

The original documents are located in Box 36, folder “12/27/75 HR6874 Small Reclamation Projects” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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APPROVED important
DEC 27 1975

THE WHITE HOUSE
WASHINGTON
December 26, 1975

*Please transmit
Jensen
12/26*

MEMORANDUM FOR DICK CHENEY
FROM: BOB LINDER *Linder*

*Posted in
Colorado
12/27*

*To O'Brien
12/31*

Attached is the enrolled bill memorandum on H.R. 6874, Small Reclamation Projects Act. This is one of the two bills that you carried with you to Vail that require Presidential action before your return on the 30th.

1. If the President decides to approve the bill, he should sign it on or before Monday, December 29 and it can be brought back when you return on the 30th.
2. If the President decides to veto the bill, he should sign a clean copy of the veto message (attached to OMB bill report) and return both the bill and message on the courier scheduled for Saturday, December 27. He does not sign the bill but it is imperative that we get the bill and veto message so both can be sent to the House on Monday, December 29.

Dick

*Bill should be checked by
SAT. 12/27.*

[Signature]



important

THE WHITE HOUSE

ACTION

WASHINGTON
December 26, 1975

Last Day: December 29

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: H.R. 6874 - Amend Small Reclamation
Projects Act of 1956

Attached for your consideration is H.R. 6874, sponsored by Representative Lujan.

BACKGROUND

The Small Reclamation Projects Act of 1956 authorized a program through which qualified public water resource development agencies in the 17 Western States and Hawaii could receive loans and/or grants to construct projects under the Federal reclamation laws.

PURPOSE

The enrolled bill would amend the Act to increase the appropriation authorization for the program from \$300 million to \$400 million and would update the Act to take into account the effects of inflation. These provisions are detailed in OMB's enrolled bill report at Tab A.

In addition, H.R. 6874 contains a provision which would allow loans and grants up to 50% of the cost of the project to be made for the acquisition of existing water resource facilities as opposed to the construction of new facilities, which has been the traditional purpose of the program.

RECOMMENDATIONS

Because of this provision, OMB and Treasury recommend disapproval of the legislation. Ed Schmults concurs in their recommendation.

The Department of the Interior believes that this objectionable provision can be controlled administratively because the Secretary of the Interior can require such facilities to meet standards of design and durability. Interior recommends that you sign the enrolled bill.

Max Friedersdorf also recommends approval of H.R. 6874. The bill passed the House by voice vote under suspension and passed the Senate under unanimous consent. He states that the Administration position on the legislation when it passed the House in October was "will not object". He believes that a veto would be inconsistent and difficult to explain. We have never conveyed a veto signal.

RECOMMENDATION

The provision which OMB and Treasury object to is objectionable and on the merits may warrant a veto. However, in view of Interior's belief that it can be controlled administratively and in view of the fact that we never flashed a veto warning on this, I recommend that you approve the legislation.

DECISION

Sign H.R. 6874 at Tab B.

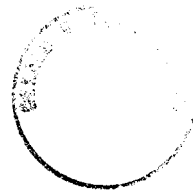
_____ Approve

_____ Disapprove

Disapprove H.R. 6874 and sign the proposed veto message at Tab C.

_____ Approve

_____ Disapprove



FMM
PRECEDENCE

UNCLAS
CLASSIFICATION

FOR COMMCENTER USE ONLY

FROM: ROBERT LINDER

TO: RICHARD CHENKY

TERRY O'DONNELL

INFO:

DEX _____

(DAG) 045 _____

GPS _____

LDX _____

PAGES 12 _____

TTY _____

CITE _____

DTG: 261908Z ASB

RELEASED BY: GE

TOR: 262042Z

1975 DEC 26 19 08

SPECIAL INSTRUCTIONS:

TO VAIL

75 DEC 26 PM 3:54

WHITE HOUSE
SITUATION ROOM



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6874 - Amend Small Reclamation
Projects Act of 1956
Sponsors - Rep. Johnson (D) California and
Rep. Lujan (R) New Mexico

Last Day for Action

December 29, 1975 - Monday

Purpose

To increase the appropriation authorization for the Small Reclamation Projects program, to expand the scope of the program to permit the acquisition of existing water resource facilities, and to update the Act to take into account the effects of inflation.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message Attached)
Department of the Treasury	Disapproval (Informally)
Department of the Interior	Approval

Discussion

Existing law authorizes an aggregate of \$300 million for a program through which qualified water resource development agencies in the 17 Western States and Hawaii receive loans and/or grants to construct projects under the Federal reclamation laws. Outstanding obligations plus commitments and projects under review will soon exhaust the \$300 million authorization.

The enrolled bill would increase the amount of the present authorization by \$100 million to a cumulative total of \$400 million.

H.R. 6874 would also amend existing law as follows:

- a. increase existing limitations on cost of an eligible project as measured by a composite construction cost index;
- b. authorize the Secretary of the Interior to increase existing loans to cover inflationary cost increases;
- c. increase maximum loan and/or grant for a project as measured by two-thirds of the maximum allowable estimated total project cost instead of a \$10 million maximum limit. This would be equivalent to about \$15 million in 1975 prices.

In addition to the foregoing provisions which constitute justifiable changes in program limitations to accommodate for inflation, H.R. 6874 contains a provision which allows loans and grants up to 50 percent of the cost of the project to be made for the acquisition of existing water resource facilities as contrasted to the construction of new facilities, the traditional purpose of the program.

Although the legislative history of the bill is essentially silent in the matter, we understand that this provision allowing subsidized Federal financing to be used to acquire existing facilities rather than pay for the construction of new ones was included to permit acquisition of some privately owned wells by an eligible reclamation project. Although the specific purpose here may not be particularly objectionable of itself, the provision could be used for less desirable acquisitions in the future. More basically, by providing subsidized financing for a transfer in ownership of existing water resource facilities, it departs from the fundamental purpose of the Small Reclamation Program -- the use of such subsidized financing to create additional facilities and economic benefits.

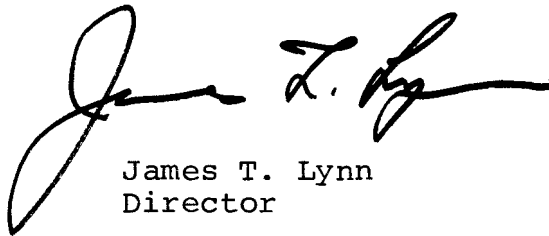
For the foregoing reasons, we join with Treasury in recommending veto of H.R. 6874.

Interior, in its enrolled bill letter, states:

"This provision is not one we would have recommended, but with the exercise of care in the application of standards and in the examination of facilities proposed for purchase in a project, this provision can be effectively administered and controlled. This feature in the bill does not render the bill objectionable. Moreover, there are not many situations where the provision would apply."

Interior's position is basically one of asserting that the objectionable nature of the provision relating to acquisition of existing facilities can be mitigated administratively. We believe that the "pork barrel" nature of the program will make this extremely difficult and, accordingly, feel that veto is the soundest course to follow.

We have prepared for your consideration the attached proposed veto message voicing objections to the bill, as outlined above, and offering to approve, without delay, legislation without the objectionable provision.



James T. Lynn
Director

Enclosures

TO THE HOUSE OF REPRESENTATIVES

I return herewith without my approval, H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

The Small Reclamation Projects Act generally authorizes interest-free loans to assist construction of irrigation projects in the 17 Western States and Hawaii.

H.R. 6874 would increase the now largely committed appropriation authorization for this program from \$300 million to \$400 million. The bill would also authorize a series of increases in the limitations the law currently imposes on the amount of financial assistance that can be provided to particular projects.

