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APPROVED

89/11/76

SEP 7 - 1976

THE WHITE HOUSE  
WASHINGTON  
August 27, 1976

ACTION

Last Day: September 8

*Signed in ceremony  
Rose Garden - 12:00  
Remarks issued 9/7/76*

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *Jai*  
SUBJECT: S. 3542 - Teton Dam Disaster Assistance

*Archives  
9/7/76*

Attached for your consideration is S. 3542, sponsored by Senators Church and McClure.

The enrolled bill would provide express statutory authority, in addition to the existing appropriations act authority, for the Secretary of the Interior to fully compensate all persons who suffered death, personal injury or loss of property as a direct result of the failure of the Teton Dam in Idaho on June 5, 1976.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 3542 at Tab B.



SEP 1 1976



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

AUG 27 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3542 - Teton Dam disaster  
assistance  
Sponsors - Sen. Church (D) Idaho and Sen.  
McClure (R) Idaho

Last Day for Action

*September 8, 1976.*

Purpose

Authorizes the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam in Idaho.

Agency Recommendations

Office of Management and Budget  
Department of the Interior  
Department of Justice  
Department of the Army  
Department of Housing and Urban  
Development

Approval

Approval (Informally)  
No objection (Informally)  
Defers to Interior (Informally)  
Defers to Interior  
and Justice (Informally)

Discussion

The Teton Basin Project was authorized on September 7, 1964, under P.L. 88-583, as a Federal reclamation project to provide supplemental irrigation water, hydroelectric power, flood control, and recreation and wildlife benefits. On June 5, 1976, while the reservoir was filling for the first time, the crest of the dam's embankment fell, breaching the dam and releasing 251,000 acre feet of water over a five-hour period.



The water flooded portions of five counties in Idaho. Five persons drowned as a result of the dam collapse and another six died of other causes. Damage estimates range from \$500 million to \$1 billion.

On June 11, 1976, you transmitted to the Congress a \$200 million supplemental appropriation proposal for the Department of the Interior for fiscal year 1976 and the transition quarter, to be made available without reimbursement, for the speedy payment of claims resulting from the failure of the Teton Dam. Your proposal was attached to the Public Works Appropriation Bill which you approved on July 12, 1976. As of August 11, 1890 claims totalling \$68 million have been filed with the Department of the Interior under the Administration's claims program.

The enrolled bill would provide express statutory authority, in addition to the existing appropriations act authority, for the Secretary of the Interior, without regard to the proximate cause of the failure of the Teton Dam, to fully compensate all persons who suffered death, personal injury, or loss of property as a direct result of the dam failure on June 5, 1976. More specifically, S. 3542 would require:

- a limit on compensation equalling the pecuniary injuries or losses involved (no interest payments or punitive damages);
- the reduction of awards by an amount equal to the total amount of insurance benefits (excluding life insurance);
- a determination, within one year of filing, of the amount of a claim (advance or partial payments would be authorized);
- coordination of the program with other disaster relief operations conducted by other Federal agencies; and,





- the Secretary of the Interior to repair and restore irrigation facilities damaged as a result of the Teton Dam failure (cost would be nonreimbursable).

Finally, S. 3542 would authorize to be appropriated such funds as may be required to carry out the purposes of the Act. In this regard, Interior has informally advised that the existing \$200 million appropriation can be used for the purposes of the enrolled bill.

In reporting to Congress on S. 3542, the Administration took the position that the bill was unnecessary in light of your supplemental appropriation proposal. However, the enrolled bill is entirely compatible with the disaster assistance that is being provided under the Public Works Appropriation Act authority. For example, final revised regulations and procedures for handling claims under the appropriation act authority are now being promulgated and these are consistent with the provisions of S. 3542. Accordingly, we concur in Interior's approval recommendation.

*James M. Frey*  
Assistant Director for  
Legislative Reference

Enclosure



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 8-31-76

TO: Bob Linder

FROM: Jim Frey

Attached is the HUD views letter on S. 3542. Please have it included in the enrolled bill file. Thanks.



THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D. C. 20410

**AUG 30 1976**

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

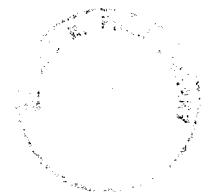
Attention: Miss Martha Ramsey

Dear Mr. Frey:

Subject: Enrolled Enactment of S. 3542, 94th Congress

This is in response to your request for our views on the enrolled enactment of S. 3542, a bill "To authorize the Secretary of the Interior to make compensation for damages arising out of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and other purposes."

The enactment would entitle persons to actual or compensatory damages from the United States for death, personal injury or loss of property resulting from the June 5 failure of the Teton Dam, and would authorize the Secretary of the Interior to determine and settle claims for money damages in this regard. The enactment sets forth procedures for determining claims, including a requirement for deduction of any insurance benefits or other settlements previously paid from the amount to be awarded under the enactment. It would, among other things, require the Secretary of the Interior to publish, within fifteen days after enactment of the enrolled bill, final regulations and procedures for handling claims, and to coordinate the claims program with other disaster relief operations under the Disaster Relief Act of 1974 and other provisions of law.



The enactment would also authorize the Secretary of the Interior to enter into agreements with owners of irrigation facilities to finance the repair or reconstruction of such facilities to the extent that they were damaged as a direct result of the Teton Dam failure.

While this Department itself would have no objection to the President's approval of the enactment, we defer to the Departments of Interior and Justice regarding the desirability and adequacy of its specific provisions. Our Disaster Assistance Administration, consistent with its responsibilities under the Disaster Relief Act of 1974, will develop whatever safeguards are necessary to insure against duplication of benefits under the enrolled bill, if enacted, and other Federal laws.

Sincerely,



Robert R. Elliott

THE WHITE HOUSE  
WASHINGTON

I understand that there is  
a possible signing ceremony on  
September 7.

Judy

9/1

DRAFT

not yet scheduled  
probably will not  
go.

THE WHITE HOUSE  
WASHINGTON

SIGNING OF THE TETON DAM RELIEF  
LEGISLATION

Sunday, August 29, 1976  
Time to be announced  
Rexburg, Idaho

From: Jim Cannon

I. PURPOSE

To sign Teton Dam Relief Legislation.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background:

On the morning of June 5, 1976, the Bureau of Reclamation's new Teton Dam in Idaho burst, causing widespread injury, death and destruction. Final statistics include:

- A total of 11 dead, including 6 drownings.
- Property damage estimated at between \$500 million and \$1 billion.

On Sunday, June 6, 1976, at the request of Governor Cecil D. Andrus of Idaho, you declared a major disaster authorizing Federal assistance to the victims. You had called Governor Andrus Saturday night and informed him that we would do everything possible to assist the state.

On June 11, 1976, you sent to the Congress a request for a supplemental appropriation of \$200 million to provide payments for the victims of the flood damage.

On June 9, 1976, Senators Frank Church and James McClure introduced S. 3542, authorizing the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam. The bill allows the Federal Government (through the Bureau of Reclamation) to pay claims for property damage, death and personal injury which took place as a direct result of the dam's



collapse. These claims will be paid from the \$200 million already appropriated, and you have said that if more money is needed, more will be requested. As of August 11, 1976, 1,890 claims totaling \$68 million have been filed with the Department of the Interior.

B. Participants.

Final attendee list to be confirmed Sunday morning. Representatives Hansen, Symms, "Bizz" Johnson, Lujan, Pettis and Clausen, members of the House Interior Water Resources Subcommittee, have expressed their interest.

C. Press Plan.

White House Press Corps and local press. Photo opportunity.

III. TALKING POINTS

1. The collapse of the Teton Dam and the resulting flood inflicted a terrible tragedy on many unfortunate victims. Nothing can be done to bring back the lives lost or completely heal the traumas suffered by people who lost practically everything. But we can help.
2. When I signed the initial disaster declaration on June 6, 1976, I directed full Federal cooperation with state and local organizations. The dynamic, effective and spontaneous partnership forged by individuals and organizations -- all geared to a common goal exemplifies all that is best in our Federal system.
3. I would like to express my personal thanks to the groups and individuals who worked so long and hard in the relief efforts. Senator McClure, Senator Church, Governor Andrus, Congressman Hanley, the State Coordinator General Jim Brooks, the Salvation Army, the Red Cross, the Mennonite Disaster Service, the Mormon Church, the Corps of Engineers, the Department of Agriculture and the Federal Disaster Assistance Administration.



Particularly noteworthy - and I want to single them out - were the efforts of local groups such as the local stakes of the Mormon Church, the Teton Interdenominational Disaster Task Force, and Ricks College. We all owe them a debt of gratitude for a superior performance under the most difficult circumstances.

4. The bill I am signing today, sponsored by Senator McClure and Senator Church, sets up the machinery for flood-related claims to be made against the Federal Government. We hope this will help ensure that the victims of this tragic catastrophe can rebuild their lives and their communities.

THE WHITE HOUSE

WASHINGTON

August 27, 1976

MEMORANDUM FOR: JACK MARSH  
FROM: MAX FRIEDERSDORF *M.F.*  
SUBJECT: Teton Dam Bill

The Teton Dam legislation is scheduled to arrive at the White House about noon today. OMB is expediting the processing of the bill through the system.

Lynn May is also preparing, on a contingency basis, a backgrounder and talking points for the President.

If the President decides to stop at Teton Dam on Sunday, the bill and statement should be ready.

If not, we could schedule a signing ceremony here at the White House next week.

cc: Jim Cannon  
Jim Lynn  
Bill Kendall  
Charlie Leppert  
Lynn May  
Bob Wolthuis  
Ken Hagerty

*Bill file from J. Johnston*

THE WHITE HOUSE  
WASHINGTON

August 27, 1976

MEMORANDUM FOR: JACK MARSH  
FROM: MAX FRIEDERSDORF *M.F.*  
SUBJECT: Teton Dam Bill

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cc: Jim Cannon  
Jim Lynn  
Bill Kendall  
Charlie Leppert  
Lynn May  
Bob Wolthuis  
Ken Hagerty



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

AUG 27 1976

*Recommended  
Approval  
MFB*

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3542 - Teton Dam disaster assistance  
Sponsors - Sen. Church (D) Idaho and Sen. McClure (R) Idaho

Last Day for Action

*September 8, 1976.*

Purpose

Authorizes the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam in Idaho.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior  
Department of Justice  
Department of the Army  
Department of Housing and Urban Development

Approval (Informally)  
No objection (Informally)  
Defers to Interior (Informally)  
Defers to Interior and Justice (Informally)

Discussion

The Teton Basin Project was authorized on September 7, 1964, under P.L. 88-583, as a Federal reclamation project to provide supplemental irrigation water, hydroelectric power, flood control, and recreation and wildlife benefits. On June 5, 1976, while the reservoir was filling for the first time, the crest of the dam's embankment fell, breaching the dam and releasing 251,000 acre feet of water over a five-hour period.





