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Interior

THE WHITE HOUSE
WASHINGTON

October 30, 1974

Dear General Younger:

I appreciate your letter regarding the importance of reaching an agreement on a stipulation concerning present perfected water rights in the case of Arizona v. California.

I understand that the Secretary of the Interior has communicated with you recently on this subject and will be meeting with you after he receives a report from the Colorado River Indian Tribes which have expressed an interest in this matter. We certainly hope that these matters can be expeditiously resolved.

With best wishes.

Sincerely yours,

Philip W. Buchen
Philip W. Buchen
Counsel to the President

Honorable Evelle J. Younger
Attorney General
State of California Department of Justice
555 Capitol Hill - Suite 550
Sacramento, California 95814



5 pm. Mike Drowl
called about
the Wall St. Journal
article; suggested
he call Cassman

THE WHITE HOUSE
WASHINGTON

February 11, 1975

MEMORANDUM FOR: Phil Buchen
FROM: Bill Casselman *WC*
SUBJECT: FYI

I read in this morning's Wall Street Journal that the Secretary of the Interior has requested nominations for off-shore oil and gas drilling in the mid-atlantic states. If memory serves, I believe that the Department of Justice on at least one occasion represented to the Supreme Court (U.S. v. Maine), that the United States did not intend to seek such nominations.



Wednesday 2/12/75

1:55 Assistant Secretary Hughes of Interior called and said that he talked with you this morning and that the central issue was a call for nomination in the Atlantic. He has discussed it with the Secretary and they will announce at 3 p.m. this afternoon that they are going to withdraw the call for nominations. If they can pull some people together, they will have a press conference at 3 o'clock and the Secretary is in Houston and will announce it at an Editorial Board meeting there.



THE WHITE HOUSE


WASHINGTON

October 17, 1975

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

PAUL A. THEIS 

SUBJECT:

Presidential Remarks to be used
at the swearing-in of Thomas
Kleppe as Secretary of the Interior

Attached are proposed Presidential remarks for the President to use at the swearing-in of Thomas Kleppe as Secretary of the Interior on Friday, October 17, at 11:30 a.m.

May we have your comments or suggestions first thing Friday morning ?

Many thanks.

Attachment



CLEARANCE FORM FOR PRESIDENTIAL SPEECH MATERIAL

TO: THE PRESIDENT
VIA: ROBERT HARTMANN
FROM: PAUL A. THEIS
SUBJECT: Remarks at Swearing-in of Thomas Kleppe
as Secretary of the Interior

TIME, DATE AND PLACE OF PRESIDENTIAL USE: _____

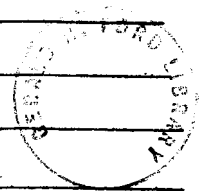
11:30 a.m., Friday, October 17, 1975

BASIC RESEARCH/SPEECH MATERIAL SUPPLIED BY:

Research

CLEARED BY (Please initial):

- OPERATIONS (Rumsfeld) _____
- CONGRESSIONAL (Marsh) _____
- PRESS (Nessen) _____
- LEGAL (Buchen) _____
- ECONOMIC POLICY BOARD (Seidman) _____
- COUNCIL OF ECONOMIC ADVISERS (Greenspan) _____
- OFFICE OF MANAGEMENT AND BUDGET (Lynn) _____
- DOMESTIC COUNCIL (Cannon) _____
- NATIONAL SECURITY COUNCIL (Scowcroft) _____
- ENERGY RESOURCES COUNCIL (Zarb) _____
- OFFICE OF PUBLIC LIAISON (Baroody) _____
- RESEARCH (Waldron) _____
- MARGITA WHITE (FYI) _____
- George Humphreys, Domestic Council
- _____
- _____



(Casserly)RR/PT

October 16, 1975
SECOND DRAFT

PRESIDENTIAL REMARKS AT SWEARING IN CEREMONY OF THOMAS
KLEPPE AS SECRETARY OF THE INTERIOR, FRIDAY, OCTOBER 17, 1975

(UPFRONT MATERIAL TO COME FROM BOB ORBEN)

I am very pleased to take part today in this ceremony which honors
a man. . . a State . . . and our Nation. Tom Kleppe is a self-made man.

