

2/24/79

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FORM OF DOCUMENT	CORRESPONDENT(S) OR TITLE	DATE	RESTRICTION
memo w/att.	From Brzezinski to The President (9 pp.) re: Director for FEMA / enclosed in Hutcheson to Jordan <i>sanitized per RAC NLC-126-16-22-1-9</i> <i>opened per RAC NLC-126-16-22-1-0</i> <i>opened per RAC NLC-126-16-22-2-8</i> 7/29/13	2/22/79	A

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THE PRESIDENT'S SCHEDULE

Saturday - February 24, 1979

9:00

Dr. Zbigniew Brzezinski - The Oval Office.

THE WHITE HOUSE
WASHINGTON

19

February 24, 1979

MR. PRESIDENT:

Al Rusher plans to attend
Sunday School at your
church this Sunday.

Phil

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for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

2/24/79

Stu Eizenstat

Tim Kraft

Dick Moe

Jody Powell

Jerry Rafshoon

Anne Wexler

Jack Watson

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

0

February 23, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
TIM KRAFT *TJK*
DICK MOE *DM*
JODY POWELL *JP*
JERRY RAFSHOON
ANNE WEXLER *AW*
JACK WATSON *Jack*

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SUBJECT: California Speech

We understand that you have indicated a serious concern about the suggested speech in California on the balanced budget amendment/Constitutional Convention. We believe the case for such a speech is compelling and we ask that you consider the following factors before making a final decision:

- Because of Brown's well-known position on this issue, and the recent deliberations by the Legislature, it would be virtually impossible to avoid dealing with the issue at some point during the visit. If you are forced to deal with it at the press conference, or in meetings with political leaders, the limited time available will not enable you to present your case as fully or effectively as in a 15-20 minute speech.
- A speech addressing this issue which is delivered immediately after you land would be a bold gesture, would present a forceful statement of your position, and would be widely seen by the national and California press as a politically daring but responsible approach. At present, your trip has no real focus. The major news event is likely to be the counter-dinner prior to your arrival and your response to that and whatever indirect attacks Governor Brown might make at the fundraising dinner or elsewhere during your stay. Because of the counter-dinner, we are likely to be on the defensive throughout the trip, and the picture given to the nation will be one of political problems for you rather than a well-planned, successful trip. If you begin the trip with the speech, you place Brown on the defensive and shift the emphasis of the trip away from political problems and toward the issue you want to discuss.
- Once your speech is given, you can respond to questions more effectively, and you can perhaps shift much of the focus of your press conference away from troubling foreign policy

matters. Your staff will be able to background reporters on your position and to develop better coverage of your position than would be the case if you only responded to a question at the press conference.

- . If we know that you are planning to deliver a speech in California, immediately prior to the delivery we can inform the Congressional leadership to seek supportive statements, and can do likewise with governors, other leading public figures, black and hispanic leaders, labor leaders, and editorial writers. In that way, we can ensure very favorable coverage of your remarks and can help to gain public support for your position. In addition, we can work in advance with California local leaders, such as Mayor Bradley and Commissioner Hahn, to get their favorable response.
- . Because the Governors' Conference will have completed its meeting the previous week, and because increased public attention is being devoted to this issue, you will need to soon address the whole question directly. There really is no appropriate forum prior to your California trip. And after the trip, having inevitably responded to questions about the subject, a major speech may well seem anti-climactic and somewhat reactive.

In sum, the California trip represents a real opportunity to make a bold domestic speech -- bold because of the setting, the hoped-for surprise, and the strength and substantive force of our case. We believe that you should take advantage of an opportunity as good as this one.

Obviously, a speech along the lines we are suggesting will be viewed in a political context. But almost everything you do in California from now on will be viewed in that context. To our minds, the question is whether the political context is on our terms or on Governor Brown's terms. In this case, we have an opportunity to make the political context one of our choosing.