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

AUG 27 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3542 - Teton Dam disaster assistance  
Sponsors - Sen. Church (D) Idaho and Sen. McClure (R) Idaho

Last Day for Action

*September 8, 1976.*

Purpose

Authorizes the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam in Idaho.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval (Informally)
Department of Justice	No objection (Informally)
Department of the Army	Defers to Interior (Informally)
Department of Housing and Urban Development	Defers to Interior and Justice (Informally)

Discussion

The Teton Basin Project was authorized on September 7, 1964, under P.L. 88-583, as a Federal reclamation project to provide supplemental irrigation water, hydroelectric power, flood control, and recreation and wildlife benefits. On June 5, 1976, while the reservoir was filling for the first time, the crest of the dam's embankment fell, breaching the dam and releasing 251,000 acre feet of water over a five-hour period.

*No objection*  
*EC Schmitts 8/27/76*



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 8-30-76

TO: Bob Linder

FROM: Jim Frey

Attached is the Interior views letter on S. 3542 on the Teton Dam disaster assistance. Please have it included in the enrolled bill file. Thanks.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

AUG 27 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill, S. 3542 "To authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes."

We recommend that the President sign S. 3542.

Enrolled bill S. 3542 would provide authority for payment of compensation to cover claims for personal injury, loss of life, or damage to or loss of real or personal property directly caused by the flooding without regard to the cause of the failure of the dam. It would require the Secretary to administer the settlement of claims and to prescribe and publish such rules and procedures as would be necessary and proper to carry out the provisions of the Act. It would also authorize the Secretary, through direct payments or through construction contracts administered by the Bureau of Reclamation, to accomplish repair or reconstruction of irrigation systems and facilities damaged by the flooding. S. 3542 would authorize the appropriation of such funds as might be required to carry out the purposes of the bill, and provides that such funds shall be nonreimbursable.

The Department is committed to seeking whatever funds may be required to mitigate the effects of the Teton disaster.

The Administration requested, and the Congress enacted, separate legislation in the form of a nonreimbursable supplemental appropriation request for \$200 million for F.Y. 1976. The supplemental appropriation would provide immediate funding, without regard to the cause of the dam failure, for the relief of victims of the flood damage in accordance with rules and regulations to be promulgated by the Secretary. This money complements ongoing Federal disaster assistance to provide further relief for personal injuries and damages to property not otherwise covered by disaster assistance. Authority for this appropriation is contained in Public Law 94-180 of December 26, 1975, the Public Works for Water and Power Development and Energy Research Appropriation Act, 1976. The appropriation was made on July 12, 1976, 90 Stat. 889.





On July 14, 1976 regulations implementing the Appropriation Act claims program were published in the Federal Register. The regulations were amended on August 3, 1976. These regulations conform to enrolled bill S. 3542 and no changes will be required by its enactment.

Enrolled bill S. 3542, while not authorizing a direct funding level, will, along with the supplemental appropriation already enacted, accomplish the objective of ameliorating the damage caused by the Teton Dam failure.

Sincerely yours,

  
Assistant Secretary of the Interior

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



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 9-1-76

TO: Bob Linder

FROM: Jim Frey

Attached are the Army and Justice views letters on S. 3542, for inclusion in the enrolled bill file. Thanks.



DEPARTMENT OF THE ARMY  
WASHINGTON, D.C. 20310

31 AUG 1976

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

Dear Mr. Lynn:

The Secretary of Defense has delegated responsibility to the Department of the Army for reporting the views of the Department of Defense on enrolled enactment S. 3542, 94th Congress, "To authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam, a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes."

The Department of the Army on behalf of the Department of Defense defers to views of the Department of the Interior on the enrolled enactment.

The purpose of the enrolled enactment is to entitle all persons who suffered death, personal injury, or loss of property directly resulting from the failure on June 5, 1976, of the Teton Dam, Idaho to receive from the United States full compensation for such death, personal injury, or loss of property. The enrolled enactment also provides for the expeditious consideration and settlement of claims resulting from the dam failure. Claims would be considered and compensation made without regard to the proximate cause of the failure of Teton Dam.

The enrolled enactment would require the Secretary of the Interior to administer the settlement of claims and to prescribe rules and procedures to carry out the provisions of the Act. There would be authorized to be appropriated such sums as are necessary to accomplish the purposes of the enactment.

The enrolled enactment would also provide that, to the extent practicable, the claims program be coordinated with other disaster relief operations conducted by other Federal agencies under the Disaster Relief Act of 1974 and other provisions of law.

If approved, the enrolled enactment would enable those persons who suffered losses arising from the failure of the Teton Dam to be expeditiously compensated without regard to the legal liability, if any, of the United States Government.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Sincerely,

A handwritten signature in cursive script that reads "Charles R. Ford".

Charles R. Ford  
Acting Assistant Secretary of the Army  
(Civil Works)

**Department of Justice**  
**Washington, D.C. 20530**

August 31, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill, S. 3542-4, "To authorize the Secretary of Interior to make compensation for damages arising out of the failure of the Teton Dam."

This bill would provide for the compensation of victims of the Teton Dam failure of June 5, 1976, without regard to the Government's legal liability for such damages. The effect of this legislation will be to permit victims of this disaster to obtain compensation from the United States without the necessity of pursuing their remedies under the Federal Tort Claims Act.

The Department of Justice has no objection to Executive approval of this bill.

Sincerely,



MICHAEL M. UHIMANN  
Assistant Attorney General



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

AUG 27 1976

To: J. Conaway  
8-27-76  
5:30 p.m.

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3542 - Teton Dam disaster assistance  
Sponsors - Sen. Church (D) Idaho and Sen. McClure (R) Idaho

Last Day for Action

September 8, 1976.

Purpose

Authorizes the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam in Idaho.

Agency Recommendations

Office of Management and Budget  
Department of the Interior  
Department of Justice  
Department of the Army  
Department of Housing and Urban Development

Approval

Approval (Informally)  
No objection (Informally)  
Defers to Interior (Informally)  
Defers to Interior and Justice (Informally)

Discussion

The Teton Basin Project was authorized on September 7, 1964, under P.L. 88-583, as a Federal reclamation project to provide supplemental irrigation water, hydroelectric power, flood control, and recreation and wildlife benefits. On June 5, 1976, while the reservoir was filling for the first time, the crest of the dam's embankment fell, breaching the dam and releasing 251,000 acre feet of water over a five-hour period.

## TETON DAM DISASTER ASSISTANCE ACT OF 1976

JUNE 21 (legislative day, JUNE 8, 1976.—Ordered to be printed)

MR. JACKSON, from the Committee on Interior and Insular Affairs,  
submitted the following

### REPORT

[To accompany S. 3542]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 3542), to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

That the Congress finds that without regard to the proximate cause of the failure of the Teton Dam, it is the purpose of the United States to fully compensate any and all parties for the losses sustained by reason of the failure of said dam. The purposes of this Act are (1) to provide just compensation for the deaths, personal injuries and losses of property, including the destruction and damage to irrigation works, resulting from the failure on June 5, 1976, of the Teton Dam in the State of Idaho, and (2) to provide for the expeditious consideration and settlement of claims for such deaths, personal injuries, and property losses.

SEC. 2. All persons who suffered death, personal injury, or loss of property resulting from the failure on June 5, 1976, of the Teton Dam of the Lower Teton Division of the Teton Basin Federal reclamation project which was authorized to be constructed by the Act of September 7, 1964 (78 Stat. 925) shall be entitled to receive from the United States full compensation for such death, personal injury, or loss of property. Claimants shall submit their claims in writing to the Secretary under such regulations as he prescribes, within two years after the date on which the regulations required by section 5 are published in the Federal Register. Claims based on death shall be submitted only by duly authorized legal representatives.

SEC. 3. (a) The Secretary of the Interior, or his designee for the purpose, acting on behalf of the United States, shall investigate, consider, ascertain, adjust, determine, and settle any claim for money damages asserted under section 2. Except as otherwise provided herein, the laws of the State of Idaho shall apply. *Provided*, That determinations, awards, and settlements under this Act shall be limited to actual or compensatory damages measured by the pecuniary injuries or loss involved and shall not include interest prior to settlement or punitive damages.



(b) In determining the amount to be awarded under this Act the Secretary shall reduce any such amount by an amount equal to the total of insurance benefits (except life insurance benefits) or other payments or settlements of any nature previously paid with respect to such death claims, personal injury, or property loss.

(c) Payment approved by the Secretary on death, personal injury, and property loss shall not be subject to insurance subrogation claims in any respect.

(d) The Secretary shall not include in an award any amount for reimbursement to any insurance fund for loss payments made by such company or fund.

(e) Except as to the United States, no claim cognizable under this Act shall be assigned or transferred.

(f) The acceptance by the claimant of any award, compromise, or settlement under this Act, except an advance or partial payment made under section 4 (c) shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States by reason of the same subject matter.

(g) The Secretary shall require assignment to the United States of any right of action against a third party, including insurers, arising from the death, personal injury, or property loss with respect to which settlement is made.

Sec. 4. (a) In the determination and settlement of claims asserted under this Act, the Secretary shall limit himself to the determination of—

(1) Whether the losses sustained resulted from the failure of the Teton Dam on June 5, 1976;

(2) The amounts to be allowed and paid pursuant to this Act; and

(3) The persons entitled to receive the same.

(b) The Secretary shall determine and fix the amount of awards, if any, in each claim within twelve months from the date on which the claim was submitted.

(c) At the request of a claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but shall not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant.

(d) Payments may be made for compensation for direct investments made in on-land facilities in anticipation of service from the Teton Dam, to the extent that such facilities are unuseable or are diminished in value by the denial of such service.

Sec. 5. Notwithstanding any other provision of law, the Secretary shall within 15 days after the enactment of this Act promulgate and publish in the Federal Register, final regulations and procedures for the handling of the claims authorized in section 2 of this Act. The Secretary shall also cause to be published, in newspapers with general circulation in the State of Idaho, an explanation of the rights conferred by this Act and the procedural and other requirements imposed by the rules of procedure promulgated by him. Such explanation shall be in clear, concise, and easily understandable language. In addition, the Secretary shall also disseminate such explanation concerning such rights and procedures, and other data helpful to claimants, in the State of Idaho, by means of brochures, pamphlets, radio, television, and other media likely to reach prospective claimants.

Sec. 6. The claims program established by this Act shall, to the extent practicable, be coordinated with other disaster relief operations conducted by other Federal agencies under the Disaster Relief Act of 1974 (42 U.S.C. 5127) and other provisions of law. The Secretary shall consult with the heads of such other Federal agencies, as he deems necessary, consistent with the expeditious determination of claims hereunder, make use of information developed by such agencies. The heads of all other Federal agencies performing disaster relief functions under the Disaster Relief Act of 1974 and other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act.