He is the first citizen of his home State of North Dakota to achieve

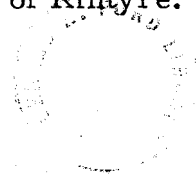
Cabinet rank. Into his trust will be placed many of the vast resources

that have made this Nation great. Tom, I know you will faithfully serve

the 214 million Americans whose national resources you are now pledged
to protect.

I am sure that your rural roots and love of our country will be
the basis of sound, constructive policy. I look at your background and
see how much an individual American -- with initiative and good, common
sense -- can accomplish:

Born in the small North Dakota farming community of Kintyre.




Dropped out of college to work in your father's grain elevator. A bank president at 21. The youngest mayor in the history of Bismarck, North Dakota. President of the Gold Seal Company in Bismarck. Elected to the Congress twice.

A young man who earned money as a rodeo rider ... who turned down a pro baseball contract. A top handball and tennis player -- then and now.

During Tom's four-and-a-half years as Small Business Administrator, small businessmen received nearly \$8 billion in loans to start or expand their own businesses and help the economy. That figure represents more than half the loans -- in dollar amount -- that SBA has approved in its 22-year history.

As a result of SBA initiative, about \$65 billion in contracts from the Federal Government went to small businesses during Tom's tenure as Administrator. Small business now gets one-third of all Federal Government contracts.



Tom, I know you will bring to the Department of the Interior the same dedicated professionalism you brought to SBA. I have great confidence that you will meet your new responsibilities in a way that will benefit the Nation and all Americans.

One of your most important challenges will be to protect the environment of our public lands -- the tremendous beauty which is one of our greatest natural heritages. At the same time, you must find the way to extract energy from those lands -- energy that is critical to our economy. You must assure the best possible Federal-State relationship as we develop the oil resources of the Outer Continental Shelf... the oil shale resources of the Rockies... and the coal resources throughout our Nation. You must reconcile the national need for energy -- which makes possible the jobs we must have if America is to continue to progress -- with the demand for environmental quality.

You also must be ever mindful that the public lands under Federal stewardship belong to all Americans. Even when we grant certain privileges



to one portion or another of our citizenry to use these public lands,

they must never be used to benefit the few to the detriment of the many,

I know you will do a first-class job, as you always have -- that you will bring a dedication to do this job in a way that will benefit our entire country.

Now I am pleased to ask _____ to swear-in our new Secretary of the Interior, Thomas Kleppe.

#



Date: February 17, 1976

Time:

FOR ACTION:

cc (for information): *file*

Doug Bennett

Phil Buchen

Jim Cannon

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: ?Thursday, February 19

Time: 3 P. M.

SUBJECT:

Letter dated 2/12/76 from Nathaniel P. Reed -
of Interior Dept. re: private land conservation
project

ACTION REQUESTED:

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

REMARKS:

This is the kind of quasi-public venture with which it is normally proper for Government officials to be associated. In view of the nature of this undertaking, however, one can conceive of circumstances in which untoward appearances might arise. Since financial contributions will be sought from private interests, including corporations, it is conceivable that one or more companies having an important stake in decisions by the Interior Department might make substantial contributions that could be of critical importance to projects in which the Nature Conservancy is interested. Even assuming the best of motives, certain risks arise in terms of public appearances.


Additionally, it is not clear to me why the President is being asked to give his personal consent. Is there some legal or policy reason why the Secretary of the Interior cannot make this decision?

(Continued, page 2)

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

James E. Connor
For the President

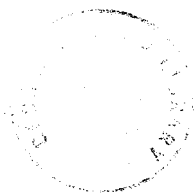


SUBJECT: Letter dated 2/12/76 from Nathaniel P. Reed -
of Interior Dept. re: private land conservation project

Suggest that the matter be referred to Counsel's Office for further
review and the writer notified of our concerns.