I have no objection to these changes which will assure continuation of the program and accommodation of the amount of financial assistance to cost increases resulting from inflation.

There is, however, another feature of H.R. 6874 to which I strongly object. It involves a new authority added by this bill under which financial assistance could be provided for the cost of acquiring existing water resource facilities, as contrasted with the construction of new ones.

From its inception, the fundamental purpose of the Small Reclamation Projects Act has been to provide Federal

financial assistance to stimulate the construction of additional water resource facilities with resulting economic benefits in the areas covered by the Act. Obviously, it would represent a sharp departure from this purpose to permit such assistance to be used to finance a transfer in the ownership of existing facilities, thereby replacing private financing with interest-free, Federal loans.

At a time of increasing budgetary stringency, when we are carefully examining the scope of and justification for a myriad of Federal programs, I cannot in good conscience approve legislation that would convert an existing program to this new and quite unjustified purpose.

If the Congress will enact another bill with the offending provision relating to the purchase of existing facilities deleted, I will be glad to approve it promptly.

THE WHITE HOUSE

December , 1975

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1975

~~MEMORANDUM FOR THE PRESIDENT~~ *has signed*

~~Subject: Enrolled Bill H.R. 6874 - Amend Small Reclamation
Projects Act of 1956.
Sponsors - Rep. Johnson (D) California and
Rep. Lujan (R) New Mexico~~

Last Day for Action

December 29, 1975 - Monday

Purpose

This bill ~~to~~ increase the appropriation authorization for the Small Reclamation Projects program, to expand the scope of the program to permit the acquisition of existing water resource facilities, and to update the Act to take into account the effects of inflation.

Agency Recommendations

Office of Management and Budget

Disapproval (Veto Message Attached)

Department of the Treasury
Department of the Interior

Disapproval (Informally)
Approval

Discussion

Existing law authorizes an aggregate of \$300 million for a program through which qualified water resource development agencies in the 17 Western States and Hawaii receive loans and/or grants to construct projects under the Federal reclamation laws. Outstanding obligations plus commitments and projects under review will soon exhaust the \$300 million authorization.

The ~~enrolled~~ bill ^{will} ~~would~~ increase the amount of the present authorization by \$100 million to a cumulative total of \$400 million.

H.R. 6874 ^{will} ~~would~~ also amend ^{the} existing law as follows:

- a. increase existing limitations on cost of an eligible project as measured by a composite construction cost index;
- b. authorize the Secretary of the Interior to increase existing loans to cover inflationary cost increases;
- c. increase maximum loan and/or grant for a project as measured by two-thirds of the maximum allowable estimated total project cost instead of a \$10 million maximum limit. This would be equivalent to about \$15 million in 1975 prices.

~~In addition to the foregoing provisions which constitute justifiable changes in program limitations to accommodate for inflation, H.R. 6874 contains a provision which allows loans and grants up to 50 percent of the cost of the project to be made for the acquisition of existing water resource facilities as contrasted to the construction of new facilities, the traditional purpose of the program.~~

~~Although the legislative history of the bill is essentially silent in the matter, we understand that this provision allowing subsidized Federal financing to be used to acquire existing facilities rather than pay for the construction of new ones was included to permit acquisition of some privately owned wells by an eligible reclamation project. Although the specific purpose here may not be particularly objectionable of itself, the provision could be used for less desirable acquisitions in the future. More basically, by providing subsidized financing for a transfer in ownership of existing water resource facilities, it departs from the fundamental purpose of the Small Reclamation Program -- the use of such subsidized financing to create additional facilities and economic benefits.~~

For the foregoing reasons, we join with Treasury in recommending veto of H.R. 6874.

Interior, in its enrolled bill letter, states:

"This provision is not one we would have recommended, but with the exercise of care in the application of standards and in the examination of facilities proposed for purchase in a project, this provision can be effectively administered and controlled. This feature in the bill does not render the bill objectionable. Moreover, there are not many situations where the provision would apply."

Interior's position is basically one of asserting that the objectionable nature of the provision relating to acquisition of existing facilities can be mitigated administratively. We believe that the "pork barrel" nature of the program will make this extremely difficult and, accordingly, feel that veto is the soundest course to follow.

We have prepared for your consideration the attached proposed veto message voicing objections to the bill, as outlined above, and offering to approve, without delay, legislation without the objectionable provision.

(Signed) James T. Lynn

James T. Lynn
Director

Enclosures



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 19 1975

Dear Mr. Lynn:

This is in response to your request for the views of this Department concerning an enrolled bill, H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

We recommend that the President approve the bill.

The principal purpose of the proposed amendments is to update the Act to account for the effects of inflation, by raising ceilings now provided in the Act and by allowing the Secretary additional flexibility in the administration of loans and grants under the Act.

Section (a) of H.R. 6874 amends Section 2(d) of the Act to delete the \$15 million total project cost ceiling. A new, flexible cost ceiling is provided by Section (b) of the bill, which adds a new subsection (f) to Section 2 of the Act, permitting the maximum allowable total project cost to vary in each calendar year depending upon the change in the Bureau of Reclamation's composite construction cost index for January of that year. The base cost for indexing would be \$15 million and the base date would be January 1971.

Section (f) of the bill would delete the \$10 million maximum loan and/or grant limit and substitute language enabling the maximum loan and/or grant to be computed as two-thirds of the maximum allowable estimated total project cost. (We compute the maximum allowable estimated total project cost, as of January 1975, at \$22,300,000, and the maximum loan at \$14,900,000).

Section (g) of the bill amends Section 10 of the Act by increasing the authorized appropriation ceiling to \$400 million from \$300 million.

Section (c) of H.R. 6874 would add a new subsection (d) to Section 4 of the Act to enable the Secretary of the Interior, at the time of submitting the application to the Congress or at any time before the completion of construction of the project, to increase the amount of the requested loan and/or grant to an amount within the maximum allowed by Section (f) of the bill to allow for increases in construction cost due to price escalation.



The enrolled bill contains a new provision not contained in earlier versions of the bill, which would allow for the use of loans and grants under the Act to purchase existing facilities, as well as for the construction of new facilities. The purchase could not amount to more than 50 per cent of the cost of any project and would have to be approved by the Secretary according to standards of design and construction which he would establish.

This provision is not one we would have recommended, but with the exercise of care in the application of standards and in the examination of facilities proposed for purchase in a project, this provision can be effectively administered and controlled. This feature in the bill does not render the bill objectionable. Moreover, there are not many situations where the provision would apply.

In reports to the Congress on H.R. 6874 dated June 12, 1975 and on S. 1794, the companion bill, dated September 4, 1975, the Department favored enactment of the bill, subject to certain amendments.

The principal amendment proposed was the deletion, in its entirety, of Section (c) of the bill providing for interim increases in loans and grants by the Secretary to account for cost escalation. The Departmental reports stated:

"The Administration has recommended that the new subsection (d) of Section 4 of the Act, as provided in Section (c) of the bill be deleted in its entirety."

The enrolled bill does not delete Section (c) in its entirety, but two substantial and favorable changes have been made in the section as proposed in early versions of the bill. A clause which would have allowed for increases in grants and loans based upon changes in project plans has been deleted. The provision for Congressional committee review of increases has also been deleted.

The enrolled bill also deletes language contained in the original bill which would have applied Congressional review to any "obligation of funds" for projects under the Act, as opposed to "appropriation" of funds. We opposed this amendment on Constitutional grounds.