Sec. 7. In order to expedite the repair and restoration of irrigation facilities damaged as a result of the failure of the Teton Dam, the Secretary is authorized and directed to enter into agreements with the owners of such facilities to finance the repair or reconstruction thereof by direct payment or through con-

struction contracts administered by the Bureau of Reclamation. The cost of such repairs or reconstruction shall be nonreimbursable.

Sec. 8. After January 1 and before January 31 of each year following the date of the enactment of this Act, the Secretary shall transmit to the Congress—

(1) A statement of each claim submitted to the Secretary, during the calendar year preceding the year in which such statement is transmitted, in accordance with this Act which has not been settled by him, with supporting papers, and a report of his findings of fact and recommendations; and

(2) A statement of each claim settled by him and paid pursuant to this Act during the calendar year preceding the year in which such statement is transmitted. The statement shall contain a brief report concerning the character and equity of each claim, the amount claimed, and the amount approved and paid.

Sec. 9. (a) No action shall be instituted in any court of the United States upon a claim against the United States submitted to the Secretary, or his designee, under this Act, unless and until the Secretary, or his designee, has made a final disposition of such claim. *Provided*, That the claimant may, upon fifteen (15) days written notice, withdraw such claim from consideration by the Secretary, or his designee.

(b) Any claimant aggrieved by a final decision of the Secretary under this Act may file within sixty (60) days from the date of such decision with the United States District Court for the District of Idaho a petition praying that such decision be modified or set aside in whole or in part. The Court shall hear such appeal on the record made before the Secretary. The filing of such an appeal shall constitute an election of remedies. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(c) Except to the extent otherwise herein provided, nothing in this Act shall be construed to prevent any claimant under this Act from exercising any rights to which he may be entitled under any other provisions of law.

(d) Attorney and agent fees shall be paid out of the awards hereunder. No attorney or agent on account of services rendered in connection with each claim shall receive in excess of 10 per centum of the amount paid in connection therewith, any contract to the contrary notwithstanding. Whoever violates this subsection shall be fined a sum not to exceed \$10,000.

Sec. 10. For the purposes of this Act, the term "persons" means any individual, Indian, Indian Tribe, corporation, partnership, company, municipality, township, association or other non-Federal entity.

Sec. 11. If any particular provision of this Act or the application thereof to any person or circumstance, is held invalid, the other provisions of this Act shall not be affected thereby.

Sec. 12. There are hereby authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

### PURPOSE OF THE MEASURE

As reported, S. 3542 would authorize the Secretary of Interior to provide compensation for the deaths, personal injuries and losses of property, including irrigation works, resulting from the failure on June 5, 1976, of the Teton Dam of the Lower Teton Division of the Teton Basin Federal reclamation project which was authorized to be constructed by the Act of September 7, 1964 (78 Stat. 925). The measure authorizes a compensation program in the Department of Interior to consider and settle such damage claims without regard to the proximate cause of the dam's failure. The legislation also includes authority for the Secretary of Interior to make advance or partial payments to any claimant where necessary to prevent substantial hardship before final settlement.

### BACKGROUND AND NEED

The Teton Dam is a feature of the Federal Lower Teton Basin Reclamation Project. Construction of the project was recommended

to the Congress by the Secretary of the Interior on January 27, 1964 following feasibility investigations by the Bureau of Reclamation. The Interior Committee had jurisdiction over legislation to authorize construction of the project. The measure (P.L. 88-582, 78 Stat. 925) was approved on September 7, 1964.

The Lower Teton Division of the Teton Basin Project involved two stages of development. Only the first phase facilities were being constructed at the time of the dam's failure. The first phase of the project involved the construction of the Teton Dam and reservoir; 20,000 kilowatt powerplant, switchyard, and pumping plant at the dam, and canals and appurtenant facilities to deliver supplemental water to 11,210 acres of land primarily growing potatoes, wheat, hay and feed grains.

The Teton Dam is located on the Teton River, a tributary of the Snake River, in the extreme eastern Idaho. The dam is constructed of earth fill. The crest is 300 feet above the foundation and 200 feet long.

The dam site is a steep walled, narrow canyon and the foundation geology consists of volcanic formations and ancient lake and stream deposits. Considerable seepage from the reservoir was anticipated throughout the design and construction of the structure and elaborate grouting (injection of cement water slurry) procedures were used to stabilize the foundation and abutments of the dam.

At the time of the failure of the dam, the reservoir was full for the first time. The construction contractor (Morrison Knudsen-Kiewit) was still present at the site. Initial deliveries of irrigation water from the reservoir and production of hydroelectric power at the dam were to take place this year.

On June 5, 1976 at about 12:00 noon the Teton Dam was breached and water surged through an opening of the dam. The flood waters damaged portions of Madison, Bonneville, Fremont, Jefferson and Bingham Counties in Idaho. To date, 11 persons are known dead and estimates as to damages vary from \$500 million to \$1 billion. The June 13, 1976, issue of the Idaho Statesman enumerated the following losses:

(Dollar amounts in millions)

Madison County:	
Farms and buildings destroyed	800
Acres damaged	43,000
Livestock lost	10,600
Equipment units lost	71,000
Businesses destroyed or damaged	177
Homes destroyed	493
Homes damaged	3,211
Total damage	\$556
Jefferson County:	
Farms and buildings destroyed	227
Acres damaged	17,436
Livestock lost	1,450
Equipment (in dollars)	\$6.5
Businesses destroyed or damaged	.26
Homes destroyed	45
Homes damaged	285
Total damage	\$25

While no attempt is made to make a detailed comparison of the

Bonneville County:	
Farms and buildings destroyed	1,000
Acres damaged	19,000
Livestock lost	10,000
Equipment lost	10,000
Businesses destroyed or damaged	0
Homes destroyed	0
Homes damaged	38
Total damage	\$250
Fremont County:	
Farms and buildings destroyed	150
Acres damaged	4,000
Livestock lost	4,000
Equipment units lost	10
Businesses destroyed or damaged	81
Homes destroyed	134
Homes damaged	14
Total damage	\$71.2
Bingham County:	
Farms and buildings destroyed	5,000
Acres damaged	10,000
Livestock lost	300
Equipment units lost	10
Businesses damaged or destroyed	40
Homes destroyed	90
Homes damaged	454
Total damage	NA

Not available.  
None reported.

Although no close precedent exists a situation similar to that encountered by the Teton Dam Disaster was addressed by the Congress in 1955 in response to the tragedy caused by the explosion of ammonium nitrate held in the holds of two ships docked at Texas City, Texas.

The Texas City, Texas disaster occurred in 1947. The shipment of ammonium nitrate which exploded was destined for France, as part of the United States Government's foreign aid program. Over 570 persons suffered violent death in that disaster, and about 3,500 more were injured and suffered either delayed death or mental and physical anguish attendant upon months of hospital confinement and medical care. In addition approximately 1,000 residences, industrial plants and other buildings were either totally destroyed or suffered major structural damage.

In an attempt to establish the liability of the Federal government several hundred court actions were instituted. The suits were consolidated under a single civil action which was eventually appealed to the Supreme Court. The Supreme Court, through a majority decision, decided, as a matter of law, that the actions of the government and its employees as found by the district court were performed in the exercise of a "discretionary function" and that the Federal Tort Claims Act exempted the government from tort liability for errors made in the exercise of "discretionary functions." After the Supreme Court's decision the Congress passed relief legislation for the disaster victims in which grants of awards were given, according to the legislative history of the law, as gifts in the nature of disaster relief, based on humanitarian principles.



While no attempt is made to make a detailed comparison of the Texas City case and the disaster of the Teton Dam failure, the description given in this report is to indicate that the type of relief requested in S. 3542 has been provided previously by the Congress.

#### LEGISLATIVE HISTORY

S. 3542 was introduced by Senator Church, for himself and Senator McClure, on June 9, 1976. The Subcommittee on Energy Research and Water Resources conducted a hearing on the measure on June 15, 1976.

In testimony before the Subcommittee the representative of the Department of Interior noted that the Administration had requested, on June 11, 1976, in the form of a proposed nonreimbursable supplemental appropriation request, \$200 million for F.Y. 1976 for relief of victims of the flood damage. On June 14, 1976, the supplemental appropriations request for the Teton Dam disaster was attached as an amendment to the F.Y. 1977 Public Works Appropriations bill. The appropriations measure is pending, at the time of this writing, in the Senate.

An identical measure, H.R. 14367, was introduced in the House of Representatives by Congressman Steven Symms on June 14, 1976. In addition, Congressmen George Hansen and Steven Symms introduced H.R. 14328, a bill to provide emergency relief to persons incurring losses as a result of the failure of the Teton Dam. Both bills have been referred to the Judiciary Committee of the House.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Interior and Insular Affairs, in open business session on June 16, 1976, by unanimous roll call vote of a quorum present, recommended that the Senate pass S. 3542, if amended as described herein.

Pursuant to subsection (b) of section 133 of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the Committee on Interior and Insular Affairs during consideration of S. 3542.

The vote of the committee was as follows:

YEAS	NAYS
Mr. Church	0
Mr. Metcalf	
Mr. Johnston	
Mr. Abourezk	
Mr. Haskell	
Mr. Stone <sup>1</sup>	
Mr. Bumpers	
Mr. Fannin	
Mr. Hansen	
Mr. Hatfield <sup>1</sup>	
Mr. McClure	

<sup>1</sup> Vote was cast by proxy.

Senator Jackson requested to be recorded as in favor of reporting the bill.

#### COMMITTEE AMENDMENTS

The amendment offered as substitute to the bill, S. 3542, and favorably reported by the Committee on Interior and Insular Affairs would authorize the Secretary of the Interior to investigate the claims to determine whether such claims resulted from the failure of the Teton Dam on June 5, 1976 and then to calculate the damages claimed to have been sustained by each claimant and decide who is entitled to receive the award, if any (sections 3 and 4).

The purpose of this legislation is to assure that those who suffered death, personal injury and/or property losses are compensated. In utilizing the measure of damages provided by the law of the State of Idaho the committee contemplates that the rule on the measure of damages such as that enunciated in *Young v. Extension Ditch Co.*, 13 Idaho, 174 (182), 89 Pac. 296 shall apply.

Section 3 of the bill also prohibits insurance subrogation claims if such claim is made, or could be made, upon any award made under the provisions of this measure. In addition, this provision settles any question of whether any part of the moneys distributed to claimants under this legislation could be thereafter subject to recoupment claims by insurance companies against the claimants. Precedent for this prohibition is found in the "Texas City Disaster—Settlement of Claims" bill (Public Law 84-378) at section 6(b).