Ken Lazarus
for Philip W. Buchen





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 12 1976

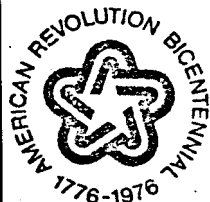
RL
The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Working with The Nature Conservancy and several distinguished citizens who share an interest in protecting our Nation's natural heritage, I have helped to lay the foundation for a private land conservation project which promises to be among the most meaningful of ways by which Americans could commemorate the Bicentennial.

In brief, we propose the establishment of a substantial capital fund, comprised entirely of gifts from individuals, corporations, and private institutions, to be used in acquiring lands of particular significance throughout the country whose natural values would otherwise be compromised. The lands so acquired would be then managed to protect those values, either by private organizations such as The Nature Conservancy or by appropriate public agencies at the local, state or Federal levels. This program is distinguished by its reliance upon participation from the private sector, and by an administrative flexibility which is not characteristic of existing public preservation efforts.

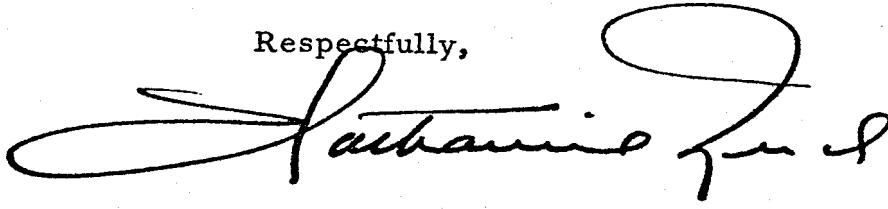
We are encouraged by the enthusiasm of all to whom this concept has been presented. Several distinguished Americans have agreed to serve as trustees, and a number of substantial gifts have been pledged, even prior to the first public announcement. The Nature Conservancy, a national membership organization which enjoys a reputation for unparalleled success in the conservation of land through private action, has agreed to provide all administrative and staff support.



I am honored to have been asked to act as Honorary Chairman of this exciting Bicentennial venture. Mindful of my duties at the Department and of the paramount obligation to fulfill my responsibilities as an official of your Administration, I write to respectfully request your consent to my service as Honorary Chairman on this land conservation project. I am advised of no legal impediment, and can assure you that my acceptance of this new responsibility would in no way affect the continued performance of my duties at the Department, or entail any expense to the Government.

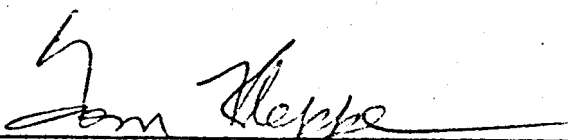
I am hopeful that you will agree to allow me this opportunity, and that you will recognize my sincere desire to contribute in this small way to the perpetuation of America's natural legacy.

Respectfully,



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

I think this is a good idea
and I completely support this
request. I hope you can agree.



Secretary of the Interior
February 11, 1976



Copy has
been give
to Ken



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

June 1976?

MEMORANDUM FOR: THE PRESIDENT
FROM: James T. Lynn
SUBJECT: Handling of Damages for
Teton Dam

Issue: This memorandum presents for your decision:

- (1) whether as a matter of public policy, victims of the Teton Dam failure should be paid in full for damages suffered despite the strong likelihood that the Federal Government is not legally liable for damages under present law, and if so;
- (2) what mechanism should be used for any compensation in light of the adverse precedents set by any feasible approach.

Background: Estimates of damage cost still range between \$200 million and \$1 billion. It will be several weeks before we can expect a reasonably accurate estimate.

Interior estimates that more than half of the damage may be to public facilities covered by 100% grants under existing disaster assistance authorities.

Full restitution for damage to private property and individuals cannot be made under existing Federal disaster assistance authorities, which is appropriate in that they are designed to cover disasters in no way caused or preventable by the Federal Government.

There is continuous pressure from Idaho and their Congressional delegation to make a commitment soon to cover all damages on the assumption that the Federal Government is clearly liable.

The Department of Justice advises that we should not proceed on the assumption that the Federal Government is legally liable



for payment of damages for the following reasons:

- Existing law provides Federal immunity from suit over failures of flood control projects, which Teton Dam has been determined by the courts to be, and
- Construction of the dam is clearly a discretionary act which is specifically excepted from liability under the Federal Tort Claims Act, and
- There is small likelihood that a negligence case can be made.

