisions to Public Law 89-80 for congressional consideration. It is intended to review past legislative proposals and any new proposals, such as the Congressman Vento bill, H.R. 2071, in an effort to advise Congress of State views on revisions to Public Law 89-80.

On the matter of the independent review function, ICWP has not attempted to develop a specific questionnaire concerning the independent review function of WRC. Discussion with some ICWP members has indicated some concern regarding the value of the review function, but there seems to be general agreement that the effort should be attempted on a trial basis to see if the Federal process for project review can be improved. It should be noted, however, that a truly independent review function does not appear feasible unless there is a restructuring of the present Water Resources Council as a truly independent coordinating entity separate from an existing Federal department.

On the matter of State cost sharing in regard to the matter of cost-sharing proposals by the administration, ICWP has not attempted to formulate a specific response since we are uncertain as to the exact language of legislation which would be sent to Congress. When a final legislative proposal is presented to Congress, ICWP will attempt to provide State views on that legislation. I would be prepared to give you some personal views and some information from the Governor of Utah, who heads a subcommittee of the National Governors Association, and also some comments from the State of Pennsylvania, which I will be pleased to provide to the committee for its use.

Thank you very much, Mr. Chairman, for the opportunity to appear before you. I would be willing to answer any questions. Senator GRAVEL. We will hear Mr. Fish's statement first.

**STATEMENT OF JAMES FISH, EXECUTIVE DIRECTOR, GREAT LAKES COMMISSION**

Mr. FISH. Thank you, Mr. Chairman.

I am James Fish, executive director of the Great Lakes Commission.

The Great Lakes Commission is an eight-State Interstate Compact Commission, organized in 1955 by Wisconsin, Pennsylvania, Ohio, New York, Minnesota, Michigan, Indiana, and Illinois. The commission also received recognition by Congress and full compact status in 1968 under the Great Lakes Basin Compact, Public Law 90-419. We are solely funded by annual appropriations from each of the member States and receive no Federal funding for operations, projects or programs—nor has the commission sought Federal funding for any special projects. The Great Lakes Commission is a totally interstate organization, and as such, I believe in a unique position to provide testimony today regarding the Water Resources Planning Act.

I would also like to indicate while we are a voting member of the Great Lakes Basin Commission, a Federal-State entity created by Executive order under title II of the Water Resources Planning Act, we should not be confused with that organization which must speak for the Federal viewpoint as well as for the State viewpoint.

Our testimony concerns both the legislation you have before you, extending WRC and title III programs, and also addresses some of the issues regarding restructuring of the Council, which you have indicated you plan to take up at a later date.

We have supported the Water Resources Planning Act, and in particular the functions of the Water Resources Council and title III programs, in the past, and we do so now. The commission supported these programs before the original act was passed in 1965, when representatives of the commission and our member States were some of the most active in working with Congress to achieving the compromise needed for passage at that time. We continue our commitment to work with Congress for improvements in the act.

Before I proceed to discuss specific issues relating to the proposed legislation, I believe that some perspective on the States position would be helpful to the committee in its consideration of legislation in the critical area of water resources management.

The past 2 years have been both exciting and frustrating for the Great Lakes Commission. They have been so for me personally, since I have had the opportunity to deal with water policy issues for several years, first as a consultant for the Interstate Conference on Water Problems and now as the executive director of the commission. The exciting opportunities that have been presented are the administration's reorganization study, now presented in outline form, and the water resource policy study which is continuing to emerge in its implementation phase. Frustration has come because we feel that while the administration has been correct in not eliminating the Water Resources Council, it has not proposed over-

all changes which assure continued development of a national—as opposed to Federal—water resources policy in concert with the States.

All of us in this room share a common bond: Concern about the future, particularly as that future relates to the Nation's continued ability to provide balanced management of our water resources, management which will permit appropriate growth of our economy, assuring a good standard of living for all of our citizens and improved protection of our environmental quality, assuring the enhancement of public health.

It is insufficient to simply suggest that the two concerns—economic growth and environmental quality—must be balanced. A mechanism must be provided which can lead the way. In 1965, the Congress passed the Water Resources Planning Act. For that time, it was as far as the Congress could go. The resulting entity, the Water Resources Council, has gone a long way toward fulfilling that role, despite the disappointments which have been identified in many reports. Many of the disappointments occurred because of an indifferent attitude on the part of various administrations which have been occupied with matters they gave greater weight than water management. However, it is also well recognized there were inherent problems in the original legislation—legislation which gave sweeping responsibility without corresponding authority.

In 1977, changes appeared to surface in the administration's position. After some initial problems of gaining entry to the process of the water policy study, which was essentially conducted by the Department of the Interior and other Federal entities, not by the Water Resources Council as an entity, the States formulated positions and worked hard to gain changes which were perceived as vital. Water policy review efforts continue to be dispersed among the agencies without an effort to coordinate through the open mechanism of the Water Resources Council or other interdepartmental system.

The Interstate Conference on Water Problems, the Western States Water Council and the National Governors Association all formulated positions on water policy issues and communicated them well. With regard to the Water Resources Council, the National Governors Association stated:

At the Federal level, this means resolution of conflicts of competition among Federal programs and coordination of agency activities, through a national coordinating entity reporting directly to the President and with provisions for adequate State and public input, such as a strengthened and reconstituted U.S. Water Resources Council.

To some extent, the administration has met and recognized our concerns. It has, for example, proposed additional funding for State water management and planning and water conservation technical assistance. It has recognized the need for speedier and more adequate review of proposed water projects in the independent water project review function. In other ways, some of our hopes simply have not been met.

The Council's national assessment of water resources, 1975-2000, points out quite well facts that we must all recognize—either we deal responsibly with water resources for the future, or the lack of

those water resources will deal with our futures, and little can be said which can be hopeful for our children or those which will follow, in this country or in others.

We can change our future. We can take steps to plan ahead, to provide economic growth, to provide food for this country and for others less able and to protect our environmental values as well.

Absolutely key to changing our water future is a partnership between the Federal Government and the States.

Changes are necessary. First, the Council must have an independent chairman responsible directly to the President, confirmed by the Senate. The chairman would thus be free of pressing Department of the Interior, or Department of Natural Resources, concerns which may conflict with Water Resources Council concerns. Additionally, such a chairman would be more able to deal with the Council member departments and would have the time, staff, and mandate to find the compromises so often needed to achieve the long-range views and planning necessary to effect comprehensive water management. Further, an independent review, it would appear to us, can only be carried out by the Water Resources Council if it has an independent chairman.

Second, we would suggest the Council voting mechanism must be changed. Currently, the Council's rules and regulations permit a single department or agency member to effectively veto a policy decision or to even block consideration of an issue.

Third, the President appropriately recognized the States role in water resources planning and management, and this must be fully recognized in the Council's responsibilities. There must be a provision for States participation in water resources policy formulation at the national level, both in a formal mechanism and informal discussions. A formal State Advisory Committee should be established by the Congress to assure this input.

Fourth, water resources projects which are economically and environmentally sound and needed must proceed much more smoothly to the implementation stage. We consume years and dollars in the waiting process. Thirty-year old projects are finally funded, reach the implementation stage and are totally stymied by lawsuits which appropriately reflect changing values.

The independent review function proposed by the administration should expedite projects and help provide assurances that such projects will not meet with lengthy and costly delays due to lawsuits. My Commission supports the concept of such changes. Inherent in this is our understanding that the present OMB technical review of projects will be eliminated, and OMB's function will be limited to conformance with the President's budget priorities. This change is considered to be a marked improvement in processing projects. Member States have suggested further that completed project review studies, when forwarded from the secretaries of the construction agencies to OMB for budget consideration, should also be forwarded concurrently to Congress and the Governors of the affected States.

Fifth, and most importantly in the view of some States, there must be adequate assistance to the States to participate in the full range of water resources management activities. A Federal investment in State water management pays large dividends. The States

have been the innovators in most areas now assumed to be Federal initiatives. For example, States first initiated coastal zone management wild and scenic river protection, water pollution control programs, instream use protection, strip mine regulations, dam safety regulations and shore-land management, to cite just a few.

Under the general category of assistance to the States, I would like to focus the remaining few minutes of my time on the administration's proposed increase of the title III planning and management grants to the States. The Great Lakes Commission supports increases in the authorized and appropriated levels of title III to \$50 million per year—\$25 million for water management activities and \$25 million for water conservation activities. There is significant concern, however, for continuity of program, minimum funding, the matching requirements and rules and regulations that may evolve from the administration's legislation.

Senator GRAVEL. Let me interrupt you here. Do you feel that you can handle the first year's, or 1979 appropriation on the matching basis?

Mr. FISH. Several of our States have indicated they could handle it if there was \$50 million appropriated and distribution formulas were as indicated. Others have major concern as to whether or not they would be able to initiate programing on that level. It is my opinion from conversations, as have been suggested by Mr. Hollenstein, that approximately \$12 million additional would be a good start in the program.

Senator GRAVEL. What about the second year?

Mr. FISH. The second year, full implementation. It is a concern that the 50-percent matching, as proposed on the immediate start-up basis, would cause significant difficulties. One, if new money is needed to be appropriated from the State legislatures, the timing would be most likely very difficult based on legislative schedules, to say nothing of the fact—for instance, in Michigan we are now operating under an absolute, or more absolute, budget limitation than we were before. There is concern with regard to what will be permissible matching moneys. The States are most concerned that their existing expenditures, which would far exceed many of the matching requirements in these areas should be recognized. As was indicated by Mr. Grigg, \$10 billion in water programs is not the number; it is a much greater order of magnitude. The States feel that the long-term commitment they have been making should be recognized in these programs.

Another major item I think of in overall terms of funding is the area of continuity of funding, continuity of the program. The title III programing that has been in existence has been an up and down funding, unable to be adequately projected by the States, and therefore has caused legislative issues. Overall, there is concern on the part of the States that this—and it is somewhat, shall we say, recognized in your earlier remarks—but there is concern that these changes which are now being proposed in the State grant program may simply be another, if you will, bended promise to fully review the structure of the Water Resources Council, and a concern that without significant improvements, such as an independent chairman, that we will not move forward to the strengthened water management programs that the country needs.

Last, I might add that on March 23, our commission did pass a resolution which supported legislation to amend the Water Resources Planning Act as proposed by Congressman Vento. This legislation emphasizes the need for an independent WRC chairman, a State Advisory Committee and expanded grant program.

I would be happy to answer any questions now or for the record.

Senator GRAVEL. I have some questions that I would like to submit to both of you for the record. I have no further questions at this point. We thank you both for your testimony.

This hearing is adjourned.

[Whereupon, at 12:10 p.m., the subcommittee recessed, to reconvene subject to call of the Chair.]