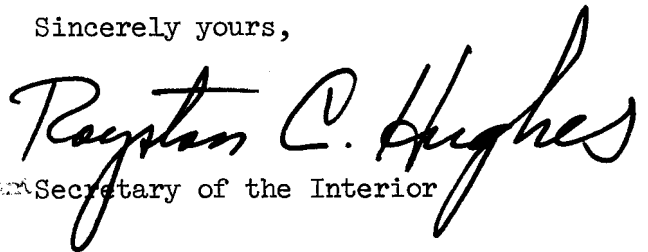
There has been an increase of about 48 percent in the costs of construction since the Act was last amended in 1971. The largest single-year cost increase was 26 percent in 1974. Loan applicants have had to revise cost estimates and financial analyses of

completed project reports to keep up with rising construction costs. Those approved projects with construction underway during that period have received construction bid estimates well in excess of previously estimated costs. They have been faced with a decision to cut back on the scope of planned projects, which may not be financially feasible, or apply for supplemental loans to complete the proposed project works. Those legislative changes for maximum allowable total project cost and maximum loan and/or grant amounts would maintain, on an annual basis, essentially the same size project envisioned under the 1966 amendment of the Act, which changed the original ratio of a loan to total project cost.

The increased program ceiling would assure potential applicants that there is an intended continuity to the loan program that warrants proceeding with the costly investigations and reports required in support of an application.

We feel that the bill is desirable to allow for the effects of inflation in the administration of the Act, to permit the attainment of the purpose of the Act, to assure that projects may be completed as planned, and to assure the continuity of the program. For these reasons, which far outweigh the one or two less desirable provisions in the bill, we feel the bill should be signed.

Sincerely yours,

A handwritten signature in cursive script that reads "Rayston C. Hughes". The signature is written in dark ink and is positioned above the typed name of the signatory.

Assistant Secretary of the Interior

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C.

THE WHITE HOUSE

WASHINGTON

December 24, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX FRIEDERSDORF *M.F.*
SUBJECT: H.R. 6874 - Amend Small Reclamation
Project Act of 1956.

H.R. 6874 passed the House by voice vote under suspension and passed the Senate under unanimous consent.

Acquisition of existing projects is a departure from the present law.

However, there is language in the bill which permits administrative control of acquisitions of privately owned facilities by eligible reclamation projects.

The Secretary of the Interior can require such facilities to meet standards of design and durability. In addition, the Secretary of the Interior will be required to certify that the facility meet the requirements for acquisition.

One project is in Barry Goldwater, Jr.'s District and testimony indicated there are only 3 or 4 facilities eligible for adding to existing or newly-constructed small reclamation projects.

Our position on the legislation when it passed the House in October was the Administration "will not object."

A veto would be inconsistent and difficult to explain.

The Office of Legislative Affairs recommends the bill be signed.

THE WHITE HOUSE
WASHINGTON

AW
RETURN TO RESEARCH
COM 123

ACTION MEMORANDUM

LOG NO.:

Date: December 24

Time: 230pm

FOR ACTION: George Humphreys
Max Friedersdorf
Ken Lazarus
Paul Theis

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

DEC 29 AM 8 17

FROM THE STAFF SECRETARY

DUE: Date: December 26

Time: 9:30am

SUBJECT:

H.R. 6874 - Amend Small Reclamation Projects Act
of 1956

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

DEC 29 1956
President

TO THE HOUSE OF REPRESENTATIVES

PKR

I return herewith without my approval, H.R. 6874,
"To amend the Small Reclamation Projects Act of 1956, as
amended."

*OMB
Memo*

The Small Reclamation Projects Act generally author-
izes interest-free loans ^{on} to assist construction of irri-
gation projects in the 17 Western States and Hawaii.

*OMB
Memo*

H.R. 6874 would increase the now largely committed
appropriation authorization for this program from \$300 million
to \$400 million. The bill would also authorize a series
of increases in the limitations the law currently imposes
on the amount of financial assistance that can be provided
to particular projects.

I have no objection to these changes which will assure
continuation of the program and accommodation of the amount
of financial assistance to cost increases resulting from
inflation.

There is, however, another feature of H.R. 6874 to
which I strongly object. It involves a new authority added
by this bill under which financial assistance could be
provided for the cost of acquiring existing water resource
facilities, as contrasted with the construction of new ones.

*Sub
memo*

From its inception, the fundamental purpose of the
Small Reclamation Projects Act

financial assistance to stimulate the construction of additional water resource facilities with resulting economic benefits in the areas covered by the Act. Obviously, it would represent a sharp departure from this purpose to permit such assistance to be used to finance a transfer in the ownership of existing facilities, thereby replacing private financing with interest-free Federal loans.

At a time of increasing budgetary stringency, when we are carefully examining the scope of and justification for a myriad of Federal programs, I cannot in good conscience approve legislation that would convert an existing program to this new and quite unjustified purpose.

If the Congress will enact another bill with the offending provision relating to the purchase of existing facilities deleted, I will be glad to approve it promptly.

THE WHITE HOUSE

December , 1975

To -
J. Conaway
12-24-75
3:30 PM



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6874 - Amend Small Reclamation
Projects Act of 1956
Sponsors - Rep. Johnson (D) California and
Rep. Lujan (R) New Mexico

Last Day for Action

December 29, 1975 - Monday

Purpose

To increase the appropriation authorization for the Small Reclamation Projects program, to expand the scope of the program to permit the acquisition of existing water resource facilities, and to update the Act to take into account the effects of inflation.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message Attached)
Department of the Treasury	Disapproval (Informally)
Department of the Interior	Approval

Discussion

Existing law authorizes an aggregate of \$300 million for a program through which qualified water resource development agencies in the 17 Western States and Hawaii receive loans and/or grants to construct projects under the Federal reclamation laws. Outstanding obligations plus commitments and projects under review will soon exhaust the \$300 million authorization.

The enrolled bill would increase the amount of the present authorization by \$100 million to a cumulative total of \$400 million.

H.R. 6874 would also amend existing law as follows:

- a. increase existing limitations on cost of an eligible project as measured by a composite construction cost index;
- b. authorize the Secretary of the Interior to increase existing loans to cover inflationary cost increases;
- c. increase maximum loan and/or grant for a project as measured by two-thirds of the maximum allowable estimated total project cost instead of a \$10 million maximum limit. This would be equivalent to about \$15 million in 1975 prices.

In addition to the foregoing provisions which constitute justifiable changes in program limitations to accommodate for inflation, H.R. 6874 contains a provision which allows loans and grants up to 50 percent of the cost of the project to be made for the acquisition of existing water resource facilities as contrasted to the construction of new facilities, the traditional purpose of the program.

Although the legislative history of the bill is essentially silent in the matter, we understand that this provision allowing subsidized Federal financing to be used to acquire existing facilities rather than pay for the construction of new ones was included to permit acquisition of some privately owned wells by an eligible reclamation project. Although the specific purpose here may not be particularly objectionable of itself, the provision could be used for less desirable acquisitions in the future. More basically, by providing subsidized financing for a transfer in ownership of existing water resource facilities, it departs from the fundamental purpose of the Small Reclamation Program -- the use of such subsidized financing to create additional facilities and economic benefits.

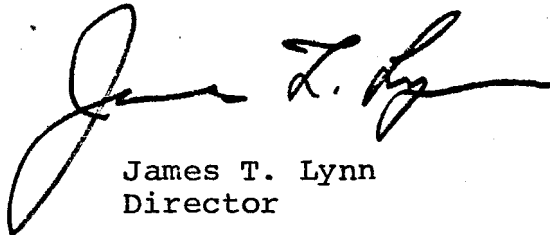
For the foregoing reasons, we join with Treasury in recommending veto of H.R. 6874.

Interior, in its enrolled bill letter, states:

"This provision is not one we would have recommended, but with the exercise of care in the application of standards and in the examination of facilities proposed for purchase in a project, this provision can be effectively administered and controlled. This feature in the bill does not render the bill objectionable. Moreover, there are not many situations where the provision would apply."