Interior reinforces the last point based on the engineering reviews of the project to date, the outcome of prior litigation over plans for Teton Dam, and the fact that the actual failure cause cannot be determined for several months because of tunnelling work required for such determination.

Issue #1 - Given that the Federal Government is not liable for damages in the strict legal sense, should provision nevertheless be made to pay all damages as a matter of public policy?

Pros: It is perceived by the victims and the general public that the Federal Government must be at fault since the Dam was planned and managed by the Federal Government and there was no known act of God or nature that can be demonstrated to have caused the failure. Therefore compensation for damages should be paid by the Federal Government.

Regardless of the soundness of the Federal case from a legal standpoint, there is little likelihood of convincing the public that there was no misfeasance, malfeasance, or negligence involved in the failure. Many dams have been built without failure, and many more complex technical feats achieved successfully. Thus, maintenance of public credibility calls for payment.

There is little doubt that public sentiment strongly supports full compensation for damage and therefore little chance of successfully avoiding full compensation should it be deemed desirable to do so.



Cons: The existing claims and flood project immunity laws are soundly based and setting them aside in this case can lead to repetition of such action as standard practice. This could lead to massive outlays in cases not so clear as this e.g. where the operation of flood gates or bypasses causes damage to some in order to protect many more, or where a flood control work malfunctions under flood conditions.

Special action in this case will also be cited as precedent for expanding our disaster assistance programs in future natural disasters on either a general or a one-time basis, natural disasters that are clearly beyond the power of the Federal Government to either cause or prevent.

Issue #2 - What mechanisms should be used for damage payment? Each of four identified options has disadvantages and each poses specific precedential problems. Factors common to all are:

- Legal liability should not be assumed until established in court.
- We should avoid payment for damage covered by insurance or suits against third parties.
- We should avoid double jeopardy, i.e. both a gratuitous payment and a damage assessment should Federal liability later be established in court.
- We should avoid changing general law solely to cover a unique situation.
- We should minimize potential adverse consequences of precedent.
- We should avoid compromising our ability to recover damages from contractors should they be deemed negligent.
- We should provide for prompt payment and simple administration.



Four options have been identified as follows:

1. Handle under existing Tort claims law.
2. Handle under existing Interior authority to compensate for damages without regard to liability.
3. Propose new legislation providing gratuitous payments to cover damages resulting from the Teton Dam failure.
4. Propose general amendments to existing disaster assistance legislation to cover all Teton damages.

These options are compared in detail on the attachments, but in summary -

- Option 1 may not really be feasible because it can be overturned by a court test of liability which we are very likely to win. It is also the slowest and most cumbersome.
- Option 2 appears simplest and effective, has least adverse potential precedents, and can be supported by appropriations only. It is endorsed by Interior, Justice, and OMB, and is acceptable to HUD.
- Option #3 - has same advantages as option 2, but would require both authorization and appropriation, with greater opportunity for Christmas Treeing, precedent, and possible delay. It is a close second choice of Interior, Justice, and OMB, but possibly the preferred choice of HUD.
- Option #4 - is feasible but has most undesirable precedential value. It is not supported by any Executive Branch advisers, but may be the approach selected by Congress.



Conclusion and recommendation:

Issue 1: Virtually all your advisers recommend that full damages be paid and that the Administration move quickly to gain credit for that position, most leverage on Congress, and early start on Administration in the field.

Issue 2: I recommend option 2 as the mechanism, and will provide the papers for transmitting an appropriation request to Congress today if you wish. I would suggest \$200 M for residual damages not covered by disaster assistance payments, with the understanding that more may be required later.

Decision: Support reimbursement for damages without conceding liability Yes _____

No _____

As mechanism, choose option _____

Provide for \$200 M \$ _____ M
or \$ _____ M



Comparison of Options for Damage Payment

OPTION 1

Deal with the problem of compensation under existing "Claims" law. Under this option, the Federal Government would not concede legal liability, but would settle claims out of court on the thesis that the Federal Government might be liable.