[The bills, S. 480 and S. 833, the prepared statements of Mr. Hollenstein and Mr. Fish, responses from Mr. Hollenstein to written questions, and statements from the State of California, New England River Basins Commission, and the State of North Dakota follow:]

96TH CONGRESS  
1ST SESSION

# S. 480

Amending the Water Resources Planning Act to authorize appropriations for fiscal years 1980 and 1981.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 1979

Mr. RANDOLPH (for himself and Mr. GRAVEL) (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

Amending the Water Resources Planning Act to authorize appropriations for fiscal years 1980 and 1981.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 That:

4 (a) Section 401(a) of the Water Resources Planning Act  
5 of 1965 (79 Stat. 244, as amended) is hereby amended by  
6 deleting the words: "the sum of \$2,886,000 for fiscal year  
7 1979" and inserting in lieu thereof: "the sum of \$3,119,000

1 for fiscal year 1980 and such sums as may be necessary for  
2 fiscal year 1981”.

3 (b) Section 401(b) of the Water Resources Planning Act  
4 (79 Stat. 244, as amended) is amended by deleting the  
5 words: “the sum of \$2,668,000 for fiscal year 1979” and  
6 inserting in lieu thereof: “the sum of \$4,330,000 for fiscal  
7 year 1980 and such sums as may be necessary for fiscal year  
8 1981”.

9 (c) Section 401(c) of the Water Resources Planning Act  
10 (79 Stat. 244, as amended) is amended by deleting the  
11 words: “The sum of \$3,179,900 for fiscal year 1979 for  
12 preparation of assessments, and for directing and coordinat-  
13 ing the preparation of such river basin plans as the Council  
14 determines are necessary and desirable in carrying out the  
15 policy of this Act: *Provided*, That \$828,900 shall be availa-  
16 ble under this subsection for preparation of the Columbia  
17 River Estuary Special Study: *Provided further*, That  
18 \$308,000 shall be available under this subsection for prepa-  
19 ration of the New England Port and Harbor Study and  
20 \$135,000 shall be available for completion of the Hudson  
21 River Basin Level B Study: *Provided further*, That \$150,000  
22 shall be available under this subsection for completion of  
23 Case Studies of the Application of Cost Sharing Policy Op-  
24 tions for Floodplain Management in the Connecticut River  
25 Basin: *Provided further*, That not more than \$2,500,000

1 shall be available under this subsection for the preparation of  
2 assessments." and inserting in lieu thereof: "The sum of  
3 \$2,815,000 for fiscal year 1980 and such sums as may be  
4 necessary for fiscal year 1981 for preparation of assessments,  
5 and for directing and coordinating the preparation of such  
6 regional or river basin plans as the Council determines are  
7 necessary and desirable in carrying out the policy of this  
8 Act."

9 (d) Appropriations authorized by this Act for salary,  
10 pay, retirement, or other benefits for Federal employees may  
11 be increased by such additional or supplemental amounts as  
12 may be necessary for increases authorized by law.

96TH CONGRESS  
1ST SESSION

# S. 833

Amending the Water Resources Planning Act of 1965 to implement State water management and conservation technical assistance programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 29 (legislative day), FEBRUARY 22, 1979

Mr. RANDOLPH (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

Amending the Water Resources Planning Act of 1965 to implement State water management and conservation technical assistance programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That section 301 of the Water Resources Planning Act of  
4 1965 (79 Stat. 244, as amended) is hereby amended by delet-  
5 ing all of section 301 and inserting in lieu thereof a new  
6 section 301 to read as follows:

7       “SEC. 301. (a) In recognition of the appropriate role of  
8 the States as the focal point for comprehensive water and

1 related land resources management (herein called water man-  
2 agement) and a national need for—

3           “(1) development and implementation of State  
4 water management programs;

5           “(2) a nationwide emphasis on water conserva-  
6 tion;

7           “(3) integration of water quantity and water qual-  
8 ity planning and management;

9           “(4) integration of ground and surface water plan-  
10 ning and management;

11           “(5) protection and management of ground water  
12 supplies;

13           “(6) protection and management of instream  
14 values; and

15           “(7) enhanced cooperation and coordination be-  
16 tween Federal, State, and local units of government.

17 The Congress hereby establishes a program of financial and  
18 program assistance to the States for the development, imple-  
19 mentation, and modification of State water management pro-  
20 grams and the establishment and implementation of water  
21 conservation technical assistance programs.

22           “(b) In recognition of the increasing need for conserva-  
23 tion and improved management of water and related land  
24 resources of this Nation, there are hereby authorized to be  
25 appropriated to the Water Resources Council \$50,000,000

1 annually; up to \$25,000,000 of which may be appropriated to  
2 assist States in the development, implementation, and modifi-  
3 cation of water management programs, and up to  
4 \$25,000,000 of which may be appropriated to assist States in  
5 establishing and implementing water conservation technical  
6 assistance programs.

7       “(c) The Council shall prescribe guidelines by rule, not  
8 later than one hundred and twenty days after enactment of  
9 this title, to carry out its functions and responsibilities under  
10 this title. These guidelines shall assure (1) coordination of the  
11 program authorized by this title with related Federal pro-  
12 grams, and (2) appropriate utilization of other Federal agen-  
13 cies administering programs which may contribute to achiev-  
14 ing the purposes of this title. The Council may also establish  
15 other procedures, arrangements, and provisions that it deems  
16 necessary.”.

17       SEC. 2. Section 302 of the Water Resources Planning  
18 Act of 1965 (79 Stat. 244, as amended) is hereby amended  
19 by deleting all of section 302 and inserting in lieu thereof a  
20 new section 302 to read as follows:

21       “SEC. 302. (a) From the sums available pursuant to  
22 section 301(b) (except as provided in section 303(f)) for any  
23 fiscal year for water management programs, the Council, in  
24 accordance with its guidelines promulgated pursuant to sec-  
25 tion 301(c), shall allocate annually an equal amount to each

1 State, with the remaining amount allocated on the basis of  
2 such factors as population, land area, financial need, and  
3 need for improved water management.

4       “(b) From the sums available pursuant to section 301(b)  
5 (except as provided in section 303(f)) for any fiscal year for  
6 water conservation technical assistance, the Council, in ac-  
7 cordance with its guidelines promulgated pursuant to section  
8 301(c), shall allocate annually an equal amount to each State  
9 with the remaining amount allocated on the basis of such  
10 factors as population and need for water conservation.

11       “(c) For the purposes of this section, the population of  
12 the State shall be determined on the basis of the latest esti-  
13 mates available from the Department of Commerce and the  
14 land area of the State shall be determined on the basis of the  
15 official records of the United States Geological Survey.

16       “(d) From each State’s allocation for water management  
17 programs under this section, the council shall provide to the  
18 State an amount which is not more than 50 per centum of  
19 the cost of carrying out its State water management program  
20 approved under section 303(a).

21       “(e) From each State’s allocation for water conservation  
22 technical assistance programs under this section, the Council  
23 shall provide to the State an amount which is not more than  
24 50 per centum of the cost of carrying out its State water

1 conservation technical assistance program approved under  
2 section 303(b).

3       “(f) Notwithstanding the provisions of sections 301 and  
4 303 and the other provisions of this section, the Council shall  
5 annually reserve for the benefit of federally recognized Indian  
6 tribes 1.5 per centum of the sums available for financial as-  
7 sistance pursuant to subsection 301(b) (except as provided in  
8 section 303(f)). The Council shall, by rule, prescribe guide-  
9 lines for the allocation and use of this reserved portion to  
10 carry out the provisions of this subsection. The Council may,  
11 after affording reasonable opportunity for comment by the  
12 Governor of a State, provide financial assistance to an Indian  
13 tribe in that State of no more than 50 per centum of the costs  
14 of approved programs under this section, if it finds that—

15               “(1) such Indian tribe has demonstrated that an  
16 unmet need for Federal financial assistance for such  
17 uses are deemed consistent with the purposes of sec-  
18 tion 301 and the guidelines promulgated thereunder;

19               “(2) assistance provided under this subsection will  
20 not be used to duplicate or substitute for any assist-  
21 ance provided for any water management or water  
22 conservation technical assistance provided by another  
23 Federal agency, a State, or a unit of local government  
24 for use or benefit of and with the consent of the Indian

1       tribe; however, funds made available hereunder may be  
2       used to supplement or augment existing programs; and  
3       “(3) such Indian tribe is capable of performing all  
4       pertinent requirements of sections 302 and 303, includ-  
5       ing the matching requirements under this subsection.  
6       The Council shall ensure that any program submitted  
7       by an Indian tribe for direct Federal financial assist-  
8       ance under this subsection shall meet all pertinent re-  
9       quirements of sections 303 (a), (b), and (c), suitably  
10      modified in guidelines to address tribal entities as op-  
11      posed to State entities, including participation of the  
12      affected Indian tribal members and consultation with  
13      the Governor(s) of the State(s) in which the tribe is lo-  
14      cated, or designees, in the development, modification,  
15      or implementation of any water management or water  
16      conservation technical assistance program prepared by  
17      or for such Indian tribe.

18 Assistance received by tribes from any Federal agencies,  
19 other than the Bureau of Indian Affairs’ assistance for water  
20 management or water conservation technical assistance, con-  
21 sistent with Public Law 93-638, section 104 (25 U.S.C.  
22 450h), cannot be used to meet the matching fund requirement  
23 of this section. Funds reserved under this subsection which  
24 are not obligated by the end of any fiscal year shall be reallo-

1 cated for the following fiscal year in accordance with provi-  
2 sions of subsection 301 (a) and (b) of this section.”.

3       SEC. 3. Section 303 of the Water Resources Planning  
4 Act of 1965 (79 Stat. 244, as amended) is hereby amended  
5 by deleting all of section 303 and inserting in lieu thereof a  
6 new section 303 to read as follows:

7       “SEC. 303. (a) The Council may approve any program  
8 for water management submitted by a Governor which at a  
9 minimum shall provide for—

10           “(1) the development and implementation of a  
11 water management program in the State to address  
12 identified goals and objectives of the State water  
13 policy, to include the integration of planning and man-  
14 agement of water quantity and water quality as well as  
15 the integration of planning and management of ground  
16 and surface waters, the protection and management of  
17 ground water supplies, and the protection and manage-  
18 ment of instream values, taking into account prospec-  
19 tive demands for all purposes served through or affect-  
20 ed by such activities;

21           “(2) coordination with all Federal, State, and  
22 local agencies, federally recognized Indian tribes and  
23 nongovernmental entities involved in water related  
24 management programs; and

1           “(3) participation of the public in the develop-  
2           ment, modification, and implementation of the water  
3           management program.

4           “(b) The Council may approve any program for water  
5           conservation technical assistance submitted by a Governor if  
6           the program is submitted with, and is an integral part of a  
7           water management program approved under section 303(a),  
8           and which at a minimum shall provide—

9           “(1) information, data, or expertise to the public  
10           and private sector to evaluate and/or establish projects  
11           or programs related to the conservation of water re-  
12           sources;

13           “(2) for coordination of the State programs with  
14           local units of government and federally recognized  
15           Indian tribes in terms of the availability of such techni-  
16           cal assistance;

17           “(3) for coordination of the State programs with  
18           related technical assistance programs of Federal, other  
19           State and local agencies; and

20           “(4) for participation of the public in the develop-  
21           ment, modification, and implementation of the water  
22           conservation technical assistance program.