If you are interested, Jerry will prepare a first draft for your review the beginning of next week.

_____ Approve

_____  Disapprove

THE WHITE HOUSE
WASHINGTON

2/24/79

Tim Kraft
Arnie Miller

The attached was returned in the
President's outbox today and
is forwarded to you for appropriate
handling.

Rick Hutcheson

FOR ACTION
FYI

	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION

	VICE PRESIDENT
	JORDAN
	EIZENSTAT
X	KRAFT
	LIPSHUTZ
	MOORE
	POWELL
	RAFSHOON
	WATSON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE
	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

	ARONSON
	BUTLER
	H. CARTER
	CLOUGH
	CRUIKSHANK
	FIRST LADY
	HARDEN
	HERNANDEZ
	HUTCHESON
	KAHN
	LINDER
	MARTIN
X	MILLER
	MOE
	PETERSON
	PETTIGREW
	PRESS
	SANDERS
	WARREN
	WEDDINGTON
	WISE
	VOORDE

	ADMIN. CONFIDEN.
	CONFIDENTIAL
	SECRET
	EYES ONLY

THE WHITE HOUSE
WASHINGTON

February 23, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: TIM KRAFT *TK*
ARNIE MILLER *AM*

SUBJECT: Director of the Peace Corps

Richard Celeste, the former Lt. Governor of Ohio, has been recommended by Sam Brown to be Director of the Peace Corps. We concur with that recommendation.

Dick Celeste has spent a good deal of time concerned with economic development and voluntarism. After graduating from Yale University in 1969, Dick served as President of the National Methodist Student Movement and was selected to be a Rhodes Scholar at Oxford University. His undergraduate major and his graduate work concentrated on American Diplomatic History in Africa. After Oxford, Dick was a staff member at the Peace Corps in Washington. Later in 1963 he and his wife, Dagmar, went to India where he served on the staff of Ambassador Chester Bowles. For four years he travelled throughout the sub-continent working on agricultural production and community development efforts. In addition, he and Dagmar worked with American and Indian teenagers in New Delhi. His international concerns have continued to the present. Two years ago he travelled to Africa with a group sponsored by the Overseas Development Council to look at the food production problems in the Sahara, and to Europe at the invitation of the European Economic Community to examine alternative development strategies.

He is currently a national board member of American Field Service International, the Overseas Development Council, and Americans for Democratic Action. In addition, to his international activities, Dick has been concerned about volunteer activities at home. He has been active with

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Page. 2

community and neighborhood efforts in Cleveland, with the National Council of Churches and with many volunteer organizations in Ohio. He remains active in the United States Methodist Church, Italian Sons and Daughters of America, and the American Society for Public Administration.

If you concur with this recommendation, we suggest that you meet with Celeste to review your expectations for the future of the Peace Corps.

RECOMMENDATION:

Nominate Dick Celeste to be Director of the Peace Corps.

approve disapprove

[Handwritten signature]

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SAM BROWN MEMO



OFFICE OF
THE DIRECTOR

ACTION

WASHINGTON, D.C. 20525

February 3, 1979

RL

MEMORANDUM

TO: The President

FROM: Sam Brown

SUBJECT: Director of the Peace Corps

As of this point, only two candidates for Peace Corps are "real." They are Larry Brown and Dick Celeste.

Both have impressive credentials. Larry was a Volunteer in India. He has a PhD from Brandeis. He built a highly successful citizen-based children's advocacy group in Massachusetts and was active with national children's advocacy organizations. He has traveled widely and knows and is respected by many Peace Corps staff.

Larry has served as ACTION's Assistant Director, Office of Recruitment and Communications for the past fifteen months and has demonstrated strong management skills while earning the respect of co-workers. He has increased recruitment and reduced staff and budget. He has also shown a strong commitment to minority participation in ACTION with dramatic gains in minority staff (11% to 18%) and in minority contracting (15% of funds to 30%).