PRO

- 1. Would not establish legislative precedents
- 2. Would require only supplemental appropriations and not a substantive legislative proposal
- 3. Would work within established administrative and legal mechanisms

CON

- 1. Adjudication of claims by Interior, Justice and GAO is a time-consuming process and would not provide prompt assistance
- 2. The probability of an eventual court suit is high and a court is highly likely to rule that the federal government is not liable, for the reasons cited by the Department of Justice. Out of court settlements should then cease and, if it were decided that relief was to be provided anyway, other means of compensation would then have to be devised
- 3. Congress may wish to enact substantive legislation anyway, over which we would have little influence



OPTION 2

Deal with the problem of compensation under existing Reclamation law with supplemental appropriation. Under the present Interior appropriations act, payments of claims arising out of Reclamation projects can be made without regard to legal liability.

PRO

1. Would minimize legal and practical precedents
2. Would require only appropriations, thus, limiting possible scope of what will be enacted
3. Avoids problem of concession of liability
4. Would probably meet most public demands for equity
5. Option of litigation is left to claimants who elect to pursue that course
6. As opposed to utilizing existing claims laws, an adverse court decision would still allow payments to continue out of appropriation
7. Could be structured to work within present Interior and disaster assistance mechanisms

CON

1. Sets a practical precedent for use of this general claims provision for claims of this magnitude
2. Would require substantial coordination with other Federal departments
3. Congress may wish to enact substantive legislation anyway
4. As a primarily administrative approach, probably more susceptible to abuse through overpayment than a judicial approach



OPTION 3

New legislation specifically limited to the Teton disaster and designed so as not to specify any federal liability. The proposed legislation could provide payments for: death and non-insured physical injury; and non-insured property losses directly caused by the flooding that are not eligible for other federal grant programs (e.g. eligible for loan programs). The legislation would not provide payments for: damages for mental anguish; and opportunities foregone.

PRO

1. This option is the least risky legislative alternative and reduces the risks of having more costly general disaster relief legislation enacted
2. Avoids opening up existing disaster relief assistance legislation to "Christmas Tree" amendments
3. Would probably meet most public demands for equity
4. Avoids problem of concession of liability
5. While the legislation would be specifically targeted to the Teton Dam disaster, the existing disaster assistance program apparatus could be utilized in processing assistance
6. Legislation drafted so as to limit windfalls to claimants
7. Satisfies Congressional urge for legislative solution

CON

1. Could be treated by Congress as precedent calling for specially tailored legislation for each disaster.
2. Despite specificity of legislation, legal and programmatic precedents are more likely to emerge than under options 1 or 2
3. Subject to potential "Christmas Treeing" or to conversion to general legislation



OPTION 4

Propose amendments to existing disaster assistance legislation to provide compensation by grants to make individuals "whole" (defined in legislative proposal). These amendments could include: 100% grants to those not currently eligible; partial or complete disaster loan forgiveness for individuals and businesses.

PRO

1. Would probably meet most public demands for equity
2. Additional assistance has been provided through devices such as loan forgiveness provisions in disasters before April 20, 1973-therefore has precedent
3. Works within existing program and administrative apparatus
4. Satisfies Congressional urge for legislative solution

CON

1. Additional assistance provided for this unusual disaster would have to be provided for all future natural disaster declarations
2. The longest range and most costly budgetary implications would result from this option
3. Abuses that led to the repeal of loan forgiveness probably would recur based on experience with earlier disasters, e.g., Hurricane Agnes, L.A. earthquake, etc. Loan forgiveness caused many to overestimate their disaster damage up to the maximum amount forgiven
4. Tampers with existing natural disaster assistance legislation which was strongly supported by the previous Administration, and achieved only after prolonged review and considerable legislative difficulty
5. Invites "Christmas Tree" amendments, especially if another disaster occurs during congressional consideration
6. Applying these changes to all future declared disasters acknowledges that the current legislation is not sufficiently comprehensive



[June 1976?]