23           “(c) Each program submitted by a Governor under this  
24           title shall—

1           “(1) designate a State agency (hereinafter referred  
2 to as the ‘State agency’) to administer the program;

3           “(2) set forth the procedures to be followed in  
4 carrying out the State program and in administering  
5 such program;

6           “(3) provide annually an assessment of progress in  
7 meeting the goals and objectives of the water manage-  
8 ment and conservation technical assistance programs;

9           “(4) provide assurances that State plans and man-  
10 agement activities associated with other related Feder-  
11 al programs are consistent with the overall water re-  
12 sources policy of the State as submitted in the water  
13 management program;

14           “(5) provide that the State agency will prepare  
15 and submit reports in a form and containing informa-  
16 tion as the Council may reasonably require to carry  
17 out its functions under this title; and

18           “(6) provide for such accounting, budgeting, and  
19 other fiscal methods and procedures as are deemed  
20 necessary by the Council for keeping appropriate ac-  
21 countability of the funds and for the proper and effi-  
22 cient administration of the program.

23           “(d) Funds provided to States for water management  
24 and conservation technical assistance may be passed through

1 to local governments for use in developing and implementing  
2 this program.

3 “(e) The Council, in administering the program, shall—

4 “(1) review each State program submitted by a  
5 Governor for compliance with the appropriate rules,  
6 regulations, guidelines, and other requirements;

7 “(2) notify the Governor of approval of the pro-  
8 gram or intent to disapprove within ninety days after  
9 receipt of the application for financial assistance; and

10 “(3) not disapprove any program without first  
11 giving reasonable notice and opportunity for a hearing  
12 to the Governor.

13 “(f) The expenses of the Water Resources Council in  
14 administering title III of the Act shall be derived from avail-  
15 able funds pursuant to section 301(b).”

16 SEC. 4. Section 305 of the Water Resources Planning  
17 Act of 1965 (79 Stat. 244, as amended) is hereby amended  
18 by deleting all of section 305 and inserting in lieu thereof a  
19 new section 305 to read as follows:

20 “SEC. 305. (a) The Council shall provide annually to  
21 each State an estimate of the allocation of funds for the fiscal  
22 year and at such time invite each Governor to submit an  
23 application for financial assistance.

24 “(b) The Council shall make payments to each State  
25 through the disbursing facilities of the United States Depart-

1 ment of the Treasury and in accordance with advance financ-  
2 ing regulations of that Department at such times and in such  
3 installments as the Council may determine.”.

4 SEC. 5. Section 306 of the Water Resources Planning  
5 Act of 1965 (79 Stat. 244, as amended) is amended by delet-  
6 ing all of section 306 and inserting in lieu thereof a new  
7 section 306 to read as follows:

8 “SEC. 306. For the purposes of this Act, the following  
9 definitions will apply:

10 “(a) ‘State’ means each of the fifty States, the  
11 District of Columbia, Guam, the Commonwealth of the  
12 Northern Mariana Islands, Puerto Rico, or the Virgin  
13 Islands.

14 “(b) ‘Fiscal year’ means a twelve-month period  
15 ending September 30 of each year, unless otherwise  
16 specified.

17 “(c) ‘Comprehensive water and related land re-  
18 sources management’ means those activities necessary  
19 to effect coordinated decisions for the use of water and  
20 related land resources within a State or interstate  
21 region; which consider the potential for water and re-  
22 lated land resources use from the standpoint of present  
23 and future needs; and which provide for involvement of  
24 affected interests. Water management activities may  
25 include but not be limited to planning, data collection

1 and analysis, studies and investigations, program  
2 design and coordination, regulation and enforcement  
3 (excluding litigation costs), mass media and technical  
4 information dissemination, professional staff training,  
5 public meetings, and coordination of water and related  
6 land resources use.

7 “(d) ‘Water conservation technical assistance’  
8 means providing information, data, or expertise to  
9 evaluate and/or establish projects or programs de-  
10 signed to (1) reduce the demand for water, (2) improve  
11 efficiency in use and reduce losses and waste of water,  
12 or (3) improve land management practices to conserve  
13 water. These activities may include but not be limited  
14 to public education, information dissemination, feasibil-  
15 ity studies, water system analyses, onsite consultation,  
16 and establishing and implementing water exchanges.

17 “(e) ‘Federally recognized Indian tribe’ means any  
18 federally recognized tribe, band, nation, or other orga-  
19 nized group or community for whom, or for whose  
20 members, the United States holds land on trust or re-  
21 stricted status.

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Testimony Before Senate Environment and Public  
 Works Committee, Subcommittee on Water Resources  
 April 2, 1979

by

Gene H. Hollenstein  
 First Vice-Chairman, ICWP

Mr. Chairman and members of the Subcommittee. I am Gene H. Hollenstein, First Vice-Chairman of the Interstate Conference on Water Problems (ICWP).

On behalf of the Board of Directors of the Interstate Conference on Water Problems, which represents water resources administrators from 46 of the 50 States, I would like to express our appreciation for the opportunity to discuss with the Subcommittee the issues of extension of authorization for appropriations for the Water Resources Council and the revised provisions and authorization for the Title III program under PL 89-80.

The ICWP Board of Directors, elected by State water resources administrators, consists of representatives of the States of

California, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Ohio, South Carolina, and Utah, the Western States Water Council, and two representatives from intrastate water agencies: The Miami Conservancy District and the Brazos River Authority.

The Interstate Conference on Water Problems is an association of state, intrastate, and interstate officials concerned with water resources administration. The Conference was established in 1959 as an outgrowth of regional associations on water problems. ICWP works cooperatively with the National Governors' Association, the National Conference of State Legislatures, and the Council of State Governments and serves as an advisory body to other associations of government officials in the area of water resources development and conservation.

The ICWP Board of Directors formerly served as the Standing State Advisory Committee to the U. S. Water Resources Council until being abolished by OMB in 1977. The Board of Directors and selected Committee and Task Force Chairmen now meet less formally, but perhaps more frequently, with members and staff of WRC to discuss and advise on pending water resource issues and policy.

Federal-State Coordination - Water Resources Council

All of the State water resources administrators who are members of ICWP have expressed concern regarding the future of state-federal relationships in water resources management in the United States. A policy position on Federal-State Coordination adopted by ICWP at its annual meeting in October 1978 at Charleston, reads, in part, as follows:

"ICWP maintains that it is necessary to have a strong coordinating mechanism for water resources activities to provide for better coordination between Federal agencies and foster improved cooperation with the States.

ICWP recognizes the need to maintain an interim level of inter-governmental linkage between State water management officials and their Federal counterparts until Congress .... establishes an appropriate coordinating entity.

Since the only existing mechanism at the present time is the Water Resources Council, ICWP suggests that the Water Resources Council be retained in its current status until specific reorganization options have been adopted by Congress..."

Based on these considerations, the Interstate Conference on Water Problems is most concerned over the disposition of water resources matters during the interim period which will exist until the Congress deals with substantive changes in national water policy in 1979. The only existing mechanism for any form of coordination of federal-state activities in water resources is contained in PL 89-80 for which the authorization for appropriation expires on September 30, 1979.

ICWP fully recognizes that the past record of accomplishment under PL 89-80 has fallen far short of Congressional expectations and intentions, and we concur with the general position that major revisions and changes are necessary to establish a new program to create a better, more productive means for accomplishing viable local, state, and federal cooperation in water resources management.

It would be unfortunate, and we believe ill-advised, to simply drop the only existing legislative means for allowing at least some state participation in national water resources activities until Congress can deal adequately with constructive changes in the law during 1979.

ICWP therefore supports extension of authorization for the Water Resources Council for fiscal year 1980 but urges Congress to consider actions to revise and reconstitute the present Water Resources Council during this session. ICWP would be pleased to work with Congress to review existing legislative proposals and to develop new legislation which provides a better coordinating mechanism.

#### TITLE III - State Grant Program

Water is a basic resource important to many activities, and decisions relating to water affect many areas of State operation. Elected State officials must be free to adopt that structure best suited to the needs of the State in regard to coordination of State water management efforts. The Title III program has the potential to be a vital element to provide valuable coordination of water resources management efforts at a State and national level.

The existing grant program under Title III (PL 89-80) has been useful in assisting State water planning. Some of the benefits to the States include:

- o It has provided funds for beginning to address the water problems of the States.
  
- o It has provided a basis and stimulus for coordination of water and related land resources planning between the States and various Federal agencies.

- o By increasing State planning capability there has been increased State input and assistance in Federal planning projects.
  
- o It has provided incentives to State legislatures to devote more attention to water resources development.
  
- o It has helped a number of States make steady progress in identification of water problems and alternative means of solving them.
  
- o It has provided basic facts needed for meeting constantly emerging needs in the area of water to meet food and energy requirements to meet national goals.
  
- o It has provided State planning flexibility during times of State financial stress and budget cutbacks.
  
- o It has been helpful in identifying the need for comprehensive statewide water resources planning.
  
- o It has enabled the States to participate more extensively in State, Federal, and regional activities and has broadened States' outlooks.

Historically, the Federal level of funding for Title III of PL 89-80 has averaged about \$3,000,000 per year (or \$60,000 per State).

Many of the States electing to cooperate under the terms of Title III have established stronger programs and generated State plans and planning procedures. However, these States have also encountered new and expanding problems and work loads that demand management attention and inputs at local, intrastate and interstate levels. Typical concerns relate to both ground and surface waters and the economic and social implications of their use. A significant amount of the increased work load is due to new or expanded Federal requirements, such as those associated with NEPA, PL 92-500, the Principles & Standards, etc. It follows that "putting planning to work" is a task of considerable magnitude and requires larger staffs with a wide mix of scientific, social and economic disciplines, all requiring increased resources.

Because of this increased demand upon States on water resources management and increased inflation since 1967, Title III has proven inadequate to carry out the intent of Congress. Some areas of concern are:

- o restriction in total funding support;
- o fluctuations in annual appropriations causing unstable organization;
- o narrowness in scope--past efforts have been for planning, not total water management.

Based on these considerations, the ICWP Board of Directors reviewed the proposed amendments to Title III of PL 89-80 and provides the following comments:

We agree with the proposal to expand the funding level for Title III to better assist the States in water resources management and with the statement which recognizes the states as focal points for comprehensive water and related land resources management. It is hoped that this policy statement will be closely adhered to in administration of the Title III program.

Although we have general agreement with the proposed legislation we do have concerns in several areas as follows:

Section 301(a) - We concur with the proposal set forth but feel that the references to "integration" should be clarified to express the intent that integration means that the program areas are organized or structured so that the constituent units function cooperatively. The intent should not be to force the States to physically merge elements of the program areas.

Section 301(b) - We agree with the proposed increase in funding at the levels indicated, but we are concerned that the supplemental funding for fiscal year 1979 be set at a lower and more realistic level which recognizes the limited time remaining in the fiscal year and the limited capability of many states to meet expanded matching requirements for FY 79. It is suggested that a reasonable funding level might be \$12 million for the balance of FY 79.