Larry is available immediately and, since he has first-hand knowledge of the Agency, would be able to move quickly to resolve many of the problems facing Peace Corps.

He would be the first former volunteer to head the Peace Corps and as such there is the possibility of substantial positive press on the appointment.

Larry also has political support which should be considered in the selection. Arnie Miller, Tim Kraft and Hamilton Jordan are all aware of the support for him.

Dick Celeste also is very impressive. Dick was a Peace Corps staff member between his graduation from Yale in 1963 and his tenure as a Rhodes Scholar. While at Oxford he wrote his dissertation on U. S. African Policy. After his return from England, Ambassador Chester Bowles sought him out to go on special assignment in India where he traveled extensively for four years doing agricultural development work. Two of his six children were born in India.

Upon his return, Dick went to his native state of Ohio where he has been extensively involved in politics and where he most recently served as Lt. Governor before narrowly losing the 1978 gubernatorial race. However, his interest in development did not subside. Several years ago he was part of the Overseas Development Council's trip to the Sahelian area of West Africa to review development strategy there. He has also traveled in Europe, working on development strategy with a number of European governments.

Dick is articulate, attractive, and a strong leader. He is also someone with a very deep commitment to voluntary action as witnessed by his visits over the last several years to nearly every ACTION Older American Volunteer Program in Ohio and his active work on behalf of the Statewide Office of Volunteerism in Ohio. He would bring a unique blend of overseas experience, political skill, and personal magnetism to the Peace Corps.

A reporter from the Cleveland Plain Dealer apparently saw Dick in town last week and printed a rumor that he had been at the ACTION building and specifically that he was being considered for Peace Corps Director. So far we have only provided a "no comment."

Three weeks ago Larry Brown was rumored in Newsweek magazine to be in line to be Director of Peace Corps and a number of political people have been involved in his behalf. In addition, the vacancy of Peace Corps Director allows the controversy about Dr. Payton's resignation to continue. Consequently an early resolution of this issue is, I believe, in everyone's best interest.

We have broadly solicited recommendations for Peace Corps Director and believe that either of these candidates would bring needed strength and skills to the Peace Corps. Mary and I could work well with either of them.

ID 790049

THE WHITE HOUSE

WASHINGTON

*Long change - Hanley
5000
by 2/28 ?*

DATE: 06 FEB 79

FOR ACTION: TIM KRAFT

ARNIE MILLER

INFO ONLY:

SUBJECT: BROWN MEMO RE CANDIDATES FOR PEACE CORPS DIRECTOR

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM THURSDAY 08 FEB 79 +

+++++

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

ID 790049

THE WHITE HOUSE

WASHINGTON

Long letter
Handley
5000
4/2/28?

DATE: 06 FEB 79

FOR ACTION: TIM KRAFT

ARNIE MILLER

INFO ONLY:

SUBJECT: BROWN MEMO RE CANDIDATES FOR PEACE CORPS DIRECTOR

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM THURSDAY 08 FEB 79 +

+++++

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE
WASHINGTON

2/24/79

Attorney General Bell

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

cc: Zbig Brzezinski



Office of the Attorney General
Washington, D.C.

February 22, 1979

*Griffin -
It's ok with
me if you (or
Leonel sent by you)
consults with
Portillo*

MEMORANDUM TO THE PRESIDENT:

*Clear with
ey -*

J

For your information, I enclose a memorandum to me from Leonel Castillo regarding a visit having to do with Mexico.

Respectfully,

Griffin B. Bell

Griffin B. Bell

Enclosure

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Memorandum

TO : Judge Griffin Bell
Attorney General

FROM : Leonel J. Castillo, Commissioner
Immigration and Naturalization Service

SUBJECT: Mexico's Concern About the Border Situation

DATE: January 29, 1979

Last Friday, I accidentally ran into Mr. Casio Luiselli, an assistant to President Lopez Portillo of Mexico. Mr. Luiselli and I were able to converse for over an hour and a half.