Interior's position is basically one of asserting that the objectionable nature of the provision relating to acquisition of existing facilities can be mitigated administratively. We believe that the "pork barrel" nature of the program will make this extremely difficult and, accordingly, feel that veto is the soundest course to follow.

We have prepared for your consideration the attached proposed veto message voicing objections to the bill, as outlined above, and offering to approve, without delay, legislation without the objectionable provision.

A handwritten signature in black ink, appearing to read "James T. Lynn". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James T. Lynn
Director

Enclosures

TO THE HOUSE OF REPRESENTATIVES

I return herewith without my approval, H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

The Small Reclamation Projects Act generally authorizes interest-free loans to assist construction of irrigation projects in the 17 Western States and Hawaii.

H.R. 6874 would increase the now largely committed appropriation authorization for this program from \$300 million to \$400 million. The bill would also authorize a series of increases in the limitations the law currently imposes on the amount of financial assistance that can be provided to particular projects.

I have no objection to these changes which will assure continuation of the program and accommodation of the amount of financial assistance to cost increases resulting from inflation.

There is, however, another feature of H.R. 6874 to which I strongly object. It involves a new authority added by this bill under which financial assistance could be provided for the cost of acquiring existing water resource facilities, as contrasted with the construction of new ones.

From its inception, the fundamental purpose of the Small Reclamation Projects Act has been to provide Federal

financial assistance to stimulate the construction of additional water resource facilities with resulting economic benefits in the areas covered by the Act. Obviously, it would represent a sharp departure from this purpose to permit such assistance to be used to finance a transfer in the ownership of existing facilities, thereby replacing private financing with interest-free, Federal loans.

At a time of increasing budgetary stringency, when we are carefully examining the scope of and justification for a myriad of Federal programs, I cannot in good conscience, approve legislation that would convert an existing program to this new and quite unjustified purpose.

If the Congress will enact another bill with the offending provision relating to the purchase of existing facilities deleted, I will be glad to approve it promptly.

THE WHITE HOUSE

December , 1975

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1453

Date: December 24

Time: 230pm

FOR ACTION: George Humphreys
Max Friedersdorf
Ken Lazarus
Paul Theis

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 26

Time: 9:30am

SUBJECT:

H.R. 6874 - Amend Small Reclamation Projects Act
of 1956

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Dec. 30, 1975

MEMO TO: JUDY JOHNSTON

FROM: GEORGE W. HUMPHREYS

I recommend disapproval.

The acquisition of current facilities is NOT in the public interest nor was it the intent of the program.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

John E. ...
for the President

Date: December 24

Time: 230pm

FOR ACTION: George Humphreys
Max Friedersdorf
Ken Lazarus
Paul Theis

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 26

Time: 9:30am

SUBJECT:

H.R. 6874 - Amend Small Reclamation Projects Act
of 1956

ACTION REQUESTED:

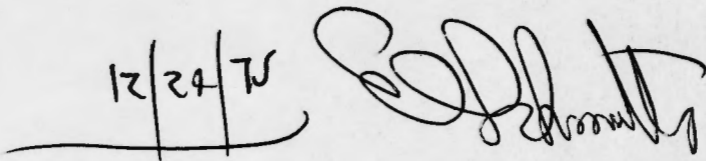
- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

COUNCIL'S OFFICE SUPPORTS THE
OMB - TREASURY VETO RECOMMENDATION,

12/24/75



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

SEARCHED
SERIALIZED
INDEXED
FILED



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 12-26-75

TO: Bob Linder

FROM: Jim Frey

Attached is the Treasury views letter on H.R. 6875. Please have it included in the enrolled bill file.



THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

DEC 24 1975

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for
Legislative Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

The Small Reclamation Projects Act of 1956 authorizes a program of grants and loans for irrigation and multipurpose water resource projects. Loans for irrigation facilities are interest free, and loans for other water facilities bear heavily subsidized rates. Subsection (a) of the enrolled enactment would make eligible for assistance projects that consist of the acquisition of "existing facilities as distinct from newly constructed facilities" up to 50 percent of the project cost. Thus, conceivably up to 50 percent of Federal assistance under the program could be for the acquisition of existing facilities rather than for stimulating new construction. The proposal could result in extraordinary costs to the Federal Government with no apparent benefits to offset such costs, and substantial windfalls to either the buyers or sellers of existing facilities.

In view of the foregoing, the Department would recommend that the President not approve H.R. 6874.

Sincerely yours,


Stephen S. Gardner

IMM
PRECEDENCE

UNCLAS
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FOR COMMCENTER USE ONLY

FROM: BOB LINDER
TO: JOHN CARLSON - VAIL

DEX _____

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GPS _____

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INFO:

DTG: 261505Z DEC 75

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SPECIAL INSTRUCTIONS:

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FOR COMMCENTER USE ONLY

TO THE HOUSE OF REPRESENTATIVES

I return herewith without my approval, H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

The Small Reclamation Projects Act generally authorizes interest-free loans to assist construction of irrigation projects in the 17 Western States and Hawaii.

H.R. 6874 would increase the now largely committed appropriation authorization for this program from \$300 million to \$400 million. The bill would also authorize a series of increases in the limitations the law currently imposes on the amount of financial assistance that can be provided to particular projects.

I have no objection to these changes which will assure continuation of the program and accommodation of the amount of financial assistance to cost increases resulting from inflation.

There is, however, another feature of H.R. 6874 to which I strongly object. It involves a new authority added by this bill under which financial assistance could be provided for the cost of acquiring existing water resource facilities, as contrasted with the construction of new ones.

From its inception, the fundamental purpose of the Small Reclamation Projects Act has been to provide Federal

financial assistance to stimulate the construction of additional water resource facilities with resulting economic benefits in the areas covered by the Act. Obviously, it would represent a sharp departure from this purpose to permit such assistance to be used to finance a transfer in the ownership of existing facilities, thereby replacing private financing with interest-free, Federal loans.

At a time of increasing budgetary stringency, when we are carefully examining the scope of and justification for a myriad of Federal programs, I cannot in good conscience approve legislation that would convert an existing program to this new and quite unjustified purpose.

If the Congress will enact another bill with the offending provision relating to the purchase of existing facilities deleted, I will be glad to approve it promptly.

THE WHITE HOUSE

December , 1975

Top Lender

THE WHITE HOUSE
WASHINGTON

Date December 31, 1975

TO: Jim Connor
FROM: John G. Carlson

The attached material was given to me by Dick Cheney out in Vail. As you can see, these are the originals initialed by the President and thought you might need them for some files.

Tracy
PA file
g.

Attachment

1MM
PRECEDENCE

UNCLAS
CLASSIFICATION

FOR COMMCENTER USE ONLY

FROM: ROBERT LINDER
TO: RICHARD CHENEY
TERRY O'DONNELL
INFO:

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SPECIAL INSTRUCTIONS:

TO VAIL



Important

THE WHITE HOUSE
WASHINGTON
December 26, 1975

Please
transmit
Jensen
12/26

MEMORANDUM FOR DICK CHENEY
FROM: BOB LINDER *Linder*

Attached is the enrolled bill memorandum on H.R. 6874, Small Reclamation Projects Act. This is one of the two bills that you carried with you to Vail that require Presidential action before your return on the 30th.

1. If the President decides to approve the bill, he should sign it on or before Monday, December 29 and it can be brought back when you return on the 30th.
2. If the President decides to veto the bill, he should sign a clean copy of the veto message (attached to OMB bill report) and return both the bill and message on the courier scheduled for Saturday, December 27. He does not sign the bill but it is imperative that we get the bill and veto message so both can be sent to the House on Monday, December 29.