Section 301(c) - We support the prescription of guidelines by rule, but feel that the States should be afforded a better opportunity to participate in the rule-making process. Accordingly we propose that the language should read as follows: "The Council should prescribe, in consultation with the States, guidelines by rule, not later than 120 days

after enactment of this title to carry out the purposes and responsibilities under this title." We also believe that the language relating to Council establishment of other procedures, arrangements, and provisions it deems necessary should be amended to require that such establishment be accomplished through the rule-making procedure in consultation with the States.

Section 302(a) - We agree with the general concept of allocation of funds, but stress the need for assurances that there will be a base level of at least \$100,000 per State to assure that there is annually an adequate level of funding to provide States with reasonable assurance of continuing support in carrying out management responsibilities, including maintenance of adequate staff capabilities for reasonable periods of time. Progress in developing a viable water resources management program does not come quickly or easily.

The program must be funded at a level sufficiently high, and must extend for a time period sufficiently long, to adequately sustain a reasonable development program.

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Section 302(f) - We are not opposed to a fair and equitable allocation of funds to Indian tribes for water management efforts but we are concerned that there be a clearly defined process for coordinating the planning efforts of the Indian tribes within each State with the planning efforts of the respective States.

State Views - ICWP has distributed a questionnaire relating to PL 89-80 Titles I, II and III to the water resources administrators of the 50 States. We have received the views from 48 States and are including a summary of these views in three tables. These tables indicate the State responses in terms of agreement, disagreement or uncertainty to seven specific questions on Title III, three questions on Title II and seven questions on Title I.

Water Resources Planning & Technical Assistance Program - On the question of funding for the State water resources grant program, 44 States out of 47 agreed that the funding level should be \$50 million per year. 40 States out of 47 indicated that the matching requirement should be 80/20 Federal - non-Federal. 44 States out of 47 indicated that if the funding level was \$50 million and the match was 80/20 Federal - non-Federal, they would be able to provide the match. However, on the question of funding at ~~a~~ \$50 million level with a 50/50 Federal - non-Federal match, as proposed in the Administration's bill, 23 States indicated that they could not provide the match, 5 States were uncertain that they could provide the match and only 17 States indicated that they would be able to provide the 50/50 match.

It appears that a number of States are concerned regarding participation in the program at a 50/50 match level because of uncertainties with the matching requirements and the types of State efforts which would qualify for match under the program. There may be a need to provide clearer language which indicates the degree and scope of State efforts in a very flexible framework which would allow a State to qualify under a 50/50 match program if Congress should decide that the matching requirement must be 50/50 Federal - non-Federal.

39 out of 46 States agreed that language should be included in legislation and in the grant contract that "No requirement for the expenditure of funds under this grant should diminish a State's rights to manage its waters." States should be required to comply with Congressionally defined national interest. 5 States disagreed and 2 States were uncertain on this question. 44 States out of 46 agreed that there should be a requirement for Federal consistency with State programs to the extent State programs do not conflict with the defined national interest.

Some ICWP members have expressed concern over the proposed staffing of WRC for administration of the proposed expanded water management and water conservation technical assistance grant program. It is our understanding that the present proposal is for a staff of about 11 persons to administer these programs, whereas the Independent Review Function of WRC would have a staff of about 35 persons. It appears to some of us that an effort as important as these programs should have adequate staff capability to provide necessary interaction and cooperation with the States if the program is to be successfully implemented in the best interests of the State and the Nation.

An Office of Water Resources Coordinating Entity - The States views regarding the future role of "An Office of Water Resources Coordination Entity" (Title I) are as follows:

1. Legislation should provide for a strengthened coordinated entity at the Federal level. 44 States responded. 41 agreed and 3 disagreed.

2. Legislation should provide for reduced overlapping functions and duplication of Federal programs. 44 States responded. 41 agreed and 3 disagreed.

3. & 4. Legislation should provide for an increased State role and recognition of States rights. 44 States responded. 42 agreed and 2 disagreed.

5. The coordinating entity should be headed by a director appointed by the President. 42 States responded. 38 agreed and 4 disagreed.

6. A State Water Advisory Council should be formed to supply State input. 43 States responded. 36 agreed and 7 disagreed.

7. A Federal Water Advisory Council should be established to provide Federal inputs. 41 States responded. 31 agreed and 10 disagreed.

Coordination of Water Resources Planning - The State views regarding "Coordination of Water Resources Planning" (Title II) are attached for your information. ICWP intends to utilize these views and other inputs from the States in preparing recommendations on possible revisions to PL 89-80 for Congressional consideration. It is intended to review past legislative proposals and any new proposals such as the Congressman Vento Bill (H.R. 2071) in an effort to advise Congress of State views on revisions to PL 89-80.

WRC Independent Review Function - ICWP has not attempted to develop a specific questionnaire concerning the Independent Review Function of WRC. Discussion with some ICWP members has indicated some concern regarding the value of the review function, but there seems to be general agreement that the effort should be attempted on a trial basis to see if the Federal process for project review can be improved. It should be noted, however, that a truly Independent Review Function does not appear feasible unless there is a restructuring of the present Water Resources Council as a truly independent coordinating entity separate from an existing Federal Department.

State Cost-Sharing - In regard to the matter of cost-sharing proposals by the Administration, ICWP has not attempted to formulate a specific response since we are uncertain as to the exact language of legislation which would be sent to Congress. When a final legislative proposal is presented to Congress, ICWP will attempt to provide State views on that legislation.

Water Resources Planning & Technical Assistance

Funding authorization should be provided at a level of \$50 million.

Matching requirements should be 80/20 (Federal - non-Federal).

If funded at \$50 million and match is 80/20, would you be able to match?

If funded at \$50 million and match is 50/50, would you be able to match?

There should be a minimum base amount for each State Each year.

Language should be included in legislation and in the grant contract that "No requirement for the expenditure of funds under this grant shall diminish a State's rights to manage its waters." States should be required to comply with Congressionally defined national interest.

There should be a requirement for Federal consistency with State programs to the extent State programs do not conflict with the defined national interest.

	1.	2.	2.A	2.B	3.	4	5
Alabama	Y	Y	Y	N	Y	Y	Y
Alaska	Y	Y	Y	N	Y	Y	Y
Arizona	Y	N	Y	Y	Y	Y	Y
Arkansas	Y	Y	Y	?	Y	Y	Y
California	Y	N	Y	Y	Y	Y	Y
Colorado	Y	Y	Y	N	Y	Y	Y
Connecticut	Y	Y	Y	N	N	N	Y
Delaware	-	-	-	-	-	-	-
Florida	Y	Y	Y	Y	Y	Y	Y
Georgia	Y	Y	Y	N	Y	-	Y
Hawaii	Y	Y	Y	N	Y	Y	Y
Idaho	Y	N	Y	Y	Y	Y	Y
Illinois	Y	N	Y	Y	N	N	Y
Indiana	Y	Y	?	?	Y	Y	Y
Iowa	Y	Y	Y	N	Y	N	N
Kansas	N	N	N	Y	Y	Y	Y
Kentucky	-	Y	Y	N	Y	Y	N
Louisiana	Y	Y	Y	N	Y	Y	Y
Maine	Y	Y	Y	?	Y	?	Y
Maryland	Y	Y	Y	N	Y	Y	Y
Massachusetts	Y	Y	Y	?	Y	Y	Y
Michigan	Y	Y	Y	N	N	Y	-
Minnesota	Y	Y	Y	Y	Y	Y	Y
Mississippi	Y	Y	Y	N	Y	Y	Y
Missouri	Y	Y	Y	Y	Y	Y	Y
Montana	Y	Y	Y	-	Y	-	Y
Nebraska	Y	N	Y	Y	Y	Y	Y
Nevada	Y	Y	Y	N	Y	Y	Y
New Hampshire	-	-	-	-	-	-	-
New Jersey	Y	Y	Y	N	Y	Y	Y
New Mexico	N	Y	-	-	Y	Y	Y
New York	Y	Y	Y	N	Y	Y	Y
North Carolina	Y	-	Y	-	Y	Y	Y
North Dakota	Y	Y	Y	N	Y	Y	-
Ohio	Y	Y	Y	Y	Y	Y	Y
Oklahoma	Y	Y	Y	N	Y	Y	Y
Oregon	Y	Y	Y	Y	Y	Y	Y
Pennsylvania	Y	Y	Y	Y	Y	Y	Y
Rhode Island	Y	Y	Y	N	Y	Y	Y
South Carolina	Y	Y	Y	Y	Y	Y	Y
South Dakota	Y	Y	Y	Y	Y	Y	Y
Tennessee	Y	Y	Y	N	Y	Y	Y
Texas	N	N	N	N	Y	Y	Y
Utah	Y	Y	Y	Y	Y	Y	Y
Vermont	Y	Y	Y	N	Y	Y	Y
Virginia	Y	Y	Y	Y	Y	Y	Y
Washington	Y	Y	Y	Y	Y	Y	Y
West Virginia	Y	Y	Y	?	Y	Y	Y
Wisconsin	Y	Y	Y	N	Y	N	Y
Wyoming	Y	Y	Y	N	Y	Y	Y
(Y = Yes) (N = No)	44Y	40Y	44Y	17Y	45Y	39Y	44Y
(? = uncertain)	3N	7N	2N	23N	3N	5N	2N
TOTAL:			17	84		27	

Legislation must contain the means whereby regional/interstate coordination mechanisms are available as States desire.

Legislation should allow the States to select whatever means they consider appropriate to provide solutions for recognized interstate needs.

Legislation should specify that regional/interstate coordinating mechanisms will: (a) coordinate and define interstate problems; (b) seek resolution of interstate problems; (c) study problems in its area as deemed necessary; and (d) carry out other activities such as planning if the members agree it is necessary.

	1	2	3
Alabama	-	-	-
Alaska	-	Y	Y
Arizona	N	Y	N
Arkansas	Y	Y	Y
California	Y	Y	Y
Colorado	Y	Y	Y
Connecticut	N	Y	Y
Delaware	-	-	-
Florida	Y	Y	Y
Georgia	Y	Y	Y
Hawaii	Y	Y	Y
Idaho	Y	Y	N
Illinois	Y	Y	Y
Indiana	Y	Y	Y
Iowa	Y	Y	Y
Kansas	Y	Y	Y
Kentucky	-	-	-
Louisiana	N	N	N
Maine	Y	-	-
Maryland	Y	Y	Y
Massachusetts	Y	Y	Y
Michigan	Y	Y	Y
Minnesota	Y	Y	Y
Mississippi	Y	Y	Y
Missouri	Y	Y	Y
Montana	-	-	-
Nebraska	Y	Y	Y
Nevada	Y	Y	Y
New Hampshire	-	-	-
New Jersey	Y	Y	-
New Mexico	N	Y	N
New York	Y	Y	Y
North Carolina	-	Y	N
North Dakota	Y	Y	Y
Ohio	Y	Y	N
Oklahoma	Y	Y	N
Oregon	Y	-	-
Pennsylvania	Y	Y	Y
Rhode Island	Y	Y	Y
South Carolina	Y	Y	Y
South Dakota	Y	Y	Y
Tennessee	Y	Y	Y
Texas	Y	Y	Y
Utah	Y	Y	Y
Vermont	Y	Y	Y
Virginia	-	-	-
Washington	-	-	-
West Virginia	Y	Y	Y
Wisconsin	Y	Y	Y
Wyoming	Y	Y	Y

(Y= Yes) (N= No) 37Y 40Y 33Y  
TOTAL: 4N 1N 7N

"An Office of Water Resources Coordinating Entity"

Legislation should provide for a strengthened coordinating entity at the Federal level.