STATEMENT BY THE PRESIDENT

I am today calling for an appropriation of \$200 million to provide payments for the victims of the tragic flood caused by the collapse of the Bureau of Reclamation dam on the Teton River in Idaho. If additional funds are required, I will request further appropriations later.

These funds will complement on-going Federal disaster assistance to provide further relief for injuries and damages inflicted by the flood. Claims will be administered by the Department of the Interior, in accordance with regulations to be issued by the Secretary, and will be available to claimants at relief centers now in operation.

I urge the Congress to act promptly on my appropriation request to ensure that the victims of this unfortunate catastrophe can rebuild their lives and communities.

I am also directing all appropriate Cabinet Officers and Heads of Federal Agencies to work in close cooperation with the Interior Department and the Federal Disaster Assistance Administration to deliver this and other Federal disaster assistance to the people and communities injured by the flood.



[June 1976?]

FACT SHEET

Teton Dam, Idaho

The 300 foot Teton Dam located on the Teton River in Southeastern Idaho failed Saturday morning June 5, 1976.

The Teton Dam and reservoir, authorized for construction in 1964 following Congressional hearings, are the principal features of the Teton Project, a multipurpose water resources development project, constructed by the Bureau of Reclamation for flood control, power generation, recreation and supplemental irrigation water supply for 110,000 acres of farm lands in the upper Snake River Valley.

Following authorization in 1964 the Bureau of Reclamation developed detailed engineering and design specifications. Construction of the \$102 million project begun in 1969 was over 60% complete when the dam, which was essentially complete, failed releasing over 250,000 acre feet of water.

Accurate estimates of property damage are not available but damage costs could reach \$1 billion. Extensive damage to agricultural crops, the major source of income for the area, is confirmed. The town of Rexburg, located 15 miles below the dam received extensive damage when 3/4 of the town was inundated.

The extent of personal injury and damage to property is not as yet known, 10 deaths have been reported, 40 to 60 people are now reported missing. Nearly 2000 injuries were treated and released, and 10 people remain hospitalized.

President Ford immediately declared the area below the dam a disaster area.

The Federal Disaster Assistance Administration, has now established 4 assistance centers in Rexburg, St. Anthonys, Idaho Falls and Black Foot. Assistance is also being provided by the Food and Drug Administration, the Small Business Administration, HEW, the Federal Highway Administration, the Farmers Home Administration, the Corps of Engineers, Economic Development Administration and other Federal, State and Local organization.

Secretary of the Interior Kleppe and Governor Andrus have named a 6-man non-Federal panel of nationally recognized authorities in the field of engineering to determine the cause of the dam failure.



THE WHITE HOUSE

WASHINGTON

June 10, 1976

MEMORANDUM FOR PHIL BUCHEN
PAUL O'NEILL
BOB ORBEN

FROM: LYNN MAY *Lynn May*

SUBJECT: Presidential Statement on Idaho Disaster

Attached is a proposed Presidential statement announcing his program to compensate victims of the collapse of the Federal dam on the Teton River. I developed this statement with the help of Don Crabill's staff in OMB.

I would appreciate your review and comments on the proposed statement as soon as possible. Thanks.

Attachment



DRAFT 6/10/76
Lynn May

I am today calling for an appropriation of \$200 million to provide compensation for the victims of the tragic flood caused by the collapse of the Bureau of Reclamation dam on the Teton River in Idaho. If additional funds are required, I will request further appropriations later.

These funds will complement on-going Federal disaster assistance to compensate for injuries and damages inflicted by the flood. Claims will be administered by the Department of Interior, under terms of existing Reclamation Law, and will be available to claimants at relief centers now in operation.

I urge the Congress to act promptly on my appropriation request to ensure that the victims of this unfortunate catastrophe can rebuild their lives and communities.

I am also directing all appropriate Cabinet Officers and Heads of Federal Agencies to work in close cooperation with the the Interior Department and the Federal Disaster Assistance Administration to deliver this and other Federal disaster assistance to the people and communities injured by the flood.