Dick

*This should be decided by
SAT. 12/27.*



Important

THE WHITE HOUSE
WASHINGTON
December 26, 1975

ACTION
Last Day: December 29

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: H.R. 6874 - Amend Small Reclamation
Projects Act of 1956

Attached for your consideration is H.R. 6874, sponsored by Representative Lujan.

BACKGROUND

The Small Reclamation Projects Act of 1956 authorized a program through which qualified public water resource development agencies in the 17 Western States and Hawaii could receive loans and/or grants to construct projects under the Federal reclamation laws.

PURPOSE

The enrolled bill would amend the Act to increase the appropriation authorization for the program from \$300 million to \$400 million and would update the Act to take into account the effects of inflation. These provisions are detailed in OMB's enrolled bill report at Tab A.

In addition, H.R. 6874 contains a provision which would allow loans and grants up to 50% of the cost of the project to be made for the acquisition of existing water resource facilities as opposed to the construction of new facilities, which has been the traditional purpose of the program.

RECOMMENDATIONS

Because of this provision, OMB and Treasury recommend disapproval of the legislation. Ed Schmults concurs in their recommendation.

The Department of the Interior believes that this objectionable provision can be controlled administratively because the Secretary of the Interior can require such facilities to meet standards of design and durability. Interior recommends that you sign the enrolled bill.

Max Friedersdorf also recommends approval of H.R. 6874. The bill passed the House by voice vote under suspension and passed the Senate under unanimous consent. He states that the Administration position on the legislation when it passed the House in October was "will not object". He believes that a veto would be inconsistent and difficult to explain. We have never conveyed a veto signal.

RECOMMENDATION

The provision which OMB and Treasury object to is objectionable and on the merits may warrant a veto. However, in view of Interior's belief that it can be controlled administratively and in view of the fact that we never flashed a veto warning on this, I recommend that you approve the legislation.

DECISION

Sign H.R. 6874 at Tab B.



Approve

Disapprove

Disapprove H.R. 6874 and sign the proposed veto message at Tab C.

Approve

Disapprove

AMENDING THE SMALL RECLAMATION PROJECTS ACT
OF 1956, AS AMENDED

SEPTEMBER 24, 1975.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 6874]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6874) to amend the Small Reclamation Projects Act of 1956, as amended, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 7, strike out "project cost" and insert in lieu thereof "cost of the project".

Page 2, line 10, strike the word "hereof." and insert in lieu thereof the following:

hereof: *Provided further*, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this Act may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty per centum of the cost of the project.

Page 3, line 1, following the word "project," insert "including projects heretofore approved,".

Page 3, line 5, after the word "price" strike the remainder of the subsection ending on line 17 and insert in lieu thereof "escalation."

Page 3, line 19, following the words "subsection (e)", strike the language through Page 4, line 7 and insert in lieu thereof "and by changing the reference in the last sentence of the renumbered subsection from (d) to (e)."

PURPOSE

The purpose of H.R. 6874¹ is to extend the Small Reclamation Projects program and to amend the basic Act in such a way that the program can respond administratively to general increases in construction cost indexes brought about by the inflation of recent years and that which may come about in the future.

BACKGROUND AND NEED FOR LEGISLATION

The Small Reclamation Projects Act authorized a program through which qualified public water resource development agencies might apply for and receive loans and/or grants to construct projects which are otherwise eligible for consideration of authorization for construction under the Federal Reclamation laws. The program is limited geographically to the 17 contiguous western States and the State of Hawaii. Since the program started in 1956 there have been 72 loans approved for 62 separate water resource development projects. These approved loans represent an investment of slightly over \$180,000,000. Projects costing \$40,000,000 are in an advanced stage of review and consideration in the Department of the Interior and formal notices of intent to apply for loans have been filed on behalf of projects having a preliminary cost estimate of \$185,000,000.

This program has been accomplished and continues to be operated with a very minimum in terms of administrative overhead by the Federal government. All engineering design and construction is accomplished by private engineering firms retained by the applicant agencies.

There are two important needs to be met through amendment of the basic enabling legislation for the Small Projects program. The first and paramount need is to adjust the limits on size of program and size of loan that may be entertained under the program. Since the eligibility limits were last established by law there has been an escalation of construction prices of almost fifty percent. This means that eligible projects are becoming smaller and smaller with each increase in the construction cost index. The next major need is to increase the amount authorized to be appropriated. Although there has been \$300 million authorized in prior years, this amount will be soon exhausted—and the water resources community needs the assurance that authorization will be available so it can safely invest its financial resources in preparing the rather expensive loan application reports required by the program.

ANALYSIS

The bill is comprised of a single section having subsections (a) through (g). Each of the subsections amends the Small Reclamation Projects Act (70 Stat. 1044) as amended. Discussion of each subsection follows:

Subsection (a).—This subsection amends subsection 2(d) of the basic Act, to clarify the authority to use loan funds for purchase of existing facilities that may be useful in a water resource development

¹ H.R. 6874 was introduced by Mr. Johnson of California (for himself and Mr. Lujan). A rated bill was introduced by Mr. Don H. Clausen (for himself and Mrs. Pettis).

plan, as distinct from constructing new facilities. It also sets forth the conditions under which loan funds may be so used—and further amends subsection 2(d) of the Act, to conform the Act to the provisions of subsection (b) of the bill.

Subsection (b).—This subsection revises the limitations on the cost of an eligible project. As the law now stands, projects costing less than \$15 million are eligible to apply for loans. This subsection permits the maximum size to float with the Bureau of Reclamation's composite construction cost index—starting from a base of \$15 million at January 1971 price levels. This subsection has the effect of raising the cost ceiling for a Small Project to approximately \$23 million for calendar year 1975.

Subsection (c).—This subsection adds a new subsection 4(d) to the Act and authorizes the Secretary to increase existing loans to cover escalation in construction costs. The authority extends to previously approved loans as well as to those to be approved in the future.

Subsections (d) and (e).—These two subsections merely renumber subsections of the existing law and conform section number references in the Act.

Subsection (f).—This subsection amends the Small Reclamation Projects Act to allow the maximum loan and/or grant to be pegged at $\frac{2}{3}$ of the maximum project size. Existing law limits the loan or grant to a maximum of \$10 million.

Subsection (g).—This subsection authorizes an additional \$100 million of appropriations for the Small Projects program, increasing the level from the existing \$300 million to \$400 million.

COMMITTEE AMENDMENTS

The Committee on Interior and Insular Affairs adopted five amendments to H.R. 6874. These amendments which appear hereinabove are discussed below:

(1) An amendment to subsection (a) was adopted to change an incorrect grammatical expression.

(2) A substantive amendment to subsection (a) was adopted to authorize the use of loan funds for the purchase of existing water resource facilities in lieu of constructing new facilities under appropriate circumstances and safeguards.

(3) A substantive amendment to subsection (c) was adopted to clarify that the authority of the Secretary of the Interior to increase approved loan amounts to cover inflationary cost increases occurring after approval of a loan, extends also to loans in existence at the time of enactment of this legislation.

(4) A substantive amendment was adopted to limit the purposes for which approved loans may be increased to cost escalation only and to delete the requirement that such increases in loans be forwarded to the Congress.

(5) A substantive amendment was adopted to delete language from the bill that would have amended the existing provisions of law relating to Committee overview of approved loans. The effect of this amendment is to preserve the 60-day review period on new loans prior to their becoming eligible for appropriations.