Mr. Luiselli was concerned about the border situation and was also extremely interested in our treatment of Mexican nationals who are in the United States. I was able to assure him that the government, in general, is doing its best to see that no abuses of civil rights occur. In more specific terms, I was able to appraise him of the many steps which have been taken by the Immigration and Naturalization Service to afford decent and humane treatment to Mexican nationals in the United States, documented or undocumented.

Mr. Luiselli was impressed by my recital of the many actions we have taken and invited me to go to Mexico and meet privately with President Lopez Portillo and with Secretary of Labor Ojeda Pauleda. He feels that such a meeting would be helpful in allaying the fears and concerns that these two officials have on this matter. In recent months, almost all stories about workers in the Mexican press have been highly critical of our efforts and have indicated United States efforts are aimed at "militarizing" the border. While in Peking, President Portillo, for example, blasted us for "abuse of human rights of Mexican workers" when he heard about the fence.

I told Mr. Luiselli that it was impossible for me to meet on a private basis with such high ranking officials and that while I thought it would be helpful to give them an overview of our actions, that high level contacts between the two governments would have to be initiated and approved by persons with more authority than myself.

Mr. Luiselli said that he was most appreciative of my efforts and of my inability to agree to such a meeting. In my view we should make sure that President Lopez Portillo learn about our efforts, controversial at times, to treat Mexicans decently even before we knew about the oil.



Leonel J. Castillo

THE WHITE HOUSE
WASHINGTON
2/24/79

Hamilton Jordan

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Tim Kraft
Arnie Miller
Zbig Brzezinski

~~SECRET ATTACHMENT~~

DECLASSIFIED
Per, Rac Project
ESDN: NLC-126-16-22-1-9
BY 159 NARA DATE 7/16/13

THE WHITE HOUSE
WASHINGTON

2/23/79

Mr. President:

Lipshutz concurs with Zbig's memo on the importance of finding a strong candidate to be the Director of FEMA.

Bob notes, however, that 80% of the FEMA budget involves domestic disaster relief. He emphasizes the importance of the personal qualities described in the (attached) Kraft/Miller memo. Further, Bob notes that, "The Federal Government's response to domestic disasters can be the source of political praise or severe criticism."

Rick/Bill

~~SECRET~~THE WHITE HOUSE
WASHINGTON*Ham. Move*
on this ✓
OUTSIDE THE SYSTEM~~SECRET~~

February 22, 1979

MEMORANDUM FOR: THE PRESIDENT

FROM: ZBIGNIEW BRZEZINSKI *ZB*

SUBJECT: Director for the Federal Emergency
Management Agency (FEMA) (U)

I want to call to your attention a matter of increasing concern for the national security area. The Federal Emergency Management Agency (FEMA) must open its doors under the re-organization law by the end of March; yet it does not have a director-appointee. We have lost nearly five of the available six months between the passage of the law and the day FEMA must exist for providing effective re-organizing leadership. What began as one of the more promising re-organization projects could quickly become a source of political embarrassment as well as a drag on upgrading some increasingly important defense-related programs. (C)

For example, the large mobilization exercise, NIFTY NUGGET, run by Defense with extensive civil agency involvement last fall, revealed one of our greatest weaknesses to be in the area of mobilization planning and manpower mobilization. We are going to hear criticisms from the Congress on the NIFTY NUGGET results. FEMA, if properly directed, could be a far-sighted response to mobilization shortcomings this Administration inherited from previous Administrations. (C)

As the military manpower issue sharpens, FEMA could move into that area, allowing the abolition of the Selective Service System with its unhappy political heritage and constituency, taking over registration and monitoring functions with a clean slate. (C)