The Committee intend by section 4(c) to authorize the Secretary to make advance or partial payment of claims in order to provide interim financial relief to claimants prior to any actual and final settlement. By regulation the Secretary is required to establish a procedure by which such partial or advanced payments could be made. The intent of the Committee by this subsection is to insure that victims of the dam's failure will not be subjected to substantial hardship while awaiting final settlement of any claim. The committee also recognizes that there may be numerous instances under which claimants may require money immediately. Where claims are disputed, this section would give the claimant an opportunity to assert what the claimant feels to be a legitimate claim while, at the same time, not operating under the handicap of having no source of compensation save through final settlement of a claim.

Section 9(b) provides that once a claimant has filed an appeal in district court over a disputed award made by the Secretary of Interior his right to file a cause of action under the Federal Tort Claims Act or any other provision of law shall be barred. This provision is meant to prevent a multiplicity of claims asserted under this bill from being also filed under other legal theories, thereby extending the time when claims might be finally settled.

#### SECTION-BY-SECTION ANALYSIS OF THE MEASURE AS AMENDED AND REPORTED BY THE COMMITTEE

##### Section 1: Declaration of Purpose

This section declares the purposes of the Act to be (1) to authorize the Secretary of Interior to fully compensate injured parties for: (a).

death, (b) personal injury, and (c) losses of property, and (2) to provide an expeditious method for resolving damage claims without requiring any finding of legal liability by any party.

### Section 2: Entitlement Section

This section establishes the right of victims to compensation and sets forth procedures for the submission of claims.

### Section 3: Claim Procedures

Subsection 3(a) authorizes and directs the Secretary or his designee to investigate, establish and settle claims. In establishing the amount of damages the laws of the State of Idaho shall apply except that only actual or compensatory damages, and not interest prior to settlement or punitive damages, shall be awarded.

Subsection 3(b) provides that any payments (except life insurance benefits) received for damages resulting from the dam failure shall serve as an offset against the awards to be made under this Act.

Subsections 3(c) and 3(d) prohibits insurance companies from filing claims in the place of insured parties who might otherwise be entitled to an award under this act, except for the fact they are covered by insurance.

Subsection 3(e) is intended to prevent the purchasing of possible claims by providing that only the United States may receive the assignment of a claim recognized under this Act.

Subsection 3(f) provides that the acceptance of a final settlement, award, or compromise constitutes a release of any claim against the United States arising out of the same subject matter. Final settlements do not include advance or partial payments made under Subsection 4(d).

Subsection 3(g) requires that where settlement is made under this Act, the United States must be assigned any causes of action against third parties with respect to claims for which it has made a settlement.

### Section 4: Determination of Awards and Payments

Subsection 4(a) provides that the scope of the Secretary's inquiry is limited to a determination of the amount of the damages sustained, whether the damages resulted from the dam failure and whether the claimant is the correct party to claim the loss.

Subsection 4(b) requires the Secretary to make a decision on a claim within twelve months after it is submitted. If the claim is still in dispute after that time the provisions of Section 9 would apply, allowing the claimant to elect a legal remedy.

Subsection 4(c) directs the Secretary to include in his regulations promulgated under Section 5, a method to make a payment, at the request of a claimant, prior to final settlement of a claim in those instances where delay in payment would impose substantial hardship on the claimant.

Subsection 4(d) allows for compensation to be made to those claimants who invested in on-farm facilities specifically in anticipation of receiving water service from the Teton Reservoir.

### Section 5: Regulations and Procedures

This section requires the Secretary to promulgate and to put into effect final regulations to administer this Act. The period for notice and comment otherwise required by the Administrative Procedures

Act is waived. The section also requires the Secretary to publish and disseminate to potential claimants easily understandable information about the program authorized by this Act.

### Section 6: Coordination with Federal Agencies

The intent of the section is clear.

### Section 7: Reconstruction of Irrigation Works

The intent of the section is clear.

### Section 8: Reports to Congress

The intent of the section is clear.

### Section 9: Election of Administrative Remedy

Subsection 9(a) provides that where a claim has been submitted to the Secretary no legal cause of action against the United States may be instituted in a court of law until (1) that claim has been finally disposed of by the Secretary or (2) the claimant withdraws the claim upon 15 days notice to the Secretary.

Under Subsection 9(b) the claimant may appeal to the United States District Court for the District of Idaho within 60 days after the final disposition of his claim. The filing of the appeal constitutes an election of remedies and the claimant may not thereafter withdraw his claim.

The intent of Subsection 9(c) and 9(d) are clear.

### Section 10: Definitions

The intent of this section is clear.

### Section 11: Separability Clause

The intent of this section is clear.

### Section 12: Authorization for Appropriations

The intent of this section is clear.

### COST AND BUDGET CONSIDERATIONS

Failure of the Teton Dam on June 5, 1976 resulted in deaths, personal injuries, and losses to personal property. Estimates of total damages range from \$500 million to over \$1 billion. Because there is no quantified measure of damages to date, the Committee is unable to state the total federal expenditure involved. The Administration has proposed a supplemental appropriation of \$200 million for fiscal year 1976. The actual timing of expenditures in settlement of claims can not be predicted, but this measure contemplates early settlement.

### EXECUTIVE COMMUNICATIONS

Because of the need for expeditious action on this measure no formal legislative reports were available at the time of Committee action. The prepared statements of executive witnesses at the hearings are set forth below:

STATEMENT OF GILBERT G. STAMM, COMMISSIONER OF RECLAMATION

Mr. Chairman and members of the subcommittee, we are appearing today to present the views of the Department of the Interior on



legislation which would authorize the Secretary of the Interior to make compensation for damages arising out of the failure on June 5, 1976, of the Teton Dam.

Teton Dam is a principal feature of the Teton Basin Project, Lower Teton Division, located near the confluence of the Henrys Fork and Teton Rivers, in southeastern Idaho, 44 miles northeast of Idaho Falls. It was designed by the Bureau of Reclamation and constructed under its supervision.

Teton Basin Project was authorized September 7, 1964, by Public Law 88-583 to provide supplemental irrigation for more than 110,000 acres of farmland in the Upper Snake River Valley; power from two 10,000 kilowatt hydro-electric generators; flood control; recreation; and fish and wildlife benefits.

S. 3542 would provide authority for payment of compensation to cover claims for personal injury, loss of life, or damage to or loss of real or personal property directly caused by the flooding without regard to the cause of the failure of the dam. It would require the Secretary to administer the settlement of claims and to prescribe and publish such rules and procedures as would be necessary and proper to carry out the provisions of the act. It would also authorize the Secretary, through direct payments or through construction contracts administered by the Bureau of Reclamation, to accomplish repair or reconstruction of irrigation systems and facilities damaged by the flooding. S. 3542 also authorizes the appropriation of such funds as might be required to carry out the purposes of the bill, and provides that such funds shall be nonreimbursable. It does not appropriate funds.

The Administration has requested separate legislation by letter to the Congress dated June 11, 1976, in the form of a proposed nonreimbursable supplemental appropriation request for \$200 million for F.Y. 1976. The requested supplemental appropriation would provide immediate funding, also without regard to the cause of the dam failure, for the relief of victims of the flood damage in accordance with rules and regulations to be promulgated by the Secretary. Such money would complement ongoing Federal disaster assistance to provide further relief for personal injuries and damages to property not otherwise covered by disaster assistance. Authority for this appropriation is contained in Public Law 94-180 of December 26, 1975, the Public Works for Water and Power Development and Energy Research Appropriation Act, 1976.

Relief commenced immediately following the disaster. To meet the needs of the public, four disaster relief centers are being maintained by Federal personnel at St. Anthony, Rexburg, Idaho Falls, and Black Foot. Federal personnel are also cooperating and assisting other agencies and local counties and State organizations and utility companies in the restoration effort. Numerous applications for claims have been supplied to those affected. Professional claims adjustment firms will be utilized. The Bureau will assign a staff of approximately 70 for this purpose, including staff of other agencies which are being made available.

In connection with the damaged irrigation systems, the Bureau is acting within existing authority to rectify damage to canal headings

and irrigation works which deliver water to crops undamaged by floods. Contractors have been mobilized. On the Monday following the disaster, two contractors began work, and a third began on Tuesday. Reclamation now has an additional 37 employees working full time on flood rehabilitation work in the vicinity of Idaho Falls. There are 10 teams with engineers and administrative personnel assisting owners and operators in assessing damages and need for repairs. There are 12 different contractors and additional subcontractors working at the various downstream sites making temporary repairs to irrigation facilities necessary for the irrigation of crops on about 400,000 acres. Some 23 canals have been returned to service, serving 200,000 acres of land, which is about 59 percent of the total. Every effort is being made to place all facilities in service at least on a temporary basis before water needs become critical. It is anticipated 300,000 acres will be receiving irrigation water by Friday, June 18. Fortunately, colder weather conditions and moisture have provided some additional time in which to make repairs. Additional contracts are being negotiated for temporary repairs to permanent facilities.

Funding now available to the Bureau of Reclamation is presently limited to unexpended funds from the existing 1976 appropriation act. After July 1, additional funding could come from any undesignated money appropriated for the Transition quarter. We are not in a position to comment fully on S. 3542 at this time. We note, however, that this bill does not appropriate funds. The Administration's proposal would provide direct funding at a level of \$200 million. The President is committed to seeking whatever further funds may be needed. We are proceeding to draft regulations to implement the Administration's proposal. We will send a draft of them to the Office of Management and Budget today and expect them to be finalized and publicly available shortly.

The Department believes that the approach it has suggested is sufficient and is the most expeditious way to proceed at this time.

#### STATEMENT OF WILLIAM E. CROCKETT, ACTING ADMINISTRATOR, FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Mr. Chairman, I am William E. Crockett, Deputy Administrator of the Federal Disaster Assistance Administration. Administrator Dunne is currently in Guam as the result of a previous commitment relating to the recent major disaster declarations in that area.

Since our agency is responsible for coordinating the provision of Federal disaster assistance under current law, I am here this morning to present you with a report on the status of activity in Idaho.

The two items which are currently receiving the most active attention are temporary housing assistance and the restoration or repair of irrigation facilities to prevent further crop loss.

It now appears that temporary housing will be provided to approximately 2500 individuals and families. This will involve about 1200 mobile homes, the use of some 300 housing units available in the area, and the application of a minimal repair program which provides for repairs to damaged dwellings to allow rapid reoccupancy.

Federal officials are working closely with representatives of the Latter Day Saints Church, who, because of their knowledge of the

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## TETON DAM DISASTER ASSISTANCE ACT OF 1976

AUGUST 10, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FLOWERS, from the Committee on the Judiciary,  
submitted the following

### REPORT

(Including cost estimate of the Congressional Budget Office)

[To accompany S. 3542]

The Committee on the Judiciary to whom was referred the bill (S. 3542) to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam, a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 5: Strike "parties" and insert "persons".

Page 2, line 6: After "property" insert "directly".

Page 2, line 20: After "States," insert "is hereby authorized to and".

Page 3, line 9: After "Secretary" insert "under this Act".

Page 3, line 11: After "respect" insert "under this Act but without prejudice under other laws as provided in subsection (f)".