Legislation should provide for reduced overlapping functions and duplication.

Legislation should provide for an increased State role.

Legislation should provide for increased recognition by the Federal government of the States' rights to administer water resources programs.

The entity should be headed by a Director appointed by the President.

ICWP recommends that a State Water Advisory Council be formally established to serve as the mechanism to supply State input.

ICWP recommends that a Federal Water Advisory Council be established to serve as the mechanism to supply Federal agency input.

	1.	1.A	1.B	1.C	1.D	2.	3.
Alabama	-	-	-	-	-	-	-
Alaska	Y	Y	Y	Y	Y	Y	N
Arizona	N	N	Y	Y	N	Y	N
Arkansas	Y	Y	Y	Y	Y	Y	Y
California	Y	Y	Y	Y	Y	N	N
Colorado	Y	Y	Y	Y	Y	Y	Y
Connecticut	Y	Y	Y	Y	Y	N	N
Delaware	-	-	-	-	-	-	-
Florida	Y	Y	Y	Y	Y	-	-
Georgia	-	-	-	-	-	-	-
Hawaii	Y	Y	Y	Y	Y	Y	N
Idaho	Y	Y	Y	Y	Y	Y	N
Illinois	Y	Y	Y	Y	Y	Y	Y
Indiana	Y	Y	Y	Y	Y	Y	Y
Iowa	Y	Y	Y	Y	Y	Y	Y
Kansas	Y	Y	Y	Y	Y	Y	Y
Kentucky	-	-	-	-	-	-	-
Louisiana	N	N	N	N	N	N	N
Maine	Y	Y	Y	Y	-	Y	-
Maryland	Y	Y	Y	Y	Y	N	N
Massachusetts	Y	Y	Y	Y	Y	Y	Y
Michigan	Y	Y	Y	Y	-	Y	Y
Minnesota	Y	Y	Y	Y	Y	Y	Y
Mississippi	Y	Y	Y	Y	Y	Y	Y
Missouri	Y	Y	Y	Y	Y	Y	Y
Montana	Y	Y	Y	Y	Y	Y	Y
Nebraska	Y	Y	Y	Y	Y	Y	Y
Nevada	Y	Y	Y	Y	Y	Y	Y
New Hampshire	-	-	-	-	-	-	-
New Jersey	Y	Y	Y	Y	Y	Y	Y
New Mexico	Y	N	N	Y	N	N	N
New York	Y	Y	Y	Y	Y	Y	Y
North Carolina	Y	Y	Y	Y	Y	Y	Y
North Dakota	Y	Y	Y	Y	Y	Y	Y
Ohio	Y	Y	Y	Y	Y	Y	Y
Oklahoma	Y	Y	Y	Y	Y	Y	-
Oregon	Y	Y	Y	Y	-	Y	Y
Pennsylvania	Y	Y	Y	Y	Y	Y	Y
Rhode Island	Y	Y	Y	Y	Y	Y	Y
South Carolina	Y	Y	Y	Y	Y	Y	Y
South Dakota	Y	Y	Y	Y	Y	Y	Y
Tennessee	Y	Y	Y	Y	Y	Y	Y
Texas	Y	Y	Y	Y	Y	Y	Y
Utah	Y	Y	Y	Y	Y	Y	Y
Vermont	N	Y	Y	Y	N	N	N
Virginia	-	-	-	-	-	-	-
Washington	Y	Y	Y	Y	Y	Y	Y
West Virginia	Y	Y	Y	Y	Y	Y	Y
Wisconsin	Y	Y	Y	Y	Y	Y	Y
Wyoming	Y	Y	Y	Y	Y	Y	Y
(Y= Yes) (N= No)	41Y	41Y	42Y	40Y	38Y	37Y	31Y
TOTAL:	3N	3N	2N	1N	4N	6N	10N

## INTERSTATE CONFERENCE ON WATER PROBLEMS



April 13, 1979

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Honorable Mike Gravel  
 Committee on Environment & Public Works  
 U. S. Senate  
 Washington, D.C. 20510

Dear Senator Gravel:

In reply to your request of April 2, 1979 with further questions for the hearing record of April 2, on amendments to the Water Resources Planning Act of 1965, the following answers are provided:

- 1. Question.** Do you believe that the states will be able to utilize the full amount for FY80 or should there be a lower funding level for FY80 and increasing amounts for subsequent years?  
**Answer -** Information obtained from the membership indicates that states will generally be able to utilize the full amount for FY80 provided that the program is flexible enough to accommodate match using existing state management efforts and provided that there are no severe limitations to meet program goals which are not specifically set by Congress. We therefore support the full authorization of \$50 million for FY 1980.
- 2. Question.** Do you believe a states' share of funds should be diminished by the amount allocated to Indian Tribes within that state's boundaries?  
**Answer -** No. The funding for assistance to Indians should be separate from the states share.  
 The physical areas of Indian lands will vary considerably throughout the states and the majority of states need the increased funding to meet state needs outside of Indian lands. Diminishing state funds will hinder state progress at this time. Funds for the Indians would be most beneficial if they were provided as complements and supplements to state funds.
- 3. Question.** There is indication in your testimony that states favor an 80/20 federal/non-federal split for cost sharing. On what basis was the 80/20 developed? Do you think that a 50/50 share would increase the states' commitment to the program?  
**Answer -** A review of seven (7) grant programs which provided funds to the states for FY78, for various purposes, but which are similar to the WRC Grant program indicated that for 3 programs the grants were 100 percent federal, for 1 program, the grant was 80 percent federal, for 2 programs the grant was 75 percent federal and for 1 program the grant was 66 percent. The programs and funding levels are as follows:

State and local Economic Development Planning  
 EDA Dept. of Commerce  
 \$5.5 Million approp. Federal Share 75 percent

Coastal Zone Management Planning  
 NOAA  
 \$14.5 Million approp. Federal Share 80 percent

Alcohol Formulas Grants  
 HEW Drug Abuse and Mental Health  
 \$56.8 Million Federal Share 100 percent

Section 208 Planning  
 EPA  
 \$19.8 Million Federal Share 75 percent

Section 106 Program  
 EPA  
 \$52.4 Million Federal Share 100 percent

Section 701 Planning  
 HUD  
 \$60.6 Million Federal Share up to 66 percent

State Energy Conservation Program  
 FEA  
 \$75.3 Million Federal Share 100 percent

Based on this comparison it seems reasonable that the 89-80 program could be funded on an 80/20 basis.

In regard to the question of the 50/50 share increasing the states commitment to the program it appears that more than half of the states would have great difficulty in providing sufficient matching funds and that these states' commitment to the program would probably not be increased but would rather be decreased because of matching problems. Some states who have larger populations and better funding capabilities have indicated that they would not have any problem meeting 50/50 match requirements and some of them have also indicated that a 50/50 match would, for them, be a way of assuring a better state-federal partnership. In view of the problems of a number of states in meeting 50/50 match requirements it remains to be seen if, on an overall nationwide basis, a 50/50 share would increase the states' commitments to the program.

4. Question. You express concern about the independent nature of the review function. Do you also have concern regarding the initial impact of the review function on report processing and project implementation?

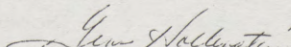
Answer. Yes. If the review function is advisory only to OMB and there are not specific detailed timelines and guidelines for OMB action on the advisory reports and if OMB is not required to provide adequate accountability for its decisions when it decides not to implement advice provided through the review process it could likely have a considerable impact on report processing and project implementation. It seems to me that the most important aspect of project review is not included in the present proposals, that is, the process does not include any well defined procedure for early and continuous involvement by states concerned in or impacted by, project proposals. Unless the process provides for improved coordination and cooperation with affected states throughout the planning process the review function may prove meaningless since it will constitute only federal initiatives without careful consideration of state initiatives and goals.

Question. Do you believe that in the long term the WRC review will speed up project implementation?

Answer - Only if the process is improved over its present form and if OMB does not duplicate review efforts, is accountable for its decision actions and if the process operates within fixed timelines and only if WRC is able to provide the proper level of review.

I hope this information answers your questions and will be helpful. If you have need of any further information, please let me know. Thank you again for the opportunity to present states' views.

Yours very truly,

  
Gene H. Hollenstein  
1st Vice Chairman, ICWP

GHH/j1

# GREAT LAKES COMMISSION

ESTABLISHED 1988 BY INTERSTATE COMPACT

INSTITUTE OF SCIENCE AND TECHNOLOGY BLDG.

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## STATEMENT OF JAMES FISH EXECUTIVE DIRECTOR, GREAT LAKES COMMISSION

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES

OF THE

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON

AMENDMENTS TO THE

WATER RESOURCES PLANNING ACT

APRIL 2, 1979

## TESTIMONY, APRIL 2, 1979, SUBCOMMITTEE ON WATER RESOURCES

Mr. Chairman, Members of the Committee:

I am James Fish, Executive Director of the Great Lakes Commission.

The Great Lakes Commission is an eight state Interstate Compact Commission, organized in 1955 by Wisconsin, Pennsylvania, Ohio, New York, Minnesota, Michigan, Indiana, and Illinois. The Commission received recognition by Congress and full compact status in 1968 under the "Great Lakes Basin Compact" (Public Law 90-419). The Great Lakes Commission is solely funded by annual appropriations from each of the member States and receives no Federal funding for operations, projects or programs -- nor has the Commission sought Federal funding for any special projects. The GLC is a totally interstate organization, and as such, I believe in a unique position to provide testimony today regarding the Water Resources Planning Act.

I would also like to explain and emphasize that while the Great Lakes Commission is a voting member of the Great Lakes Basin Commission, a Federal/State entity created by Executive Order under Title II of the Water Resources Planning Act, we should not be confused with that organization which must speak for the Federal viewpoint as well as for the State viewpoint. The key point in this distinction is that our member States believe well enough in our ability to provide a unique forum and representation in water policy issues that the States fund the Great Lakes Commission as well as the Great Lakes Basin Commission.

It is our understanding that the Committee is now addressing two bills, S. 480 which extends authorization for the basic activities of the Water Resources Council, and S. 833, introduced on March 29, which provides new funding authority under Title III of the current Act for State water resources planning and for State water conservation efforts.

The Great Lakes Commission has supported the Water Resources Planning Act and in particular the continuing functions of the Water Resources Council and Title III in the past, and we do so now. The Great Lakes Commission supported the programs included in the Water Resources Planning Act before the original Act was passed in 1965. Representatives of the Commission and our member States were some of the most active people at the time working with Congress to achieve the compromises needed for passage of the original Act. We continue in our commitment to work with Congress for improvements in this Act. We have an ongoing flow of resolutions supporting the Water Resources Planning Act programs approved by our eight States. Copies of those resolutions are available for your record, should you desire to have them.

Before I proceed to discuss specific issues relating to the proposed legislation, I believe that some perspective on the States' position would be helpful to the Committee in its consideration of legislation in the critical area of water resources management.