Civil Defense is another security issue which rests inactively in FEMA's jurisdiction. Although the Washington Post and the New York Times reacted negatively to your new policy, a recent Gallup Poll showed 52 percent in favor of doing more for civil defense. Senator Proxmire's hearings on civil defense in January indicated effective leadership on this issue can win public support not only for our defense posture, but it can also anticipate and mitigate some of the growing fears about nuclear power accidents, accidents in the transport of nuclear materials, and a number of other hazards inherent in the nuclear age not related to a Soviet attack. (U)

SANITIZED *KS*
DECLASSIFIEDPer, Rac ProjectESDN: NLC-126-16-22-1-9BY KS NABA DATE 7/16/15~~SECRET~~

Review on February 8, 1980

~~SECRET~~

SECRET

SECRET

2

25x8

I call these points to your attention so that you have the broadest appreciation when you select a director. FEMA's success depends on exceptionally strong leadership in its first two or three years. (C)

RECOMMENDATION:

That you discuss this matter with Ham Jordan and Tim Kraft, (U)
and ask for the strongest nominee.

SECRET

SECRET

THE WHITE HOUSE

WASHINGTON

February 22, 1979

MEMORANDUM FOR THE PRESIDENT

FROM:

TIM KRAFT *TK*
ARNIE MILLER *AM*

SUBJECT:

Director of the Federal Emergency Management Agency (FEMA)

Pursuant to your suggestion, the Vice President talked with George Elsey, President of the Red Cross. Elsey, the only clear consensus choice, declined due to family considerations. Mike O'Callaghan, Moon Landrieu, and Wesley Posvar have also declined. The FEMA reorganization plan requires that the agency be in existence on April 1. This coupled with the onset of spring floods and the commencement of the SALT debate, adds real urgency to this selection.

It would be very helpful if you reviewed the following list of qualified individuals and indicate which people interest you. While we have not yet approached any of these individuals or inquired about their availability, we believe that with this guidance we could present you with a recommendation soon.

Because of the potentially contradictory pressures that will be exerted on the new agency, the new Director must:

Command the respect of the national security establishment as well as show evidence of an ability to motivate civilian volunteer and government organizations.

Be sensitive to State and local concerns as well as be able to say "no" to Governors requesting disaster declarations (two of three requests are denied).

Possess sufficient prestige to deal effectively on your behalf with Congress, Cabinet officers, and State and local officials while at the same time be willing to adopt a low profile and resist budgetary expansion.

DECLASSIFIED

Per: Rac Project

ESDN: NLC-126-16-22-1-0

BY: *K* NARA DATE 7/16/13

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

~~CONFIDENTIAL~~

November 3, 1978

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: ZBIGNIEW BRZEZINSKI *ZB*
SUBJECT: A Director for FEMA

Your reorganization decision to create the Federal Emergency Management Agency (FEMA) has extremely important implications for both domestic disaster assistance and for national security preparedness. The present state of our continuity of government program in FPA is a worry to all those familiar with it. Our mobilization planning and our stockpile management is non-existent in many instances, painfully weak in others. These deficiencies cannot be remedied in a short time. Only with the creation of FEMA has it been possible to address many of them. They will be dealt with effectively only if the Director of FEMA is a first-rate manager, an able strategic thinker, and respected in national security circles both in the Executive agencies and in Congress.

It is my understanding that the OMB search turned up Wesley Posvar, Chancellor of Pittsburgh University, as the most able candidate. Not only is he highly regarded by Harold Brown, the Joint Chiefs, and Stan Turner, but he has demonstrated impressive managerial skill in putting the University of Pittsburgh in good shape over the past 12 years. It is precisely this longer-term perspective and competence that is essential to prevent FEMA from becoming primarily a pork barrel for state and local government.

I encourage you to consult Harold Brown and Stan Turner, who both know Posvar personally, as well as Jim McIntyre before you make the appointment of a FEMA Director.