Page 3, line 22: After "matter." insert:

A release shall not, however, prevent an insurer with rights as a subrogee under its own name or that of the claimant, from exercising any right of action against the United States to which it may be entitled under any other laws for payments made to the claimant for a loss arising from the subject matter.

Page 3, lines 23 and 24, and page 4, lines 1 and 2: Strike "The Secretary shall require assignment to the United States of any right of action against a third party, including insurers arising from the death, personal injury, or property loss with respect to which settlement is made." and insert:

Any claim for damages which may be payable in whole or in part by a claimant's insurer, shall not be paid by the Secretary unless and until the claimant provides written



proof that the insurer has denied the claim or has failed to approve or deny such claim within six months of its presentment, and the claimant assigns to the United States his rights against the insurer with respect to such claim. Upon the acceptance of any payment or settlement under this Act, the claimant shall assign to the United States any rights of action he has or may have against any other third party, including an insurer.

Page 4, line 6: After "sustained" insert "directly".

Page 4, line 14: After "(c)" strike the balance of line 14, and strike all of lines 15 through 22 inclusive, and insert:

At the request of the claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim, including final settlement on any portion or aspect of a claim determined to be logically severable. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant. When a claimant pursues a remedy as provided for in section 9 of this Act, he shall be permitted to retain such advance or partial payments under a final court decision on the merits.

Page 4, line 24: After "on-farm" insert "structural".

Page 6, line 8: After "damaged as a" insert "direct".

Page 6, line 13: After "Reclamation" insert "to the extent the cost of repairs or construction are not covered by insurance".

Page 6, after "Sec. 8." Strike all of lines 15 through 26 inclusive and Page 7, strike all of lines 1 through 3 inclusive, and insert:

At the end of the year following approval of this Act and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act stating the name of each claimant, the amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act.

Page 7, after "Sec. 9. (a)" Strike all of lines 4 through 10 inclusive and insert:

An action shall not be instituted in any court of the United States upon a claim against the United States which is included in a claim submitted under this Act until the Secretary or his designee has made a final disposition of the pending claim. A pending claim may be withdrawn from consideration prior to final decision upon fifteen days written notice, and such withdrawal shall be deemed an abandonment of the claim for all purposes under this Act. After withdrawal of a claim or after the final decision of the Secretary or his designee on a claim under this Act, a claimant may elect to

assert said claim or institute an action thereon against the United States in any court of competent jurisdiction under any other provision of applicable law, and upon such election there shall be no further consideration or proceedings on the claim under this Act.

#### ANALYSIS OF AMENDMENTS

Page 1, line 5.—The amendment substitutes the word "persons" for "parties" in line 5 as a more appropriate term to describe those who suffered injuries or losses as a result of the failure of the dam.

Page 2, line 6.—The amendment inserts the word "directly" prior to "resulting" in section 2, so as to indicate that the claims cognizable under the provisions of the bill will be those based on death, personal injury or loss of property directly resulting from the failure of the dam.

Page 2, line 20.—The amendment to section 3 is to add the words "is hereby authorized to and" to the words relating to claims settlement by the Secretary of the Interior so as to clarify the fact that he is given statutory authority to settle and pay claims as provided in the bill.

Page 3, line 9.—Subsection (c) of section 3 is amended to make it clear that the payments referred to in this subsection are those made under the authorization in this bill rather than under other claims authority vested in the Secretary. The subsection is further amended by the addition of language making it clear that while claims payable under this bill will not be subject to insurance subrogation claims in any respect, such payments will not prejudice rights of subrogation under other laws as provided in subsection (f).

Page 3, line 22.—This is the amended language referred to in the discussion relating to the amendments in subsection (c) of section 3. The amendment is to add a sentence to section 3(f) which provides that in the event of a release by a claimant as provided in subsection (f), the rights of an insurer as a subrogee under its own name or that of the claimant are preserved so that the insurer may exercise any right of action against the United States to which it may be entitled under any other laws for payments it made to the claimant for a loss arising from the subject matter.

Page 3, lines 23 and 24, and page 4, lines 1 and 2.—The amendment makes a complete revision of the language of subsection (g) of the bill. It is provided that upon payment or settlement under the Act, a claimant shall assign to the United States any rights of action he has or may have against any other third party, including an insurer. The amended subsection further provides that as to those claims where the loss or damage is covered by insurance, the claimant shall supply written proof that the insurer has either denied the claim or failed to approve or deny the claim within 6 months of its presentment to the insurance company. In such cases, the claimant is required to assign to the United States his rights against the insurer with respect to the claim.

Page 4, line 6.—The amendment is to insert the word "directly" after the word "sustained" in numbered paragraph 1 of subsection

(a) of section 4 to make it clear that the authority of the Secretary extends to losses sustained which "directly" resulted from the failure of the dam.

*Page 4, line 14.*—The amendment revises the language of subsection (c) of section 4. Under the revised subsection, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim. These payments could include final payment on any portion or aspect of a claim which is determined to be severable. Advance payments are to be made in accordance with regulations promulgated by the Secretary and it is provided that the regulations shall include provisions which authorize the Secretary to make partial payments where a delay of payment until final settlement of the claim would impose a substantial hardship on the claimant. In the event a claimant pursues a remedy as provided in section 9 of the Act, he may retain the advance or partial payment until a final court decision on the merits.

*Page 4, line 24.*—The amendment adds a word "structural" to subsection (d) of section 4 so as to clarify that the facilities referred to therein are on-farm structural facilities. This is an amendment suggested by the Department of Justice and referred to in its report on the bill.

*Page 6, line 8 and line 13.*—In line with previous amendments, the word "direct" is inserted prior to "result" as contained in the section so that the authority of the section will only apply to damage which is the direct result of the failure of the dam. The section is further amended to make it clear that the authority for the repair and restoration of irrigation facilities referred to in the section will only be authorized to the extent that the cost of repairs or construction are not covered by insurance.

*Page 6, line 15.*—The language of section 8 is completely revised. This is the section of the bill that provides for reports to the Congress on the claims program. As amended, the section would require a report by the Secretary at the end of the year following the approval of the act and each year thereafter until the completion of the claims program. The report would give the status of all claims submitted to him under the Act, the name of each claimant, the amount claimed, a brief description of the claim and the status or the disposition of the claim, including the amount of each administrative payment and award. The revision was made as the result of suggestions received from the Department of Justice and the Department of the Interior.

*Page 7, line 4.*—The amendment revises the language of section 9 of the bill. The revised language provides that an action shall not be instituted in any court of the United States upon a claim against the United States included in the claim submitted under the Act until the Secretary or designee has made a final disposition of the claim filed and pending under the provisions of this bill. It is provided that a pending claim may be withdrawn from such consideration prior to final decision upon 15 days written notice. When a claim is withdrawn in this manner, the withdrawal is to be deemed an abandonment of the claim for all purposes under the provisions of this bill. When a claim has been withdrawn and thereafter abandoned as provided in the amended section, the claimant may elect to assert a claim based upon

the same subject matter by taking administrative or legal action against the United States under any other provision of applicable law. In the event that a claimant seeks to assert the claim under any other provision of law, there shall be no further consideration or proceedings under the claim under the provisions of this bill. The language of revised section 9 reflects suggestions of the Department of Justice that a reference be made for withdrawal "prior to final disposition" of the claim by the Secretary and also the provision relating to abandonment of the claim upon its withdrawal.

#### PURPOSE

The purpose of the proposed legislation, as amended, is to settle claims for deaths, personal injury and property damage resulting from the failure of the Teton Dam on June 5, 1976.

#### OUTLINE OF THE BILL

##### *Section 1*

The section states that it is the purpose of Congress to provide compensation for deaths, personal injuries and property damage resulting from the failure of the Dam "without regard to the proximate cause of the failure of the Teton Dam".

##### *Section 2*

The section authorizes payment of full compensation for such claims filed in accordance with Interior regulations within two years of publication of the regulations in the Federal Register. The committee amendment is intended to make it clear that the claims subject to the Act are those directly resulting from the failure of the dam.

##### *Section 3*

This section, as amended, provides the authority and requires the Secretary of the Interior or his designee to investigate and settle claims.

Subsection (b) requires that any award is to be reduced by the amount of insurance or other payments or awards by reason of the subject matter of the dam.

Subsection (c) bars insurance subrogation for payments approved by the Secretary. The committee amendment provides that this provision will not prejudice rights under other laws as are preserved by the sentence added as an amendment to subsection (f).

Subsection (d) bars the inclusion in an award of any amount for the reimbursement to an insurance fund for loss payments made by an insurance company or fund.

Subsection (e) bars any assignment of a claim cognizable under the language of the bill.

Subsection (f) provides that except as to an advance or partial payment any acceptance of an award or compromise, or settlement is to be final and conclusive and shall constitute a complete release of the claim. The committee amendment makes it clear that such a release will not prevent an insurer, with rights as a subrogee under its own name or that of the claimant, from exercising any right of action against the United States to which it may be entitled under any other



laws for payments made to the claimant for a loss arising from the subject matter.

Subsection (g), as amended, requires an assignment to the United States of any right to an action against a third party (including insurers) with respect to any payment or settlement under the Act. It is further provided that in those instances where a claim for damages may be payable in whole or in part by a claimant's insurer it will not be paid by the Secretary until the claimant provides written proof that the insurer has denied the claim or has failed to approve or deny such claim within six months of its presentment, and the claimant assigns to the United States his rights against the insurer with respect to such claim.

#### Section 4

This section provides limits on the Secretary's claims settlement authority. He can determine:

1. Whether the loss resulted from the failure of the Teton Dam;
2. The amounts to be paid; and
3. The persons entitled to payment.

The Secretary's determination must fix the amount of an award within one year of filing. He is authorized, on request to make advance or partial payments under his regulations which shall include as a basis for such payments, but limited to, authority to make such payments when it is found that a delay until final settlement would impose substantial hardship on the claimant. In the event the claimant seeks relief under a remedy provided under section 9 of the act, the advance payment may be retained pending final court determination. The amended language permits final settlement and payment on any portion or aspect of a claim which is found to be logically severable from the balance of that claim.

Subsection (d), as amended, gives express authority to compensate persons for direct investments made on farm structural facilities in anticipation of service from the Teton Reservoir when the break makes the facilities unusable or diminishes them in value because of denial of service.

#### Section 5

This section requires final implementing regulations to be promulgated and published in the Federal Register within 15 days of enactment. The Secretary is to publish explanations of the program in Idaho papers and utilize other available means to advise potential claimants about it.

#### Section 6

This section requires that the claim program be coordinated with other Federal disaster relief activity, and utilize information gathered by other agencies involved in that activity.

#### Section 7

This amendment concerns repairs and restoration of irrigation facilities damaged as a direct result of the failure of the Teton Dam. The Secretary of the Interior is to enter into agreements with owners to finance the repair and reconstruction of such facilities to the extent that the cost of repairs or construction are not covered by insurance.