COSTS

The Committee's estimate of the cost of H.R. 6874 is the same as the amount authorized to be appropriated—\$100,000,000. These costs will be incurred over a period of years commencing about three years from the date of enactment and extending for a period of approximately 5 years thereafter, depending upon the rate at which loan applications are received, processed and approved. Historically, about \$10,000,000 per year has been expended under this program but there are some indications that the rate of expenditure will be somewhat greater in the future.

INFLATIONARY IMPACT

The funds authorized to be appropriated by this legislation will be spent rather gradually over a term of years commencing approximately three years hence and extending over a period of five years or more. The Committee believes that this gradual use of the funds will minimize any inflationary impact on our economy that they might otherwise have if expended immediately over a short time span.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs on the basis of a voice vote recommends that H.R. 6874, as amended, be enacted.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF AUGUST 6, 1956 (70 Stat. 1044, AS AMENDED)
(43 U.S.C. 422a et seq)

SEC. 2. As used in this Act—

- * * * * *
- (a) The term "construction" shall include rehabilitation and betterment.
- (b) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.
- (c) The term "organization" shall mean a State or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users' association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.
- (d) The term "project" shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clauses (i) and (ii), or (iv) any project for the drainage of irrigated lands,

without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clauses (i), (ii), (iii), (iv), or (v) does not exceed [\$15,000,000.] *the maximum allowable estimated total project cost as determined by subsection (f) hereof: Provided further, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this Act may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty percentum of the cost of the project.* Nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.

(e) The term "Secretary" shall mean the Secretary of the Interior.

(f) *The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with \$15,000,000 as the January 1971 base.*

SEC. 3. Any organization desiring to avail itself of the benefits provided in this Act shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of \$1,000 to defray, in part, the cost of examining the proposal.

SEC. 4. (a) Any proposal with respect to the construction of a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of the drainage basin in which the project is located in like manner as provided in subsection (c), section 1 of the Act of December 22, 1944 (58 Stat. 887), except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

(b) Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to use of water necessary for the successful construc-

tion, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant under this Act such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in subsection 5 (b) (2) hereof, as the Secretary shall have advised is proper in the circumstances.

(c) At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this Act, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this Act, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 5 of this Act shall have been executed.

(d) At the time of his submitting the project proposal to the Congress, or at any subsequent time prior to completion of construction of the project, including projects heretofore approved, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by subsection (a) of section 5 of the Act as herein amended, to compensate for increases in construction costs due to price escalation.

[(d)] (e) No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution. The provisions of this subsection [(d)] (e) shall not be applicable to proposals made under section 6 of this Act.

[(e)] (f) The Secretary shall give due consideration to financial feasibility, emergency, or urgent need for the project. All project works and facilities constructed under this Act shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract.

SEC. 5. Upon approval of any project proposal by the Secretary under the provisions of section 4 of this Act, he may negotiate a contract which shall set out, among other things—

(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) [\$10,000,000 or] two-thirds of the maximum allowable estimated total project cost as determined by subsection (f) of section 2, or (2) the estimated total cost of the project minus the contribution of the

local organization as provided in section 4(b) and the amount of the grant approved.

(b) the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recreation;

(2) one-half the costs of acquiring lands or interests therein to serve exclusively the purposes of fish and wildlife enhancement or public recreation, plus the costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation;

(3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively;

(4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife enhancement or public recreation; and

(5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement, which are nonreimbursable under general provisions of law applicable to such projects: *Provided*, That the cost of constructing the project as used in this subsection shall be exclusive of the cost of lands and interests in land;

(c) a plan of repayment by the organization of (1) the sums lent to it in not more than fifty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such average rate to the nearest one-eighth of 1 per centum, on that portion of the loan which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres; and (3) in the case of any project involving an allocation to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above;

(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of noncompliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to this Act shall be contingent upon

the availability of appropriations to carry out the same, and every such contract shall so recite; and

(f) provisions conforming to the preference requirements contained in the proviso to section 9(c) of the Act of August 4, 1939 (53 Stat. 1193), if the project produces electric power for sale.

Sec. 6. Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 4 of this Act, but the Secretary may waive such requirements of subsections (a) and (b) of that section as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 5 of this Act.

Sec. 7. Upon request of an organization which has made or intends to make a proposal under this Act, the head of any Federal department or agency may make available to the organization any existing engineering, economic, or hydrologic information and printed material that it may have and that will be useful in connection with the planning, design, construction, or operation and maintenance of the project concerned. The reasonable cost of any plans, specifications, and other unpublished material furnished by the Secretary pursuant to this section and the cost of making and administering any loan under this Act shall, to the extent that they would not be non-reimbursable in the case of a project constructed under the Federal reclamation laws, be treated as a loan and covered in the provisions of the contract entered into under section 5 of this Act unless they are otherwise paid for by the organization.

Sec. 8. The planning and construction of projects undertaken pursuant to this Act shall be subject to all procedural requirements and other provisions of the Fish and Wildlife Coordination Act (48 Stat. 401), as amended (16 U.S.C. 661 et seq.).

Sec. 9. The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of this Act.

Sec. 10. There are hereby authorized to be appropriated, such sums as may be necessary, but not to exceed ~~["\$300,000,000"]~~ \$400,000,000 to carry out the provisions of this Act: *Provided*, That the Secretary shall advise the Congress promptly on the receipt of each proposal referred to in section 3, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans made under this Act, be reimbursable in the manner hereinabove provided.

Sec. 11. This Act shall be a supplement to the Federal reclamation laws and may be cited as the Small Reclamation Projects Act of 1956.

Sec. 12. If any provision of this Act or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, organizations, or circumstances other than those as to which it held invalid shall not be affected thereby.

Sec. 13. A loan contract negotiated and executed pursuant to this Act may be amended or supplemented for the purpose of deferring repayment installments in accordance with the provisions of section 17(b) of the Reclamation Project Act of 1939, as amended (73 Stat. 584, 43 U.S.C. 485b-1).

EXECUTIVE COMMUNICATIONS

The report of the Department of the Interior on H.R. 6874 is set forth below in its entirety.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 12, 1975.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department concerning H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

We have reviewed the proposed bill and recommend in favor of its enactment, if amended as explained below.

The purpose of the proposed amendments is to update the Act to account for the effects of inflation, by raising certain ceilings now provided in the Act and by allowing the Secretary additional flexibility in the administration of projects under the Act.

Section (a) of H.R. 6874 amends Section 2(d) of the Act to delete the \$15 million total project cost ceiling. (The proposed amendment does not otherwise affect eligibility requirements found in Section 2[d]). A new, flexible cost ceiling is provided by Section (b) of the proposed bill.

Section (b) of the bill adds a new subsection (f) to Section 2 of the Act permitting the maximum allowable total project cost to vary in each calendar year depending upon the change in the Bureau of Reclamation's composite construction cost index for January of that year. The base cost for indexing would be \$15 million and the base date would be January 1971.

Section (c) of H.R. 6874 would add a new subsection (d) to Section 4 of the Act to enable the Secretary of the Interior, at the time of submitting the application to the Congress or before the completion of construction of the project, to increase the amount of the requested loan and/or grant to an amount within the maximum allowed by Section (f) of the bill (Section 5(a) of the Act as proposed to be amended). Such increase would be used to allow for increases in construction cost or for such changes in or additions to the proposed project as the Secretary may find proper and necessary to carry out the original purposes of the project. Section (c) of the bill also includes an additional 60-day legislative review period for loan and grant increases.