The past two years have been both exciting and frustrating for the Great Lakes Commission. They have been so for me personally, since I have had the opportunity to deal with water policy issues for several

years, first as a consultant for the Interstate Conference on Water Problems and now as the Executive Director of the Great Lakes Commission. The exciting opportunities that have been presented are the Administration's reorganization study, now presented in outline form, and the water resource policy study which is continuing to emerge in its implementation phase. Frustration has come because we feel that while the Administration has been correct in not eliminating the Water Resources Council -- it has not proposed overall changes which assure continued development of a national -- as opposed to Federal -- water resources policy in concert with the States. Additionally, frustration has come because the Congress, acting out of its collective frustration, seriously tried to eliminate the Water Resources Council last year, and we fear that the effort to kill the Council will continue this year. In the view of the Great Lakes Commission, elimination of the Council would not be an answer, it would be a step backwards. I am pleased to note, however, that I perceive some support in the Committee today that I did not perceive last year.

All of us in this room share a common bond: concern about the future -- particularly as that future relates to the Nation's continued ability to provide balanced management of our water resources. Management which will permit appropriate growth of our economy, assuring a good standard of living for all of our citizens, and improved protection of our environmental quality -- assuring the enhancement of public health.

It is insufficient to suggest that the two concerns -- economic growth and environmental quality -- must be balanced. A mechanism must be provided which can lead the way. In 1965, the Congress passed the

Water Resources Planning Act (P.L. 89-80). For that time, it was as far as the Congress could go. The resulting entity, the Water Resources Council, has gone a long way towards fulfilling that role, despite the disappointments which have been identified in many reports. Many of the disappointments occurred because of an indifferent attitude on the part of various Administrations which have been occupied with matters they gave greater weight than water management. However, it is also well recognized there were inherent problems in the original legislation -- legislation which gave sweeping responsibility without corresponding authority.

The National Water Commission report in 1973 cited these inherent problems and recommended several major changes to strengthen the Water Resources Planning Act. In 1975, the Senate held oversight hearings with the States. In 1976, legislation was introduced, but not heard in Committees. Additional legislation was introduced in 1977 and 1978 which showed increased interest on the part of Members of Congress in efforts to strengthen the Water Resources Planning Act.

In 1977, changes appeared to surface in the Administration's position. At the Water Resources Council's 1977 National Conference on Water in St. Louis, I listened to Secretary Andrus report the President's request that there be a study of water resources policy and identify changes which would begin to deal with some pressing problems. After some initial problems of gaining entry to the process of the water policy study, which was essentially conducted by the Department of the Interior and other Federal entities, not by the Water Resources Council as an entity, the

States formulated positions and worked hard to gain changes which were perceived as vital. Water policy review efforts continue to be dispersed among the agencies without an effort to coordinate through the open mechanism of the Water Resources Council or other interdepartmental system.

The Interstate Conference on Water Problems, the Western States Water Council and the National Governors' Association all formulated positions on water policy issues and communicated them well. With regard to WRC, the NGA stated:

"At the Federal level, this means resolution of conflicts or competition among Federal programs and coordination of agency activities, through a national coordinating entity reporting directly to the President and with provisions for adequate State and public input, such as a strengthened and reconstituted U.S. Water Resources Council."

To some extent, the Administration has met and recognized our concerns. It has, for example, proposed additional funding for State water management and planning, and water conservation technical assistance. It has recognized the need for speedier and more adequate review of proposed water projects in the Independent Water Project Review function. In other ways, some of our hopes simply have not been met.

The March 1 reorganization outline proposals present no real assurance regarding the Water Resources Council. The President has charged it with more responsibility, but has proposed no more authority to go with the present responsibility and certainly no increased authority to match the increased responsibility. This just won't do.

One of the Great Lakes representatives to GLC has stated:

"A strengthened Water Resources Council could better coordinate water policy and continue the evolution of national water policy in cooperation with states. Without a Council, no one in Washington will accept either responsibility, nor would anyone fashion and guide: Principles and Standards, the unified program for flood-plain management, uniform flood hydrology, Federal consistency with regional plans, or any real effort to encourage water conservation. I cannot imagine who but the Council can provide an independent project review as the President desires. Certainly not OMB."

Under the authority it has, I feel strongly that the Council has done an amazingly good job of living up to its responsibilities as defined by Congress. While I am aware that this view is not fully shared, particularly by some Members of Congress, I also feel that the States have been closer to the situation, and could cite horror tales of Council staff trying to meet serious concerns of both the Congress and the States and being totally stymied by both the Members of the Council and by the Chairmanship of the Council by the Department of the Interior. The Council's own report of strengths and weaknesses, issued over two years ago, outlines many of these problems.

The Council's National Assessment of Water Resources, 1975 - 2000, points out quite well facts that we must all recognize: either we deal responsibly with water resources for the future, or the lack of those water resources will deal with our futures, and little could be said which can be hopeful for our children or those which will follow, in this country or in others.

We can change our future. We can take steps to plan ahead -- to provide economic growth -- to provide food for this country and for others less able -- and to protect our environmental values as well.

Absolutely key to changing our water future is a partnership between the Federal government and the States. The NGA stated in the preamble of its "Principles...":

"The NGA concludes that any new national water policy should be the result of a cooperative national, not primarily Federal effort: That it should recognize the States' primary role in water management; that the new policy should strengthen the States' capabilities to manage; that the Federal government must be more flexible in its response to the States; and that management should recognize hydrologic systems. Essential to any national water policy on water management is the integration of concerns for water quantity and water quality with the related resources dependent thereon. Any national water policy must recognize regional differences in water problems and ensure flexibility and equity in future Federal water investments."

The NGA further stated:

"The responsibility of the Federal government is to establish, in full consultation with States and other appropriate interests, national objectives and criteria for the protection, management, restoration, development, and use of water and related resources to meet national economic, environmental and social objectives and to assist in implementing such policies in Federal actions and through assistance and support for State actions."

"The essential steps toward orderly, efficient, and balanced water management are to recognize the primary responsibility of the State and to put each State in the position to develop coherent management strategies in cooperation with local governments, other States, and the Federal government. It is the responsibility of the State to relate national objectives and criteria to its management programs. Federal policy should be directed toward strengthening the capability of the State to act as the integrator and manager of all programs affecting the water resources of the State."

Changes are necessary. First, the Council must have an independent Chairman responsible directly to the President -- confirmed by the Senate. The Chairman would thus be free of pressing Department of the Interior (Department of Natural Resources) concerns which may conflict with Water Resources Council concerns. Additionally, such a Chairman would be more able to deal with the Council Member Departments and would have the time, staff and mandate to find the compromises so often needed to achieve the long-range views and planning necessary to effect comprehensive water management.

Second, the Council voting mechanism must be changed. Currently, the Council's rules and regulations permit a single Department or Agency member to effectively veto a policy decision, thus permitting "turf" protection to the detriment of the Nation, and often to the potential gain of narrow interests. The current "veto power" of a single agency can even prevent the Water Resources Council from discussing vital water issues on a timely basis.

Third, the President appropriately recognized the States' role in water resources planning and management, and this must be fully recognized in the Council's responsibilities. There must be a provision for States' participation in water resources policy formulation at the National level both in a formal mechanism and informal discussions. A formal State Advisory Committee should be established by the Congress to assure this input.

Fourth, water resources projects which are economically and environmentally sound and needed must proceed much more smoothly to the implementation stage. We consume years and dollars in the waiting process. Thirty-year old projects are finally funded, reach the implementation state and are totally stymied by lawsuits which appropriately reflect changing values.

The Independent Review Function proposed by the Administration should expedite projects and help provide assurances that such projects will not meet with lengthy and costly delays due to such lawsuits. My Commission supports the concept of such changes. Inherent in this is our understanding that the present OMB technical review of projects will be eliminated, and OMB's function will be limited to conformance with the President's budget priorities. This change is considered to be a marked improvement in processing projects. Member States have suggested further that completed project review studies, when forwarded from the Secretaries of the construction agencies to OMB for budget consideration, should also be forwarded concurrently to Congress and the Governors of the affected States. We understand that the Council is having problems in obtaining the agreement from the Congress on reprogramming funds to start the review in time to meet the President's requested schedule. We urge a serious consideration of the advantages of the review.

Fifth, and most importantly in the view of some States, there must be adequate assistance to the States to participate in the full range of

water resources management activities. A Federal investment in State water management pays large dividends. The States have been the innovators in most areas now assumed to be Federal initiatives. For example, States first initiated coastal zone management, wild and scenic river protection, water pollution control programs, instream use protection, strip mine regulations, dam safety regulations and shore-land management -- to cite just a few innovations.

Under the general category of assistance to the States, I would like to focus the remaining few minutes of my time on the Administration's proposed increase of the Title III planning and management grants to the States. The Great Lakes Commission supports increases in the authorized and appropriated levels of Title III to \$50 million per year (\$25 million for water management activities and \$25 million for water conservation activities). There is significant concern, however, for continuity of program, minimum funding, the matching requirements and rules and regulations that may evolve from the Administration's legislation.

#### Program Continuity

The need for program continuity in water management is significant. The States must make commitments in recruiting qualified staff (who are currently in short supply), they must make commitments to local communities for support of management programs, and they must confirm to the Legislatures what the anticipated budget levels will be in future years. High funding one year and low funding the next does not permit the development of credible programs or staff capacity. Widely fluctuating grants under this -- or any other -- management program does not and cannot lead to comprehensive approaches to our complex resource responsibilities -- any

more than widely fluctuating appropriations for Senate or House staff members would lead to effective review of legislation at the Federal level.

#### Minimum Funding

To assure that all States have the opportunity to achieve a basic continuity in their internal programing, and to develop and expand their programs consistent with the objectives of the Administration, there should be a minimum level of funding for each State. In H.R. 2071, Congressman Vento suggested \$100,000 to assure all States that they can develop long-term, ongoing programs. These monies are proposed to be provided without State matching. This would assure Congress that a basic level of management would be achieved in every State.

#### Matching Requirements

The Administration bill provides for 50-50 matching (\$1 State money for each Federal \$1). Our Commission supports a phased-in matching beginning with a program of 80% Federal/20% State, and moving towards the Administration's proposal over a period of five years. This would provide the opportunity for States to work with their Legislatures and local communities (where appropriate) to develop State shares where none now exist. We believe this approach would be consistent with the Administration's goal of expanding State capacity. Additionally, ongoing activities in State water management agencies should be recognized as appropriate expenditures to provide matching funds for this expanded Federal grant program. Many States are already expending significant sums for program management and for projects, money which has no Federal match. This existing commitment by State taxpayers to meet their perceived needs is wholly consistent

with the basic matching program outlined by the Administration and Congressman Vento.

#### Rules and Regulations

There should also be assurances that this expanded program will continue to respect the States' primary role in water management. While President Carter recognized the States' role in announcing his initial water policy reform actions last June 6, the States continue to be deeply concerned. States are terribly aware that well-conceived legislation may ultimately reduce progress toward agreed upon goals through additions of Federal requirements by agencies with a vested interest in growth and continued existence.