THE WHITE HOUSE

WASHINGTON

June 10, 1976

MEMORANDUM FOR: PHIL BUCHEN
FROM: KEN LAZARUS
SUBJECT: Lynn Memorandum/Damages
for Teton Dam Victims

My review of Jim Lynn's memorandum on the subject noted above leads me to agree with his conclusions and recommendations, notwithstanding that the memorandum is not an optimum model of clarity. My thinking in this regard develops along the following lines:

(1) The basic rub here develops over humanitarian concerns to assist these people and the conflicting state of our law which by 33 U.S.C. § 702c clearly provides Federal immunity from any suit in these circumstances. Moreover, any judgment in this regard must necessarily be colored by the inevitability of legislative action mandating comprehensive assistance in the event the President fails to act.

(2) Current disaster relief provisions authorize outright grants to individuals not to exceed \$5,000 per person and such further loan assistance as may be warranted in circumstances of this type. However, such programs require 25 percent matching funds by the State. With regard to the Teton Dam disaster, the Governor of Idaho has made clear that he considers the damage to be totally a Federal responsibility and has indicated that he would therefore decline the opportunity to participate in disaster relief assistance programs. This fact obviously should have been noted in the memorandum.

(3) Two other options identified here, *i. e.*, Tort Claims settlements and substantive legislation relating to the Teton Dam

38 USC 2680
1st exemption

disaster, would be unreasonably slow, would raise difficult management problems and, in the case of the potential Tort Claims solution, would necessarily involve a somewhat strained interpretation of existing law.

(4) Lynn's recommendation that the problem be handled under existing Interior Department authority to compensate for damages without regard to liability is clearly the way to go in these circumstances. This authority is set forth in P. L. 94-180. By this recommendation, Lynn proposes that Congress add \$200 million to this line item in the next Supplemental Appropriations Act. Under the authority Interior would be able to satisfy each of the concerns set forth at page 3 of the Lynn memorandum. OMB is supported in this recommendation by the Departments of Interior and Army and by the litigation personnel at the Department of Justice.

In conclusion, although I recognize your concern with the presentation made in this memorandum, I believe that most of your misgivings flow from the inartful composition of the paper. I feel reasonably comfortable with the final recommendation made.



THE WHITE HOUSE

DECISION

WASHINGTON

June 11, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *Jim*

SUBJECT: Request for Appropriation to Compensate
Victims of the Flood Caused by the
Collapse of the Teton Dam

Attached is a memorandum from Jim Lynn recommending that you approve an appropriation request for \$200 million to provide compensation for victims of the above disaster. The funds are to be administered by the Department of Interior, but will be made available to claimants through existing Federal relief centers in the affected area.

The Justice Department, and the General Counsels of Interior and OMB, as well as Phil Buchen, attest to the legality of this measure.

The following concur in the recommendation:

Department of Justice
Department of Interior
Federal Disaster Assistance Administration
OMB (O'Neill)
Phil Buchen, Jack Marsh, Robert Hartmann, Jim Cannon

DECISION

APPROVE _____

DISAPPROVE _____





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

June 11, 1976

ACTION

MEMORANDUM FOR:

THE PRESIDENT

FROM:

James T. Lynn *DLynn*

SUBJECT:

Proposed Supplemental
Appropriations for the
Department of the Interior.

Attached for your signature is a supplemental appropriation request for the Department of the Interior in the amount of \$200,000,000 for fiscal year 1976.

The additional funds are needed to make payments to victims of the Teton Dam disaster to compensate them for losses incurred which otherwise would not be covered under existing disaster relief programs.

Although the Justice Department advises that the Federal Government is not legally liable for payment of damages, restitution to individuals under existing Reclamation law without regard to legal liability is warranted in this unique case.

Interior funds can be used for payment of damages, and we have determined it to be the simplest approach with the least potential adverse consequences. Administrative procedures will be established to avoid payment for damages covered by other Federal insurance and disaster assistance payments, by private insurance or suits against third parties. Damage settlements can begin immediately using existing funds.

Estimates of damage cost are only tentative at this time and it will be several weeks before we can expect a reasonably accurate estimate. I believe that a supplemental amount of \$200,000,000 for residual damages not covered by disaster assistance payments will be acceptable evidence of our good faith and will carry the program until we have a better estimate of actual cost.