The Administration has recommended that the new subsection (d) of Section 4 of the Act, as provided in Section (c) of the bill be deleted in its entirety. The reasons provided are as follows. There are no estab-

lished guidelines for indexing costs increases, and the practice provided in subsection (d) should not be legislated on a piecemeal basis. There is no similar provision in any other Government loan program. Contractors may still resort to their common practice of providing for extra contingency funds in their original loan request. The increased facility for obtaining additional funds may reduce incentives to hold costs to a minimum. And finally, it may be possible, if absolutely necessary, to apply for a supplemental loan.

Section (d) of the bill further amends Section 4 of the Act by changing subsection (d) of the Act to subsection (e) and amends the subsection by deleting the word "appropriation" and substituting the words "obligation of funds." We also oppose this provision as being subject to the same constitutional objections indicated above. While the structures in existing law making appropriations subject to Committee veto can be justified as establishing internal Congressional procedures, the obligation of funds afterward is clearly an executive action, which under the doctrine of separation of powers is not subject to control of a Committee of Congress.

Section (c) of the bill further amends Section 4 of the Act to change subsection (e) to subsection (f).

Section (f) of the bill is closely tied to Sections (a) and (b) and would delete the \$10 million maximum loan and/or grant limit and substitute language enabling the maximum loan and/or grant to be computed as two-thirds of the maximum allowable estimated total project cost. We compute the maximum allowable estimated total project cost to be \$22,258,000 for January 1975. We propose to round that amount to the nearest \$100,000 or \$22,300,000. With that base, the maximum loan would be computed to be \$14,874,000 or rounded, to \$14,900,000.

There has been an increase of about 48 percent in the costs of construction since the Act was last amended in 1971. The largest single-year cost increase was 26 percent in 1974. Loan applicants have had to revise cost estimates and financial analyses of completed project reports to keep up with rising construction costs. Those approved projects with construction underway during that period have received construction bid estimates well in excess of previously estimated costs. They have been faced with a decision to cut back on the scope of planned projects, which may not be financially feasible, or apply for supplemental loans to complete the proposed project works. Those legislative changes for maximum allowable total project cost and maximum loan and/or grant amounts would maintain, on an annual basis, essentially the same size project envisioned under the 1966 amendment of the Act, which changed the original ratio of a loan to total project cost.

Section (g) of the bill amends Section 10 of the Act by increasing the authorized appropriations ceiling to \$400 million from \$300 million. That amendment is appropriate to provide assurance to potential applicants that there is an intended continuity to the loan program that warrants proceeding with the costly investigations and reports required in support on an application.

To date, more than \$160 million has been expended or is committed to projects that have been completed or are under construction. More

than \$60 million additional will be required for project applications that have been approved or are in final stages of review. We have received notices of intent to apply for loans that would require more than \$185 million. The aggregate appropriation required for all of the above is about \$400 million.

Other than the increase in the total program appropriation ceiling, the immediate or near future probable cost which would result from enactment of H.R. 6874 cannot be estimated with any reliable accuracy.

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

Sincerely yours,

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

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AMENDING THE SMALL RECLAMATION PROJECTS ACT OF 1956, AS AMENDED

DECEMBER 12, 1975.—Ordered to be printed

Mr. CHURCH, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 6874]

The Committee on Interior and Insular Affairs, to which was referred the bill (H.R. 6874) To amend the Small Reclamation Projects Act of 1956, as amended, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 6874 is to amend the Act of 1956, as amended, so that the program may respond to increased construction costs due to inflation and to authorize the use of program funds for the purchase of existing project related facilities.

BACKGROUND AND NEED

The Small Reclamation Projects Act of 1956 (70 Stat. 1044) established a program to encourage State and local entities to participate in the development of water resource projects under the Federal reclamation laws and to provide Federal assistance to non-Federal organizations in the development of similar projects in the seventeen western States.

Without question, over the almost 20 years that the program has been in operation, it has proven to be a valuable tool for the effective development and utilization of related land and water resources. As of September, 1975, forty-nine loan projects had been completed with loans totalling \$95 million and fifteen more loan projects were under construction with loan funds valued at \$65 million. An addi-

tional nineteen loan applications for over \$66 million are in an advanced stage of approval or preparation and the Department of the Interior has received notice of intent for submittal of thirty-four loan applications for over \$175 million in funds.

The Congress periodically has reviewed the Small Reclamation Projects program and has previously amended the basic Act to reflect changing conditions and/or Congressional intent for the program. Evidence gathered by the Committee during hearings on September 16, 1975, indicates that the Act is again in need of amendment if the program is to continue to be a viable asset in the development of western water resources.

Foremost among the needs faced by the program is the ability to adjust to inflationary cost increases in construction. Additionally, because of the enthusiasm with which the program has been pursued by the water resources community there is a need to increase the authorization level. And finally, testimony indicated that a saving may be realized to the program if authorization is given for the use of program funds to purchase existing project related facilities.

LEGISLATIVE HISTORY

H.R. 6874 was introduced on May 12, 1975 by Mr. Johnson of California (for himself and Mr. Lujan). Public hearings were held before the Water and Power Resources Subcommittee of the House Committee on Interior and Insular Affairs on June 12, 1975. The measure was reported to the House on September 24, 1975 whereupon it was passed on October 6, 1975.

The Senate companion measure to H.R. 6874 was introduced by Senator Frank Church on May 21, 1975. The bill, S. 1794 was referred to the Committee on Interior and Insular Affairs where public hearings were held on September 16, 1975 before the Subcommittee on Energy Research and Water Resources.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Interior and Insular Affairs, in open business session on December 12, 1975, by unanimous vote of a quorum present recommends that the Senate adopt H.R. 6874 without amendment.

SECTION-BY-SECTION ANALYSIS

H.R. 6874 consists of paragraphs (a) through (g). Analysis of the paragraphs is as follows:

Paragraph (a): The intent is clear.

Paragraph (b): This paragraph would permit the allowable cost of an eligible project to reflect changes in the Bureau of Reclamation's composite construction cost index. In effect, the cost ceiling for an eligible project would be \$23 million for 1975, the equivalent of the \$15 million cost of a project in 1971.

Paragraph (c): The intent is clear.

Paragraph (d): The intent is clear.

Paragraph (e): The intent is clear.

Paragraph (f): This paragraph permits the amount of the loan and/or grant to equal $\frac{2}{3}$ of the maximum project size as determined by paragraph (b). This would be about \$15 million in 1975 prices.

Paragraph (g): The intent is clear.

COST AND BUDGETARY CONSIDERATION

The Committee's estimate of the cost of H.R. 6874 is \$100,000,000—the same as the amount authorized. It is anticipated that these costs will be incurred over a five to ten year period beginning approximately three years after enactment. The rate at which funds will be expended will be dependent upon the extent to which loan applications are received, approved, and funded.

CHANGES IN EXISTING LAW

In compliance with subsections 4 of rule XXIX of the standing rules of the Senate, changes in existing law made by the bill, H.R. 6874, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF AUGUST 6, 1956 (70 Stat. 1044, AS AMENDED)

(43 U.S.C. 422a et seq.)

* * * * *

SEC. 2. (d) The term "project" shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clauses (i) and (ii), or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clauses (i), (ii), (iii), (iv), or (v) does not exceed **[\$15,000,000.]** *the maximum allowable estimated total project cost as determined by subsection (f) hereof: Provided further, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this Act may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty percentum of the cost of the project.* Nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.

- (e) The term "Secretary" shall mean the Secretary of the Interior.
 (f) The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with \$15,000,000 as the January 1971 base.

* * * * *
 SEC. 4. (d) At the time of his submitting the project proposal to the Congress, or at any subsequent time prior to completion of construction of the project, including projects heretofore approved, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by subsection (a) of section 5 of the Act as herein amended, to compensate for increases in construction costs due to price escalation.

[(d)] (e) No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution. The provisions of this subsection [(d)] (e) shall not be applicable to proposals made under section 6 of this Act.