To accomplish the water management activities and objectives envisioned under the expanded Water Resources Planning Act grants to the States on a timely basis, neither the Federal government nor the States can afford the luxury of massive revisions to long-established State procedures which serve the States and their citizens well. One major reason for supporting a strengthened Water Resources Council with a specified State role is that it would help to assure that no such offenses are committed in the name of this important program.

Other changes will be necessary. Fourteen years have passed since the Water Resources Planning Act was originally passed. We require a viable organization which can meet pressing national needs. The Congress is right that the Council has not always been able to meet those needs. At the same time, however, the Congress which has failed to hold full oversight hearings which give the States adequate input to the process

must also be held to blame. There cannot be a simple effort to take frustrations out on the Council. It must be emphasized, for example, that the Council did not have anything to do with the formulation of the infamous "hit lists," regardless of what some misinformed individuals have stated.

We are concerned that the current Congressional process requires that you consider the Water Resources Planning Act legislation as a simple extension now without any commitment to making revisions in the Water Resources Council's structure. For the last four to five years, there have been promises that the Congress would hold full oversight hearings and consider the necessary changes in the Water Resources Planning Act. Many of my Commissioners see this year's activity as just another way of passing the Water Resources Planning Act again, placating the States with additional grant money, and doing nothing about the basic changes that are needed to improve water management in this Nation.

In short, the Great Lakes Commission supports continuation of the Water Resources Planning Act, supports increased funding for the States' water management capability and supports a greatly strengthened Water Resources Council.

On March 23, the eight Great Lakes States, assembled at the Great Lakes Commission Semi-Annual meeting, voted to support legislation to amend the Water Resources Planning Act proposed by Congressman Vento. This legislation appears to meet many of the concerns expressed by the States, the Congress, the Administration and special study groups over the years. Specifically, the Great Lakes Commission placed a strong emphasis on the

need for an independent WRC Chairman, a State Advisory Committee, and the expanded Title III grant program contained in Congressman Vento's version.

Mr. Chairman, I appreciate the opportunity to appear before this Committee. I hope the information and views I have stated have been of assistance to you today. On behalf of the Great Lakes Commission, I would reemphasize our willingness to work with you and your staff as you proceed to develop legislative recommendations from this Committee. I would be happy to answer your questions at this time, or in writing at a later date in accord with your preferences and the Committee's time schedule.

## DEPARTMENT OF WATER RESOURCES

P.O. BOX 388  
SACRAMENTO  
95802

(916) 445-9248



MAR 29 1979

Honorable Mike Gravel  
Chairman  
Senate Committee on Environment  
and Public Works  
4204 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Gravel:

On April 2, 1979, the Senate Subcommittee on Water and Power will be considering legislation (S. 480) to extend authorization of the Water Resources Council.

I am urging your support of this legislation.

The Council has a unique and important role in coordinating the conservation, development, and utilization of the nation's water resources. There is, as well, an urgent need to expand the Council's role in future years--particularly in connection with implementation of sound water policy.

This is not to say that the current structure of the Council is ideal. On the contrary, there is much that can be done to upgrade its existing authorities. Essential to the Council's long-term effectiveness would be amendments that would both strengthen the Council and grant it more autonomy. The Council cannot itself be a strong, independent, executive agency--cannot truly live up to its potential effectiveness--if its voting and decision-making structure continues to be dominated by federal administrators looking after their own agencies' interests and developing notions of consensus accordingly. The Council must have a separate identity; it must not be the captive of the very agencies its members represent.

Federal agencies (and possibly the States as well) could more usefully and more objectively serve the cause of effective national water policy by acting in roles which are advisory to an independent Water Resources Council.

Thank you for considering our views on this subject.

Sincerely,

Ronald B. Robie  
Director



NERBC

New England  
River Basins Commission

OFFICE OF THE VICE CHAIRMAN

55 State Street, First Floor  
Boston, Massachusetts 02109  
Tel. 617 223-6244

April 17, 1979

The Honorable Mike Gravel  
Chairman, Subcommittee on Water Resources  
Senate Committee on Environment and  
Public Works  
4204 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Mr. Chairman:

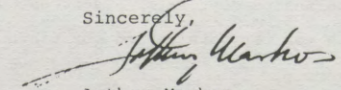
The enclosed statement is submitted on behalf of the state members of the New England River Basins Commission. It expresses their strong support of continued authorizations requested by the Administration for the U.S. Water Resources Council, the Title II River Basins Commissions and expanded authorizations for Title III Grants to the states for Water Management and Technical Assistance for Water Conservation.

The joint statement also asks your consideration of an additional authorization for a special study on water conservation for New England to begin in FY 1980.

The attached material has been designed to be of assistance to you and the members of the subcommittee in considering proposed amendments to the Water Resources Planning Act. We will be pleased to respond to any questions you may have in that regard.

Although we were not able to schedule a state member to appear as a witness before the subcommittee on April 2, 1979, we request that the attached statement be included in the official record of the hearings.

Sincerely,

  
Arthur Markos  
Vice Chairman

cc: NERBC State Members and Alternates

STATEMENT OF THE STATE MEMBERS OF THE  
NEW ENGLAND RIVER BASINS COMMISSION  
TO THE  
SUBCOMMITTEE ON WATER RESOURCES  
OF THE  
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
ON  
PROPOSED AMMENDMENTS TO THE  
WATER RESOURCES PLANNING ACT  
P.L. 89-80

APRIL 1979

The state members of the New England River Basins Commission (NERBC) representing Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont wish the record to show their collective support for the U.S. Water Resources Council, the New England River Basins Commission, and the Title III Grant Program to the States. We request that the Congress extend authorization to continue these programs through FY 1980 as follows:

<u>Authorizations for FY 1980</u>		
<u>(in thousands of dollars)</u>		
	<u>S. 480 &amp; 833</u>	<u>Changes requested by this statement</u>
Section 401 (a) (Title II)	\$ 3,119	No change
Section 401 (b) (Title I)	4,330	No change
Section 401 (c) (Level B and Special Studies)	2,815	+147 for a new start New England Water Conservation Study
Section 301 (Title III)	50,000	No change

TITLE I: THE U.S. WATER RESOURCES COUNCIL (SECTION 401 (b) )

Congress established the Water Resources Council under Title I of the Water Resources Planning Act of 1965 in recognition of the need for coordination among the bewildering and often conflicting array of grants, loans, and direct federal actions which comprise the federal and federally-supported programs affecting the nation's water and related land resources. The Council's potential for leadership in policy-making and planning has not yet been fully realized, partially because of the failure of the member agencies to use it to resolve interagency difficulties and partially because of the ambiguous leadership position of the Council Chairman. Even if the Administration's Natural Resources Reorganization is adopted, water resources planning and management functions will remain divided among at least four departments. It has been the experience of the states that a peer agency cannot effectively coordinate others at the same level. The need for an independent interagency mechanism to resolve conflicts and serve as a catalyst for comprehensive water resources planning and management is as great as ever.

The 1977 water policy recommendations developed by the New England states and New York recognized the difficulties the Water Resources Council has had in carrying out its functions. Nevertheless, they strongly endorsed the intent of Congress in creating such an agency to serve as the integrator of water programs in the executive branch. This past year provided an excellent example of the leadership role the Council can play. Under WRC direction, most member agencies agreed to a "consistency" policy. Henceforth, certain enumerated federal water programs and projects are required to be consistent, to the maximum extent practicable, with regional plans adopted by river basin commissions.

We urge your support for continuing and strengthening the Water Resources Council so that it may accomplish the vital work intended by Congress.

TITLE II: RIVER BASINS COMMISSIONS (SECTION 401 (a) )

The New England states and New York have given considerable thought to the desired directions of the programs of the New England River Basins Commission (NERBC). In 1977, state members agreed to a program strategy which continued to emphasize completion of the commission's central statutory mission, the development of water and related land resource management plans for each major river basin, while maintaining the ability to respond to pressing regional problems as they are identified. Completion of Level B Studies for Long Island Sound, the Connecticut River Basin, Southeastern New England, and the Lake Champlain Basin (in 1979) has provided a sound basis for decision-making in some of the region's most complex and highly-populated areas. For areas not already covered by adopted Level B management plans, Basin Overviews are being prepared to identify the major problems, issues, and opportunities associated with the management of water and related land resources in each basin. With completion of the Basin Overviews in FY 1981, NERBC will have in hand a consistent base for further plan development and implementation of related activities in the region.

Special studies, completed and ongoing, are providing guidance for the reduction of flood damage, the management of offshore oil and gas-related activities, hydropower expansion, dredging management and dredged materials disposal, port and harbor development, water conservation, natural resources data management, and power plant siting.

Important water resource accomplishments have been realized through NERBC's planning and coordination programs. Based on studies of flood damage reduction and flood plain management, the National Weather Service has moved to institute a program for helping public safety agencies implement local flood disaster preparedness plans. The states of Massachusetts, Connecticut, and Rhode Island have all upgraded building codes to include flood-protection measures. Assisted by NERBC efforts, New York, Connecticut, the Corps of Engineers, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the EPA have developed an interim plan for the disposal of dredged materials. Using NERBC-developed information, the New England states have helped revise and strengthen the U.S. Geological Survey Operating Orders for OCS exploration. Finally, the states of New York and Vermont have agreed on programs for improving water quality in Lake Champlain and are developing cooperative and consistent policies for dealing with toxic materials pollution, eutrophication, and nuisance aquatic plants as a result of the Lake Champlain Level B study.

The challenges to water resource managers in New England are numerous and complex, but, through a series of carefully planned and orchestrated study and coordination efforts, a comprehensive joint plan is evolving for the management of the region's waters through the program activities of the New England River Basins Commission. Continued authorization for the Title II program is essential.

TITLE III: FINANCIAL ASSISTANCE TO THE STATES FOR WATER MANAGEMENT AND TECHNICAL ASSISTANCE FOR WATER CONSERVATION (SECTION 301)

In their 1977 water policy statement, the New England and New York governors recommended a series of actions which would recognize the primary role of the states in water planning and management and strengthen state capabilities into a more comprehensive framework. The increased level (\$25 Million) of Title III funding which has been proposed by the Administration would raise the amount of annual planning funds available to the seven states from \$414,000 to \$2.5 Million. This increase would permit and encourage the states to plan and manage water programs in a more comprehensive manner as proposed by the governors and the President in his National Water Policy.

The New England and New York governors also supported a strong water conservation policy as the fundamental backbone of all state and federal water programs. The New England region is especially sensitive to its water supplies as vital economic

as well as environmental resources and views water conservation as a critical element in sound management of these resources. The \$25 Million Title III grant program for technical assistance for water conservation which has been proposed by the Administration -- a total of approximately \$2.8 Million per year for the New England states and New York -- would serve as important catalysts to achieving the water-conservation goals of this region.