I have discussed this approach with Senator McClure who assures me that it is an acceptable course of action. He believes it may be preferable to the bill he has introduced.

The effect of this supplemental will be to increase outlays by an amount up to \$200,000,000 in the transition quarter.

Recommendation

I recommend that you sign the letter transmitting the proposed budget supplements to Congress.

Attachments



THE WHITE HOUSE

WASHINGTON

The Speaker of the

House of Representatives

Sir:

I ask the Congress to consider a supplemental appropriation for the Department of the Interior in the amount of \$200,000,000 for the fiscal year 1976, to provide reimbursement for damages suffered from the failure of the Teton Dam.

The details of this proposal are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Respectfully,

Enclosure





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

The President

The White House

Sir:

I have the honor to submit for your consideration a proposal for a supplemental appropriation in the amount of \$200,000,000 for the fiscal year 1976 for the Department of the Interior. Details of this proposal are contained in the enclosure to this letter.

I have carefully reviewed this proposal and I am satisfied that it is necessary at this time. I recommend, therefore, that this proposal be transmitted to the Congress.

Respectfully,

James T. Lynn
Director

Enclosure



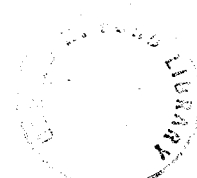
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Construction and Rehabilitation

For an additional amount for "Construction and rehabilitation", to remain available until expended; \$200,000,000; provided, that this additional amount may be made available without reimbursement: Provided further, that this appropriation is for the payment of claims for damages to or loss of property, personal injury or death proximately resulting from the failure on June 5, 1976 of the Teton River dam, in accordance with such rules and regulations of the Secretary of the Interior as may be necessary and proper for the purpose of administering such claims and of determining the amounts to be allowed pursuant to this appropriation and the persons entitled to receive the same: Provided further, that nothing herein shall be construed to impose any liability on the United States or to allow for payment of claims that are paid or payable from any other source, public or private.

These funds are needed to provide compensation for damages caused by the recent failure of the Teton Dam in Idaho without regard to the proximate cause of the failure.



Phil Buchen
FY1

STATEMENT BY THE PRESIDENT FOR FUNDS
TO BE APPROPRIATED FOR DISASTER VICTIMS
OF TETON DAM, JUNE 11, 1976



I AM TODAY SENDING TO THE CONGRESS A REQUEST FOR AN APPROPRIATION OF 200 MILLION DOLLARS TO PROVIDE PAYMENTS FOR THE VICTIMS OF THE FLOOD DAMAGE CAUSED BY THE COLLAPSE OF THE TETON DAM IN IDAHO. IF ADDITIONAL FUNDS ARE REQUIRED, I WILL REQUEST FURTHER APPROPRIATIONS LATER.

THESE FUNDS WILL COMPLEMENT ON-GOING FEDERAL DISASTER ASSISTANCE TO PROVIDE FURTHER RELIEF FOR INJURIES AND DAMAGES INFLICTED BY THE FLOOD. CLAIMS WILL BE ADMINISTERED BY THE DEPARTMENT OF INTERIOR, IN ACCORDANCE WITH REGULATIONS TO BE ISSUED BY THE SECRETARY, AND WILL BE AVAILABLE TO CLAIMANTS AT RELIEF CENTERS NOW IN OPERATION.



I URGE THE CONGRESS TO ACT PROMPTLY ON MY
APPROPRIATION REQUEST TO ENSURE THAT THE VICTIMS OF THIS
TRAGIC CATASTROPHE CAN REBUILD THEIR LIVES AND COMMUNITIES.

I AM ALSO DIRECTING ALL CABINET OFFICERS AND HEADS
OF APPROPRIATE FEDERAL AGENCIES TO WORK IN CLOSE COOPERATION
WITH THE INTERIOR DEPARTMENT AND THE FEDERAL DISASTER
ASSISTANCE ADMINISTRATION / TO DELIVER THIS AND OTHER FEDERAL
DISASTER ASSISTANCE TO THE PEOPLE AND COMMUNITIES INJURED BY
THE FLOOD.

END OF TEXT