[(e)] (f) The Secretary shall give due consideration to financial feasibility, emergency, or urgent need for the project. All project works and facilities constructed under this Act shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract.

SEC. 5. Upon approval of any project proposal by the Secretary under the provisions of section 4 of this Act, he may negotiate a contract which shall set out, among other things—

(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) [\$10,000,000 or] two-thirds of the maximum allowable estimated total project cost as determined by subsection (f) of section 2, or (2) the estimated total cost of the project minus the contribution of the

* * * * *
 SEC. 10. There are hereby authorized to be appropriated, such sums as may be necessary, but not to exceed [\$300,000,000] \$400,000,000 to carry out the provisions of this Act: *Provided*, That the Secretary shall advise the Congress promptly on the receipt of each proposal referred to in section 3, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans made under this Act, be reimbursable in the manner hereinabove provided.

EXECUTIVE COMMUNICATIONS

The legislative reports and communications received by the Committee from the Office of Management and Budget and from the Department of the Interior setting forth Executive agency recommendations relating to H.R. 6874 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
 OFFICE OF THE SECRETARY,
 Washington, D.C., September 4, 1975.

HON. HENRY M. JACKSON,
 Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
 Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department concerning S. 1794, "To amend the Small Reclamation Projects Act of 1956, as amended."

We have reviewed the proposed bill and recommend in favor of its enactment, if amended as explained below.

The purpose of the proposed amendments is to update the Act to account for the effects of inflation, by raising certain ceilings now provided in the Act and by allowing the Secretary additional flexibility in the administration of projects under the Act.

Section (a) of S. 1794 amends Section 2(d) of the Act to delete the \$15 million total project cost ceiling. (The proposed amendment does not otherwise affect eligibility requirements found in Section 2[d]). A new, flexible cost ceiling is provided by Section (b) of the proposed bill.

Section (b) of the bill adds a new subsection (f) to Section 2 of the Act permitting the maximum allowable total project cost to vary in each calendar year depending upon the change in the Bureau of Reclamation's composite construction cost index for January of that year. The base cost for indexing would be \$15 million and the base date would be January 1971.

Section (c) of S. 1794 would add a new subsection (d) to Section 4 of the Act to enable the Secretary of the Interior, at the time of submitting the application to the Congress or before the completion of construction of the project, to increase the amount of the requested loan and/or grant to an amount within the maximum allowed by Section (f) of the bill (Section 5(a) of the Act as proposed to be amended). Such increase would be used to allow for increases in construction cost or for such changes in or additions to the proposed project as the Secretary may find proper and necessary to carry out the original purposes of the project. Section (c) of the bill also includes an additional 60-day legislative review period for loan and grant increases.

The Administration has recommended that the new subsection (d) of Section 4 of the Act, as provided in Section (c) of the bill, be deleted in its entirety. The following reasons have been given: there are no established guidelines for indexing costs increases; the practice provided in subsection (d) should not be legislated on a piecemeal basis; there is no similar provision in any other Government loan

program; contractors may still resort to their common practice of providing for extra contingency funds in their original loan request; the increased facility for obtaining additional funds may reduce incentives to hold costs to a minimum; and finally, it may be possible, if absolutely necessary, to apply for a supplemental loan.

Section (d) of the bill further amends Section 4 of the Act by changing subsection (d) of the Act to subsection (e) and amends the subsection by deleting the word "appropriation" and substituting the words "obligation of funds." We also oppose this provision, on Constitutional grounds. While the strictures in existing law making appropriations subject to Committee veto can be justified as establishing internal Congressional procedures, the obligation of funds afterward is clearly an executive action, which under the doctrine of separation of powers is not subject to control of a Committee of Congress. This provision, therefore, is violative of the doctrine of separation of powers, by purporting to grant a Committee of Congress the right to veto an executive action. The Department of Justice, in this and previous administrations, has consistently opposed such provisions on these grounds.

Section (c) of the bill further amends Section 4 of the Act to change subsection (e) to subsection (f).

Section (f) of the bill is closely tied to Sections (a) and (b) and would delete the \$10 million maximum loan and/or grant limit and substitute language enabling the maximum loan and/or grant to be computed as two-thirds of the maximum allowable estimated total project cost. We compute the maximum allowable estimated total project cost to be \$22,258,000 for January 1975. We propose to round that amount to the nearest \$100,000 or \$22,300,000. With that base, the maximum loan would be computed to be \$14,874,000 or rounded, to \$14,900,000.

There has been an increase of about 48 percent in the costs of construction since the Act was last amended in 1971. The largest single-year cost increase was 26 percent in 1974. Loan applicants have had to revise cost estimates and financial analyses of completed project reports to keep up with rising construction costs.

Those approved projects with construction underway during that period have received construction bid estimates well in excess of previously estimated costs. They have been faced with a decision to cut back on the scope of planned projects, which may not be financially feasible, or apply for supplemental loans to complete the proposed project works. Those legislative changes for maximum allowable total project cost and maximum loan and/or grant amounts would maintain, on an annual basis, essentially the same size project envisioned under the 1966 amendment of the Act, which changed the original ratio of a loan to total project cost.

Section (g) of the bill amends Section 10 of the Act by increasing the authorized appropriation ceiling to \$400 million from \$300 million. That amendment is appropriate to provide assurance to potential applicants that there is an intended continuity to the loan program that warrants proceedings with the costly investigations and reports required in support of an application.

To date, more than \$160 million has been expended or is committed to projects that have been completed or are under construction. More than \$60 million additional will be required for project applications that have been approved or are in final stages of review. We have received notices of intent to apply for loans that would require more than \$185 million. The aggregate appropriation required for all of the above is about \$400 million.

Other than the increase in the total program appropriation ceiling, the immediate or near future probable cost which would result from enactment of S. 1794 cannot be estimated with any reliable accuracy.

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

Sincerely yours,

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

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Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend the Small Reclamation Projects Act of 1956, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended, is further amended as follows:

(a) Subsection 2(d) of the Act, as amended, is further amended to read as follows:

“(d) The term ‘project’ shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clause (i) and (ii) or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws, or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clause (i), (ii), (iii), (iv), or (v) does not exceed the maximum allowable estimated total project cost as determined by subsection (f) hereof: *Provided further*, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this Act may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty per centum of the cost of the project. Nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.”

(b) Section 2, as amended, is further amended by adding a new subsection (f) as follows:

“(f) The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with \$15,000,000 as the January 1971 base.”

(c) Section 4, as amended, is further amended by adding a new subsection (d) as follows:

“(d) At the time of his submitting the project proposal to the Congress, or at any subsequent time prior to completion of construction of the project, including projects heretofore approved, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by subsection (a) of section 5 of the Act as herein amended, to compensate for increases in construction costs due to price escalation.”

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(d) Section 4, as amended, is further amended by changing subsection (d) to subsection (e) and by changing the reference in the last sentence of the renumbered subsection from (d) to (e).

(e) Section 4, as amended, is further amended by changing subsection (e) to subsection (f).

(f) Subsection 5(a), as amended, is further amended by deleting "\$10,000,000 or" and inserting in lieu thereof the following: "two-thirds of the maximum allowable estimated total project cost as determined by subsection (f) of section 2, or".

(g) Section 10, as amended, is further amended by deleting "\$300,000,000" and inserting in lieu thereof the amount of "\$400,000,000".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 17, 1975

Dear Mr. Director:

The following bills were received at the White House on December 17th:

✓ H.R. 1535 ✓
✓ H.R. 5559 ✓
✓ H.R. 6851 ✓
✓ H.R. 6874 ✓
✓ H.R. 8151 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.