#### Section 8

The amended section provides that at the end of the year following approval of the act and each year thereafter until the completion of the claims program, the Secretary is to make an annual report to the Congress of all claims submitted to him, stating the name of each claimant, the amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the act.

#### Section 9

Subsection (a) bars any court action on any claim filed under the act until final disposition of the claim, but upon 15 days notice a claimant may withdraw a claim from consideration of the Secretary and such withdrawal constitutes an abandonment of the claim for all purposes under the act. After withdrawal of a claim or after the final decision of the Secretary or his designee on a claim under this Act, a claimant may elect to assert said claim or institute an action thereon against the United States in any court of competent jurisdiction under any other provision of applicable law, and upon such election there shall be no further consideration or proceedings on the claim under this Act.

Subsection (b) provides that a claimant can contest a final decision of the Secretary by filing a petition with the district court in Idaho within 60 days asking the decision be modified or set aside. The court is to "hear such appeal on the record made before the Secretary". It is expressly provided that "the filing of such an appeal shall constitute an election of remedies". The section also provides that the decision of the Secretary incorporating the findings of fact thereon, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

Subsection (c) provides that except as otherwise provided, nothing in the Act is to be construed to prevent any claimant from exercising rights under other statutes.

Subsection (d) requires that attorneys fees be paid out of awards and be limited to ten percent.

#### Section 10

This section defines "persons" as including an individual, an Indian tribe, corporation, partnership, municipality, township, association, or other non-Federal entity.

#### Section 11

This section contains the separability clause providing that if any particular provision of this act or the application thereof to any person or circumstance is held invalid, the other provisions of this act shall not be affected thereby.

#### STATEMENT

This bill would provide comprehensive authority for the settlement of claims arising as the direct result of the failure of the Teton Dam on June 5, 1976 for the administration of that program by the Secretary of the Interior.

On June 5, 1976 at about 12 Noon the Teton Dam was breached and water surged through an opening of the dam. The flood waters dam-

aged portions of Madison, Bonneville, Fremont, Jefferson and Bingham Counties in Idaho. To date 11 persons are known dead and estimates as to damages vary from \$500 million to \$1 billion. At a hearing on this bill and companion House bills H.R. 14328, H.R. 14367, and H.R. 14547, before this committee's Subcommittee on Administrative Law and Governmental Relations on June 30, 1976, the witness in behalf of the Department of the Interior described the Teton Dam as a principal feature of the Teton Basin Project, Lower Teton Division, located near the confluence of the Henrys Fork and Teton Rivers, in southeastern Idaho, 44 miles northeast of Idaho Falls. He stated that it was designed by the Bureau of Reclamation and constructed under its supervision, and that the Teton Basin Project was authorized September 7, 1964, by Public Law 88-583, to provide supplemental irrigation for more than 110,000 acres of farm land in the Upper Snake River Valley; power from two 10,000 kilowatt hydro-electric generators. The Interior Department witness also stated the dam was to have provided flood control; recreation; and fish and wildlife benefits.

This bill would provide an expedited procedure and express statutory authority for the payment of compensation to cover claims for personal injury, loss of life, or damage to or loss of real or personal property resulting from the flooding without regard to the cause of the failure of the dam. It would require the Secretary of the Interior to administer the settlement of claims and to prescribe and publish such rules and procedures as would be necessary and proper to carry out the provisions of the act. In section 9, the bill would also authorize the Secretary, through direct payments or through construction contracts administered by the Bureau of Reclamation, to accomplish repair or reconstruction of irrigation systems and facilities damaged by the flooding to the extent such costs are not covered by insurance. The Secretary would make annual reports to the Congress on claims settlements under the program. S. 3542 also authorizes the appropriation of such funds as might be required to carry out the purposes of the bill.

At the hearings on the bill, an effort was made to ascertain the potential cost of a program of this magnitude, and the committee has referred to a number of sources to obtain an indication of such costs. In the estimate of costs received by this committee from the Congressional Budget Office, it is pointed out that the authorization level includes compensation for personal injury, loss of life, for property loss and farm damage, business interruption, damage to irrigation works, and administrative costs. Property loss and farm damage includes loss of crops, fertile land, and livestock; and damage of railroad equipment, private homes, businesses, and farm equipment. The costs reported to this committee; that is, \$198.9 million for fiscal year 1977, \$99.5 million for fiscal year 1978, and \$33.1 million for fiscal year 1979, are based on an estimate derived by the Bureau of Reclamation and represents claims already paid, as well as the estimate of future claims. Specifically, compensation for personal injury is based on the average amount of claims already settled by the Bureau of Reclamation, as well as an estimate of 125 people injured. Compensation for loss of life is based on claims received by the Bureau of Reclamation for 5 deaths by drowning as a result of the dam collapse.

The cost total also includes permanent repairs to the irrigation works, but not repair of the dam itself. The estimate also assumes that none of the damage is covered by private insurance. As has been noted in the analysis of the bill, amounts received by claimants in the form of insurance payments would be deducted from payments under its provisions and insurance subrogation claims would not be paid under the specific provisions of the bill. The Senate report (S. Rept. No. 94-963) contained a further indication of the scope of the damage in the form of the following tabulation from the June 13, 1976 issue of the Idaho Statesman:

(Dollar amounts in millions)

<b>Madison County:</b>	
Farms and buildings destroyed	800
Acres damaged	45,000
Livestock lost	10,600
Equipment units lost	1,000
Businesses destroyed or damaged	177
Homes destroyed	493
Homes damaged	2,211
Total damage	\$556
<b>Jefferson County:</b>	
Farms and buildings destroyed	1,227
Acres damaged	17,456
Livestock lost	1,450
Equipment (in dollars)	\$6.5
Businesses destroyed or damaged	26
Homes destroyed (mobile homes)	45
Homes damaged	285
Total damage	\$25
<b>Bonneville County:</b>	
Farms and buildings destroyed	(1)
Acres damaged	19,000
Livestock lost	(1)
Equipment lost	(1)
Businesses destroyed or damaged	0
Homes destroyed	0
Homes damaged	38
Total damage	\$250
<b>Fremont County:</b>	
Farms and buildings destroyed	1,150
Acres damaged	14,000
Livestock lost	4,300
Equipment units lost	(1)
Businesses destroyed or damaged	3
Homes destroyed	134
Homes damaged	14
Total damage	\$71.2
<b>Bingham County:</b>	
Farms and buildings destroyed	5,000
Acres damaged	10,000
Livestock lost	300
Equipment units lost	(1)
Businesses damaged or destroyed	40
Homes destroyed	99
Homes damaged	454
Total damage	NA

<sup>1</sup> Not available.  
<sup>2</sup> None reported.

As an example of a previous Federal compensation program, the Senate report referred to the action taken by the Congress to provide compensation to the victims of the Texas City Disaster in 1947. At



that time shipments of ammonium nitrate which exploded were destined for France, as part of the United States Government's foreign aid program. Over 570 persons suffered violent death in that disaster, and about 3,500 more were injured and suffered either delayed death or mental and physical anguish attendant upon months of hospital confinement and medical care. In addition approximately 1,000 residences, industrial plants, and other buildings were either totally destroyed or suffered major structural damage.

After attempts were unsuccessfully made to obtain relief for victims of the Texas City disaster against the United States through the courts, bills were introduced to provide for relief through congressional enactment. Those bills were considered by this committee, and on August 12, 1955, the bill S. 1077 was enacted into law as Public Law 378 of the 84th Congress. The authority for claims settlement was provided in a manner somewhat similar to that provided in this bill in that section 1 of the 1955 act provided:

The Congress recognizes and assumes the compassionate responsibility of the United States for the losses sustained by reason of the explosions and fires of Texas City, Texas, and hereby provides the procedure by which the amounts shall be determined and paid.

Here, in S. 3542, it is stated that Congress finds that it is the purpose of the United States to compensate for the losses resulting from the dam's failure " \* \* \* without regard to the proximate cause of the failure of the Teton Dam, \* \* \*".

The bill defines "person" in section 10 and included in this definition references to "municipality," "township" or "other non-Federal entity." In the course of consideration of the bill, it was suggested that it was not clear whether counties or other subdivisions of the State of Idaho itself would be included. It was concluded that the term "other non-Federal entity" would include the States and its subdivisions as eligible claimants in the same manner and for the same damages suffered by other claimants under the otherwise applicable provisions of the bill. Accordingly, it was decided that further amendment was not necessary.

The amendments recommended by the committee reflect suggestions made in the course of the hearing on the bill as well as matters brought to the attention of the subcommittee by the Departments of Justice and Interior subsequent to the hearing. An effort has been made in these amendments to clarify the provisions of the bill and to make a number of technical amendments.

At the hearings, the witness representing the Department of Interior expressed concern about the term "resulting" as referring to claims based upon damages, injuries, or deaths resulting from the collapse of the dam. To clarify the meaning of the term, the word "directly" was inserted so that the claims cognizable under the act will be those based on deaths, personal injuries or property damage "directly resulting" from the collapse of the dam. Parallel amendments are made in sections 4 and 7.

The bill in subsection (d) of section 3 bars the inclusion in any award under the act of any amount for reimbursement to an insurance fund for loss payments by an insurance company or fund. The committee has recommended a conforming amendment to section 7 so that

payment for repairs or restoration of irrigation facilities authorized by the section may only be made to the extent the cost of repairs or construction are not covered by insurance. These provisions, as well as those requiring any assignment to the United States of any rights to unpaid insurance claims where awards are paid by the United States, assume that insurance companies should pay claims based on deaths, injuries, or damage based on policies covering such risk. However, it is not intended that insurance companies will be barred of any rights of subrogation provided in their insurance contracts which may be enforced under other statutes. This is recognized in the committee amendment to subsection (f) of section 3 which insures that releases by claimants under this act will not bar such rights of subrogation.

In common with some other claims statutes (such as the Military Claims Act, 10 U.S.C. 2733) the bill provides for advance or partial payments in cases where a delay until final ascertainment of the full amount due would impose an undue hardship on the claimant. The language of section 4(c) as amended by the committee also makes it clear that a severable portion or aspect of a claim can also be paid prior to complete adjudication of a claim.

The provisions of section 9(a) are revised by a committee amendment. It is provided that an action shall not be instituted in any court of the United States upon a claim against the United States which is included in a claim submitted to the Secretary of the Interior under the provisions of this bill until the Secretary has made final disposition of the pending claim. The amended subsection would permit the withdrawal of a pending claim upon 15 days written notice, and when he makes such a withdrawal, the claimant is to be held to have abandoned that claim for all purposes under the provisions of this bill. After such withdrawal and abandonment, the claimant may elect to assert a claim against the United States under any other provision of applicable law or to institute an action against the United States in any court of competent jurisdiction based upon the same personal injury, death, or property damage. The amended subsection expressly provides that upon such election, there shall be no further proceedings on a claim under the provisions of this bill. This provision will permit an election to proceed under any other statutes providing for claims against the United States, including the tort claims provisions of title 28, United States Code.