Although the New England states and New York believe that these expanded Title III programs are in their best interest, there are some shared concerns as to how implementation should proceed in order to insure the most effective application of the increased funding. These concerns have to do primarily with program continuity and phase-in. Some state legislatures meet and appropriate funds every two years, thus requiring knowledge of program requirements several years in advance. Development and maintenance of effective state staff capabilities are also dependent upon program continuity. Phasing-in state matching funds for an expanded program could be accomplished by several means, such as:

- maintaining the Administration's proposed annual authorization limit of \$50 Million but appropriating lower funding levels in initial years, based on the ability of the states to match; or
- lowering the matching formula to 80/20 federal/non-federal. (It is noted that in a recent ICWP survey, 44 out of 47 responding states indicated they would be able to provide matching funds with this formula, whereas only 23 states indicated they could provide the match with a 50/50 federal/non-federal formula); or
- phasing-in the matching formula over several years.

In consideration of the above options, the New England states and New York believe that H.R. 2160 should be revised to reflect a minimum assured annual funding for each state, such as the \$100,000 approved by the Subcommittee, with a declining match of 80/20 in FY 1980, reaching 50/50 in the fourth fiscal year of the expanded program.

With regard to matching formulas in general, we believe that Congress should remain sensitive to the chaos that is created by having federally-supported programs with different matching-fund requirements. Those programs tend to be used most which offer the highest federal match, whether or not they are most suitable. Congress could provide a great service to the quality of water resources management and other federally-assisted programs by considering more uniform matching formulas for all federal planning and management programs, including Title III.

#### LEVEL B AND SPECIAL STUDIES (SECTION 401 (c) )

The purpose of this portion of the statement is to request that the Administration's FY 1980 request for Section 401 (c) appropriations be increased by \$147,000 in order to start a special study on water conservation, The New England Assessment of Water Conservation Potential and Strategies for Implementation.

This new study will carry out a comprehensive evaluation of available water conservation measures with the aim of identifying approaches which are particularly well-suited to New England. A literature survey and extensive discussions with individuals informed about water management issues will provide data needed to assess the potential role, likely effectiveness, and relative costs and benefits of alternative strategies for the region. Information needed by decision makers and legal/institutional changes necessary to insure effective implementation of conservation programs will also be identified in this effort.

Those water conservation measures showing the greatest promise for application in New England will undergo detailed field testing in both urban and rural settings.

This experience, together with the earlier assessment, will provide the basis for developing comprehensive water conservation programs tailored to the particular needs and circumstances of each of the New England states. These state conservation plans will recommend both short- and long-term strategies and will be accompanied by a series of technical documents for use by the states in providing technical assistance to local officials and in informing the general public.

As originally designed and approved by the states, the study would be completed over a three-year period at an estimated cost of \$792,000. The six New England states and New York have expressed their desire to participate in the study and have made commitments to seek contributions for the required 25 percent of study costs, totaling \$198,000.

However, with Congress currently considering a request in the President's FY 80 budget for \$25 million in direct funding to states for water conservation technical assistance, it is recognized that certain modifications to the study budget originally proposed may be in order. The following table has been prepared to show proposed funding of the study under two alternative futures:

NEW ENGLAND WATER CONSERVATION STUDY FUNDING ALTERNATIVES

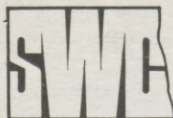
		Assuming No Title III Program for Water Conservation Technical Assistance	Assuming \$25 Million Annual Title III Program for Water Conservation Technical Assistance	
		Special Study Funding	Special Study Funding	From Federal and Non-Federal Title III Program Funding
FY 1980	Federal	297	147	200
	Non-Federal	99	49	
Balance to Complete	Federal	297	0	396
	Non-Federal	99	0	
TOTAL		792	196	596

Should Title III funds become available to states in FY 1980, the proposed study would give New England states a head start in developing their technical assistance programs and would eliminate unnecessary duplication of effort between state programs, enabling them to apply their funds more directly toward realizing more efficient use of limited local water resources. Under these conditions, a smaller amount could be appropriated to NERBC, and the balance could be provided by the states from Title III program funds. Thus, assuming a \$25 million Title III program, \$147,000 would be required to initiate the proposed study.

The level of authorization requested by the administration already includes funding to complete two ongoing special studies for New England in FY '80:

- \* The New England Hydropower Expansion Study - \$225,000
- \* The New England Port and Harbor Study - \$142,000

We strongly support the need to continue and complete these important regional efforts.



# NORTH DAKOTA STATE WATER COMMISSION

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bismarck 58505  
north dakota

April 11, 1979

The Honorable Mike Gravel, Chairman  
Senate Water Resources Subcommittee  
United States Senate  
4204 Dirksen Senate Office Building  
Washington, D.C. 20510

RE: SWC File #C3-3

Dear Senator Gravel:

This is to provide comments on S480 and S833, which were heard by your subcommittee on Monday, April 2. Thank you for the opportunity to provide comments for the record.

We also appreciate your recognition of one of our basic concerns. While we have no objections to the independent review function of the Water Resources Council, we sincerely hope that it does not become an additional delay in the process of planning and constructing water development projects. In addition, we are especially concerned that under its present structure, the review of water projects by the Water Resources Council will not be independent, since the agency itself is not independent. In spite of assurances by Assistant Secretary Guy Martin that the review will be strictly technical and therefore can be independent under the present structure, it is difficult to imagine that the policies and desires of the chairman of the Water Resources Council will not be injected into the review process. Only if the chairman of the Water Resources Council is independent can the agency and the review process itself be independent. Thus, it is urged that Congress seriously consider proposals to restructure the Water Resources Council in conjunction with proposals to expand its functions.

Our second concern relates to those expressed by Senator Domenici during the hearing relating to the proposals to increase planning assistance to the states. While we certainly support efforts to increase water resource planning efforts throughout the United States, there should also be assurances that this expanded program will not contain extensive Federal requirements by agencies to restrict and impede water resource development. The original and present Water Resources Planning Act (P.L. 89-80; 42 USC 1962) contains such assurances.

GOVERNOR ARTHUR A. LINK  
Chairman

ALVIN A. KRAMER  
Minor

ARTHUR J. LANZ  
Devils Lake

MYRON JUST, EX-OFFICIO MEMBER  
Comm. of Agriculture

RICHARD P. GALLAGHER  
Vice Chairman-Mandan

GORDON K. GRAY  
Valley City

ARLENE WILHELM  
Dickinson

VERNON FAHY  
Secretary & State Engineer

For example, the original Water Resources Planning Act was introduced into the House of Representatives (1965) as H.R. 1111. House Report (Interior and Insular Affairs Committee) No. 169 to accompany H.R. 1111 offers significant insight into the Act.

The committee report indicates that financial assistance to the states was a key purpose of the Act since it "would enable them [the states] to play a more effective role in planning the development and conservation of their water and related land resources". However, the report clearly indicated that: "The present responsibilities of the Federal Government or of the States relative to the development, control, or use of water will be neither expanded nor diminished by enactment of H.R. 1111".

In summarizing the program for financial assistance to the states, the committee report clearly did not contemplate that grants would be conditioned in any manner:

In order to obtain financial assistance a State will have to submit its program for comprehensive water and related land resources planning to the Council for its approval. The State will then be able to obtain, from its allotment of the amount appropriated by Congress, up to 50 percent of the cost of carrying out the approved program.

It is interesting to note that the Secretary of Interior attempted to delete a provision of the bill which stated: "Nothing in this Act shall be construed -- to expand, diminish, or change in any particular the authority or responsibility of any Federal or State official or officials, elective or appointive, in the discharge of the duties of his or their office".

The basis for the objection to the provision is contained in a February 2, 1965, letter from Secretary of the Interior Udall to Representative Wayne N. Aspirall, Chairman, Committee on Interior and Insular Affairs:

This subsection would seem to be of no effect so far as it concerns State officials, whose powers cannot be changed by Federal law.

So far as it related to Federal officials it could have an impact on the Water Resources Council. This Council is intended as an agency to establish uniform procedures and guides for Federal water resources planning. It is not intended to take away or realize basic statutory authority or responsibilities. It could not do that. Decisions of the Council are expected to be reached on the basis of unanimity and not by majority rule. These decisions may well involve an agreement among the Department heads on changes in the way they exercise their planning responsibilities. We suggest the deletion of subsection 3(b).

That section was also attacked by Secretary of Agriculture Freeman: "The language... appears to unduly restrict the functions of the Water Resources Council".

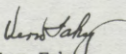
The committee and Congress, however, rejected their suggestions.

It is hoped that any proposals to increase the flexibility of Federal agencies to impose conditions on the water resource planning program be rejected as inconsistent with the intent of the Water Resources Planning Act, to ensure States' primary role in water management.

This concern is especially apparent in light of recent conditions imposed on states pursuant to Title III by the Water Resources Council which require compliance with Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands). Notice of Grant Award from the Water Resources Council for FY 1978 and FY 1979 provides that: "Payment of grant funds shall be made in accordance with...supplemental instructions issued pursuant thereto". Supplemental Instruction No. 3 provides: "As a condition of accepting a Title III grant award, each recipient agrees to utilize grant monies received in full compliance with the intent of Executive Orders 11988 and 11990". North Dakota agrees that wetlands and floodplain management must be addressed in conducting state water resources planning. Indeed, consideration of those issues are necessarily a part of the water resource planning program. However, Executive Orders 11988 and 11990 mandate a specific approach in consideration of wetlands and floodplain, in accordance with administration policies and desires.

Thank you for considering the foregoing comments.

Sincerely,

  
Vern Fahy  
State Engineer

VF:MD:pjw

cc: Senator Young  
Senator Burdick  
Representative Andrews  
Gary Helgeson, Deputy Atty. Gen.

NERBC

New England  
River Basins Commission

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OFFICE OF THE VICE CHAIRMAN

April 26, 1979

The Honorable Mike Gravel  
Chairman, Subcommittee on Water Resources  
Senate Committee on Environment and  
Public Works  
4204 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Mr. Chairman:

In a letter to you dated April 17, 1979, I submitted a statement on behalf of the state members of the New England River Basins Commission, which expressed their support for proposed amendments to the Water Resources Planning Act (P.L. 89-80). The purpose of this letter is to clarify and modify that portion of our statement having to do with funding for the expanded Title III Programs.

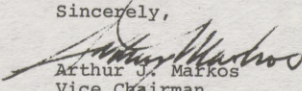
The reference to a minimum assured annual funding for each state was based on a total annual Title III Program of \$50 million - with \$100,000 allocated annually to each state for water management programs and \$100,000 allocated annually to each state for water conservation technical assistance, and with the remaining amounts allocated on the basis of formulas reflecting state needs. We wish to emphasize now that for any annual program of less than the \$50 million total, the \$100,000 minimums would have to be adjusted downward to insure equitable consideration of individual state needs.

Additionally, the New England States now wish to support a straight 80/20 federal - state matching formula at all funding levels, rather than a declining match.

As I have been advised that the State of New York intends to make its position known to the Subcommittee by other means, it is requested that the joint statement be amended to delete all references to New York. ✓✓

We hope that our views as restated herein will assist in your further consideration of S.480 and S.833.

Sincerely,

  
Arthur J. Markos  
Vice Chairman

cc: The Honorable Jennings Randolph,  
Chairman  
Senate Committee on Environment and Public Works  
NERBC State Members and Alternates