As has been indicated, the committee received testimony and advice from both the Department of Interior and the Department of Justice concerning this bill. Subsequent to the hearing on the bill, on August 4, 1976, the Department of Justice submitted a report on the bill which made a number of suggestions which have been reflected in committee amendments to the bill. In that report the Department referred to the fact that claims authority for the payment of claims of the type covered by his bill was included as a part of the Public Works Bill, H.R. 14236, which was approved on July 12, 1976 as Public Law No. 94-355. It was further noted that implementing regulations were published in the Federal Register on July 14, 1976. The Public Works Bill authority was discussed in the course of the hearings on this bill, and the committee was furnished with copies of the proposed regulations while the subcommittee was considering the bill. This committee has concluded that this bill provide the basis for a fair and workable

claims program. It is felt that it is consistent with the authority already provided, but that it treats the matter of claims settlement in a more comprehensive and legislatively deprived manner. Accordingly, it is recommended that the amended bill be considered favorably.

STATEMENTS UNDER CLAUSE 2(1)(2)(B), CLAUSE 2(1)(3) AND, CLAUSE 2(1)(4) OF RULE XI AND CLAUSE 7(a)(1) OF RULE XIII OF THE HOUSE OF REPRESENTATIVES

COMMITTEE VOTE

(Rule XI 2(1)(2)(B))

On Tuesday, August 3, 1976, the Full Committee on the Judiciary approved the bill S. 3542 by voice vote.

COST

(Rule XIII 7(a)(1))

This is a bill which provides for the payment of claims for death, personal injury and property damage resulting from the failure of the Teton Dam on June 5, 1976, and, under section 4(d) of the amended bill, for the payment of compensation for "direct investments made in on-farm structural facilities in anticipation of service from the Teton Reservoir to the extent that such facilities are unuseable or are diminished in value by the denial of such service." The cost estimate furnished to the committee by the Congressional Budget Office for fiscal years 1977, 1978, and 1979 are as follows:

4. Cost estimate:

[In millions of dollars]

	Transition quarter	Fiscal year—				
		1977	1978	1979	1980	1981
Authorization level	331.5					
Costs		188.9	99.5	33.1		

The subject of cost was discussed in the course of the hearing on this bill and companion House measures on June 30, 1976. At that time, it was stated that some estimates of the damage and losses resulting from the disaster were as high as a billion dollars. This report includes an estimate of the damage which was originally published in the Boise newspaper, The Idaho Statesman, on June 13, 1976 as a further indirect potential cost. However, payments under the bill would be limited to those expressly authorized by the bill relating to claims directly from the failure of the dam and would be reduced by the amounts of insurance payments on the same claims.

OVERSIGHT STATEMENT

(Rule XI 2(1)(3)(A))

The Subcommittee on Administrative Law and Governmental Relations of this committee exercises the committee's oversight responsi-

bility with reference to matters involving claims against the United States in accordance with Rule VI(b) of the Rules of the Committee on the Judiciary. The favorable consideration of this bill was recommended by that subcommittee and the committee has determined that legislation should be enacted as set forth in this bill.

BUDGET STATEMENT

(Rule XI 2(1)(3)(B))

As has been indicated in the committee statement as to cost made pursuant to Rule XIII (7)(a)(1), the bill will require appropriations to meet the costs of payment of claims and the administration of the claims program. It is assumed that payment of claims will be made in the fiscal years 1977, 1978, and 1979 and that the costs for those fiscal years will be respectively 198.9 million, 99.5 million and 33.1 million.

ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

(Rule XI 2(1)(3)(C))

The estimate received from the Director of the Congressional Budget Office is as follows:

CONGRESS OF THE UNITED STATES,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, D.C., August 3, 1976.

HON. PETER W. RODINO, JR.,  
Chairman, Committee on the Judiciary, U.S. House of Representatives,  
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 3542, Compensation for Damages Arising from the Failure of the Teton Dam.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,  
Director.

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

AUGUST 3, 1976.

1. Bill number: S. 3542.
2. Bill title: Compensation for Damages Arising from the Failure of the Teton Dam.
3. Purpose of bill: The proposed legislation would authorize the Secretary of the Interior to fully compensate affected parties for property loss, personal injuries and death resulting from the failure of the Teton Dam.



## 4. Cost estimate:

[In millions of dollars]

	Transition quarter	Fiscal year—				1981
		1977	1978	1979	1980	
Authorization level.....	331.5					
Costs.....		198.9	99.5	33.1		

## 5. Basis for estimate:

It is assumed that the legislation will be enacted in the transition quarter, and the outlays would be made over the ensuing three fiscal years. Since the legislation specifies a 2-year limitation on submission of claims, it is assumed that all claims will be settled by the end of FY 1979.

The authorization level includes compensation for personal injury, loss of life, for property loss and farm damage, business interruption, damage to irrigation works, and administrative costs. Property loss and farm damage includes loss of crops, fertile land, and livestock; and damage of railroad equipment, private homes, businesses, and farm equipment.

The above cost is based on an estimate derived by the Bureau of Reclamation and represents claims already paid, as well as the estimate of future claims. Specifically, compensation for personal injury is based on the average amount of claims already settled by the Bureau of Reclamation, as well as an estimate of 125 people injured. Compensation for loss of life is based on claims received by the Bureau of Reclamation for 5 deaths by drowning as a result of the dam collapse.

The cost total also includes permanent repairs to the irrigation works, but not repair of the dam itself. The estimate also assumes that none of the damage is covered by private insurance.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: Arleen Fain Gilliam (225-9676).

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON  
GOVERNMENT OPERATIONS

(Rule XI 2(1) (3) (D))

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (D) of clause 2(1) (3) of House Rule XI.

INFLATIONARY IMPACT

(Rule XI 2(1) (3))

In compliance with clause (2)(1) (4) of House Rule XI it is stated that this legislation will have no inflationary impact on prices and costs in the operation of the national economy. It provides for payments to persons for actual losses suffered in the disaster.

DEPARTMENT OF JUSTICE,  
Washington, D.C., August 4, 1976.

HON. PETER W. RODINO, JR.,  
Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department of Justice views on S. 3542, an act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

As the committee knows, on June 11, 1976, the President transmitted to the Congress for its consideration a supplemental appropriation proposal for the Department of the Interior in the amount of \$200 million for fiscal year 1976, to be made available, without reimbursement, for the payment of claims for damages to or loss of property, personal injury or death resulting from the failure of the Teton River Dam. The payment of these damage claims is to be made in accordance with rules and regulations to be issued by the Secretary of the Interior necessary to administer the claims and to determine the amounts to be allowed and the persons entitled to receive them. Such compensation was provided without regard to the proximate cause of the failure. A proviso to the legislation declared that nothing therein contained shall be construed to impose any liability on the United States or to allow for payment of claims that are paid or are payable from other sources, public or private.

The President's proposal was attached to the Public Works Bill H.R. 14236 and was passed in the House June 15, 1976 and the Senate on June 23, 1976. After both Houses passed the Conference report, the President signed H.R. 14236 on July 12, 1976 and is presently Public Law 94-355. Regulations to implement Public Law 94-355 have been drawn up and were promulgated in Part V, Federal Register July 14, 1976.

Since the President's proposal has become Public Law and provides for speedy compensation of the victims of the Teton Dam disaster, the passage of S. 3542 is unnecessary.

S. 3542 was passed by the United States Senate on June 17, 1976, and states its purpose to be the expeditious payment of just compensation for the deaths, personal injury and losses of property, including destruction and damage to irrigation works, resulting from the failure of the Teton Dam without regard to the proximate causes of the failure of that Dam.

In general, the Act provides for the Secretary of the Interior to administer claims thereunder in accordance with such regulations as he prescribes. Claims must be filed within two years after the date the regulations are published in the Federal Register and such publication is required to be accomplished within 15 days of the enactment of S. 3542. Determinations, awards and settlements are limited to actual or compensatory damages measured by the pecuniary injuries or loss involved and does not include interest prior to settlements or punitive damages. In determining the amount to be awarded, the Secretary will reduce such amount by an amount equal to the total of insurance benefits (except life insurance) or other payments or settlements of any nature previously paid with respect to the losses claimed.

The act provides that the acceptance by the claimant of any award, compromise or settlement shall be final and conclusive and shall con-

stitute a complete release of any claim against the United States relating to the same subject matter.

Provision is also made for judicial review of a final decision of the Secretary by the filing within 60 days after the date of such decision, of a petition in the United States District Court for the District of Idaho. Such review is confined to the record made before the Secretary and the filing of such an appeal to the District Court constitutes an election of remedies.

Should the Congress decide to enact S. 3542, notwithstanding the Administration's view that the bill is unnecessary, the Department of Justice makes the following recommendations or suggestions as clarifications or modifications:

In Section 3(a) there should be inserted after "United States" on line 20 the words "is hereby authorized to and".

Section 3(g) should be amended to read as follows:

"Any claim for damages which is payable in whole or in part by a third party, including insurers, shall not be paid by the Secretary unless and until the claimant provides written proof that the third party or insurer has denied the claim and the claimant assigns to the United States his rights against such third party or insurer with respect to such claim."

Section 4(d) requires clarification. The phrase "on-farm facilities in anticipation of service" should be defined so that its parameters may be known. It is not now clear whether the provision relates only to changes made to the land which can no longer be restored, or whether it also includes farm equipment or machinery. In any event, the section does not provide for the contingency that the dam will be repaired and placed in use, thus Section 7 provides for the Secretary to enter into agreements with the owners of damaged irrigation facilities "to finance the repair or reconstruction thereof either by direct payment or through construction contracts administered by the Bureau of Reclamation." It is not clear whether irrigation companies are sought to be benefited by these provisions and whether the word "finance" authorizes loans or requires outright grants.

The reports to the Congress which section 8 requires the Secretary to make, are, it is submitted, too detailed and unnecessarily burdensome. It would appear that a report which merely furnishes the name of each claimant, the amount and nature of the claim, and its disposition by the Secretary, would suffice in most instances. Should a more detailed report of a particular claim be required, then such a report can be furnished as requested. Past experience shows that detailed information is sought by the Congress or one of its Members in relatively few instances.

The proviso in section 9(a) should be amended by inserting after the word "notice" on line 9, the words "prior to final disposition" and after the word "designee" on line 10 the words "and such claims shall thereupon be deemed abandoned for all purposes."

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

Sincerely,

MICHAEL M. UHLMANN,  
Assistant Attorney General.



# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress finds that without regard to the proximate cause of the failure of the Teton Dam, it is the purpose of the United States to fully compensate any and all persons, for the losses sustained by reason of the failure of said dam. The purposes of this Act are (1) to provide just compensation for the deaths, personal injuries and losses of property, including the destruction and damage to irrigation works, resulting from the failure on June 5, 1976, of the Teton Dam in the State of Idaho, and (2) to provide for the expeditious consideration and settlement of claims for such deaths, personal injuries, and property losses.

SEC. 2. All persons who suffered death, personal injury, or loss of property directly resulting from the failure on June 5, 1976, of the Teton Dam of the Lower Teton Division of the Teton Basin Federal reclamation project which was authorized to be constructed by the Act of September 7, 1964 (78 Stat. 925) shall be entitled to receive from the United States full compensation for such death, personal injury, or loss of property. Claimants shall submit their claims in writing to the Secretary, under such regulations as he prescribes, within two years after the date on which the regulations required by section 5 are published in the Federal Register. Claims based on death shall be submitted only by duly authorized legal representatives.

SEC. 3. (a) The Secretary of the Interior, or his designee for the purpose, acting on behalf of the United States, is hereby authorized to and shall investigate, consider, ascertain, adjust, determine, and settle any claim for money damages asserted under section 2. Except as otherwise provided herein, the laws of the State of Idaho shall apply: *Provided*, That determinations, awards, and settlements under this Act shall be limited to actual or compensatory damages measured by the pecuniary injuries or loss involved and shall not include interest prior to settlement or punitive damages.

(b) In determining the amount to be awarded under this Act the Secretary shall reduce any such amount by an amount equal to the total of insurance benefits (except life insurance benefits) or other payments or settlements of any nature previously paid with respect to such death claims, personal injury, or property loss.

(c) Payments approved by the Secretary under this Act on death, personal injury, and property loss claims, shall not be subject to insurance subrogation claims in any respect under this Act but without prejudice under other laws as provided in subsection (f).

(d) The Secretary shall not include in an award any amount for reimbursement to any insurance fund for loss payments made by such company or fund.

(e) Except as to the United States, no claim cognizable under this Act shall be assigned or transferred.

(f) The acceptance by the claimant of any award, compromise, or settlement under this Act, except an advance or partial payment made under section 4(c), shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States by reason of the same subject matter. A release shall not, however, prevent an insurer with rights as a subrogee under its own name or that of the claimant from exercising any right of action against the United States to which it may be entitled under any other laws for payments made to the claimant for a loss arising from the subject matter.

(g) Any claim for damages which may be payable in whole or in part by a claimant's insurer, shall not be paid by the Secretary unless and until the claimant provides written proof that the insurer has denied the claim or has failed to approve or deny such claim within six months of its presentment, and the claimant assigns to the United States his rights against the insurer with respect to such claim. Upon the acceptance of any payment or settlement under this Act, the claimant shall assign to the United States any rights of action he has or may have against any other third party, including an insurer.

SEC. 4. (a) In the determination and settlement of claims asserted under this Act, the Secretary shall limit himself to the determination of—

(1) whether the losses sustained directly resulted from the failure of the Teton Dam on June 5, 1976;

(2) the amounts to be allowed and paid pursuant to this Act;

and

(3) the persons entitled to receive the same.

(b) The Secretary shall determine and fix the amount of awards, if any, in each claim within twelve months from the date on which the claim was submitted.

(c) At the request of a claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim, including final settlement on any portion or aspect of a claim determined to be logically severable. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant. When a claimant pursues a remedy as provided for in section 9 of this Act, he shall be permitted to retain such advance or partial payments under a final court decision on the merits.

(d) Payments may be made for compensation for direct investments made in on-farm structural facilities in anticipation of service from the Teton Reservoir to the extent that such facilities are unuseable or are diminished in value by the denial of such service.

SEC. 5. Notwithstanding any other provision of law, the Secretary shall within fifteen days after the enactment of this Act promulgate and publish in the Federal Register, final regulations and procedures for the handling of the claims authorized in section 2 of this Act. The Secretary shall also cause to be published, in newspapers with general circulation in the State of Idaho, an explanation of the rights conferred by this Act and the procedural and other requirements imposed by the rules of procedure promulgated by him. Such explanation shall be in clear, concise, and easily understandable language. In addition, the Secretary shall also disseminate such explanation con-

cerning such rights and procedures, and other data helpful to claimants, in the State of Idaho, by means of brochures, pamphlets, radio, television, and other media likely to reach prospective claimants.

SEC. 6. The claims program established by this Act shall, to the extent practicable, be coordinated with other disaster relief operations conducted by other Federal agencies under the Disaster Relief Act of 1974 (42 U.S.C. 5121) and other provisions of law. The Secretary shall consult with the heads of such other Federal agencies, and shall, as he deems necessary, consistent with the expeditious determination of claims hereunder, make use of information developed by such agencies. The heads of all other Federal agencies performing disaster relief functions under the Disaster Relief Act of 1974 and other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act.

SEC. 7. In order to expedite the repair and restoration of irrigation facilities damaged as a direct result of the failure of the Teton Dam, the Secretary is authorized and directed to enter into agreements with the owners of such facilities to finance the repair or reconstruction thereof, to the standards and conditions existing immediately prior to the failure of Teton Dam, either by direct payment or through construction contracts administered by the Bureau of Reclamation to the extent the cost of repairs or construction are not covered by insurance. The cost of such repairs or reconstruction shall be non-reimbursable.

SEC. 8. At the end of the year following approval of this Act and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act stating the name of each claimant, the amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act.

SEC. 9. (a) An action shall not be instituted in any court of the United States upon a claim against the United States which is included in a claim submitted under this Act until the Secretary or his designee has made a final disposition of the pending claim. A pending claim may be withdrawn from consideration prior to final decision upon fifteen days written notice, and such withdrawal shall be deemed an abandonment of the claim for all purposes under this Act. After withdrawal of a claim or after the final decision of the Secretary or his designee on a claim under this Act, a claimant may elect to assert said claim or institute an action thereon against the United States in any court of competent jurisdiction under any other provision of applicable law, and upon such election there shall be no further consideration or proceedings on the claim under this Act.

(b) Any claimant aggrieved by a final decision of the Secretary under this Act may file within sixty days from the date of such decision with the United States District Court for the District of Idaho a petition praying that such decision be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The filing of such an appeal shall constitute an election of remedies. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(c) Except to the extent otherwise herein provided, nothing in this Act shall be construed to prevent any claimant under this Act from exercising any rights to which he may be entitled under any other provisions of law.

(d) Attorney and agent fees shall be paid out of the awards hereunder. No attorney or agent on account of services rendered in connection with each claim shall receive in excess of 10 per centum of the amount paid in connection therewith, any contract to the contrary notwithstanding. Whoever violates this subsection shall be fined a sum not to exceed \$10,000.

SEC. 10. For the purposes of this Act, the term "persons" means any individual, Indian, Indian tribe, corporation, partnership, company, municipality, township, association or other non-Federal entity.

SEC. 11. If any particular provision of this Act or the application thereof to any person or circumstance, is held invalid, the other provisions of this Act shall not be affected thereby.

SEC. 12. There are hereby authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

*Speaker of the House of Representatives.*

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

## Office of the White House Press Secretary

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THE WHITE HOUSE

## FACT SHEET

## TETON DAM DISASTER RELIEF ACT

The President today signed into law the Teton Dam Disaster Relief Act which authorized payments for damages resulting from the failure of the Teton Dam.

BACKGROUND

On the morning of June 5, 1976, a newly completed Bureau of Reclamation dam on the Teton River in Idaho burst, causing several deaths and widespread destruction. The damage toll includes:

- Eleven dead, including 6 drownings.
- Property damage estimated at between \$400 and \$500 million.

ADMINISTRATION ACTIONS

The Administration took the following steps to provide relief for the victims:

- On Sunday, June 6, 1976, upon request of Governor Cecil D. Andrus of Idaho, the President declared a major disaster, authorizing Federal assistance to the victims. Federal agencies under the coordination of the Federal Disaster Assistance Administration were mobilized to work with State and local agencies to provide services such as temporary housing and repair of irrigation systems for the area affected by the flood.
- On June 11, 1976, the President submitted a request to Congress for a supplemental appropriation of \$200 million to provide payments to people who were injured or whose property was damaged by the flood.
- On July 12, 1976, the President signed into law the above appropriations, and compensation payments began for claimants. As of August 11, 1976, 1,890 claims totalling \$68 million have been filed with the Department of Interior. (The President has indicated he will request additional funds for compensation if necessary.)

RELIEF EFFORT

Federal, State and local officials worked closely with private organizations to mobilize assistance for the victims of the Teton Dam disaster. The American Red Cross, the Church of Jesus Christ Latter-Day Saints, the Mennonite Disaster Service and the World Relief Committee of the

more

Christian Reformed Church and Teton Interfaith Director Task Force performed outstanding service for the general relief effort.

TETON DAM RELIEF ACT

Legislation authorizing the compensation for damages inflicted by the Teton Flood was introduced on June 9, 1976 by Senators Frank Church and James McClure. The bill provides express statutory authority, in addition to the existing Public Works Appropriations Act Authority, for the Secretary of the Interior to fully compensate all persons who suffered death, personal injury, or loss of property as a direct result of the dam failure.

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OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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THE WHITE HOUSE

REMARKS OF THE PRESIDENT  
UPON SIGNING S. 3542  
TETON DAM DISASTER ASSISTANCE

THE ROSE GARDEN

11:03 A.M. EDT

THE PRESIDENT: Members of Congress and members of the Executive Branch and representatives of various volunteer agencies. First, I want to welcome you all here. I will read a statement and then will sign the legislation.

No Government has the power to eliminate tragedy from human experience, but Government can and Government should act quickly to minimize the pain of a great disaster and help to begin the healing process.

On the morning of June 5, 1976, the Teton Dam in Eastern Idaho ruptured and the flood waters carried death and destruction to thousands of families in the Snake River Valley. The next day, after conferring with Governor Andrus, I declared the affected county to be a Federal disaster area and emergency relief centers were quickly established to provide assistance to the victims.

Five days after, I submitted to Congress legislation appropriating \$200 million for compensation of the victims of this terrible tragedy. Within ten days following the flood, special offices were established and operating in Idaho to handle damage claims.

Today, I am signing a bill which provides legislative authority for the compensation of personal and property damage sustained by the victims of the flood. Many of those claims have already been settled and the money is now at work rebuilding the lives of the survivors.

The legislation which I signed today insures that this vital aid will continue. Let me thank the Members of Congress for their strong, bipartisan support of this measure. I know, for example, how hard the Idaho delegation worked on it. Great credit must also be given to the many volunteer and church groups represented here today which played such a key role in the initial relief efforts.

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Each of them displayed great courage under exceptionally difficult conditions. Together, the public and private sectors of this great country have extended to the victims not just our sympathy, but a strong and steady helping hand.

END

(AT 11:05 A.M. EDT)