~~CONFIDENTIAL~~

DECLASSIFIED
Per, Rac Project
ESDN: NLC-126-16-22-2-8
BY KS NARA DATE 7/16/13

THE WHITE HOUSE

WASHINGTON

February 24, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: JACK WATSON *Jack*

SUBJECT: Zbig Brzezinski's Memorandum Regarding
Director for the Federal Emergency
Management Agency (FEMA)

Zbig's comments regarding the status of the search for a FEMA Director, and the importance of the Director's leadership for a range of national security concerns, are well taken.

I simply want to add my own concern that your selection of the first FEMA Director be balanced by recognition of the fact that the most overwhelming proportion of FEMA's day-to-day work is on the various natural disasters that overwhelm state and local governments. (Approximately 80% of FEMA's budget is related to that aspect of the Agency's responsibility.)

It is critically important that the first FEMA Director be knowledgeable about and sensitive to state and local government and able to work with governors and other local elected officials under the most trying emergency and other circumstances. We should not skew this choice as though the two areas of concern were mutually exclusive or incompatible.

In short, I believe we can and should identify candidates for the Director's position who will be able to discharge the full range of FEMA's responsibilities.

THE WHITE HOUSE
WASHINGTON

2/24/79

Tim Kraft
Arnie Miller

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

C

February 23, 1979

MEMORANDUM FOR THE PRESIDENT

FROM:

TIM KRAFT *TK*
ARNIE MILLER *AM*

SUBJECT:

U.S. Alternate Executive Director to the
International Monetary Fund

We join Secretary Blumenthal in recommending the appointment of Mr. Donald E. Syvrud as U.S. Alternate Executive Director of the International Monetary Fund. Mr. Syvrud is a career international economist who has served with distinction in positions at the Departments of State and Treasury. Syvrud is currently Director of the Office of International Monetary Affairs at Treasury, where his background in foreign economic analysis and complex international monetary issues has been well utilized. Syvrud possesses the necessary qualifications, experience and technical expertise to represent U.S. interests in the International Monetary Fund, and the Executive Director of the IMF strongly endorses our recommendation.

RECOMMENDATION

Nominate Donald E. Syvrud, of Virginia, as U.S. Alternate Executive Director to the International Monetary Fund.

✓ approve

_____ disapprove

J

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DONALD E. SYVRUD
McLean, Virginia

EXPERIENCE

1975 - Present	Director, Office of International Monetary Affairs (International Affairs), Department of the Treasury
1974 - 1975	Deputy to the Assistant Secretary (International Affairs), Department of the Treasury
1972 - 1973	Special Assistant for Planning to the Assistant Secretary (International Affairs), Department of the Treasury
1971 - 1972	Director, Office of Developing Nations (International Affairs), Department of the Treasury
1970 - 1971	Federal Executive Fellow, Brookings Institution, Washington, D.C.
1965 - 1969	Treasury Representative, American Embassy, Rio de Janeiro, Brazil
1963 - 1965	International Economist, Office of Developing Nations (International Affairs), Washington, D.C.
1954 - 1963	International Economist, Department of State, Washington, D.C., and American Embassy, Oslo, Norway

EDUCATION

1956	University of Wisconsin, Ph.D.
1950	University of Wisconsin, M.A.
1949	University of Minnesota, B.A.

HONORS AND AWARDS

1970 - 1971	Federal Executive Fellowship
1952 - 1953	Fulbright Fellowship, Norway

PERSONAL

White Male
Age 54

THE WHITE HOUSE
WASHINGTON

2/24/79

Attorney General Bell

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Stu Eizenstat
Bob Lipshutz
Frank Moore
Jerry Rafshoon
Phil Wise
Fran Voorde

Jody Powell

THE WHITE HOUSE
WASHINGTON

2/23/79

Mr. President:

Lipshutz concurs. Eizenstat and McIntyre generally concur; their additional comments are attached.

Jerry, Phil and CL recommend against your participation in the press briefing but recommend that the Vice President do it.

CL also notes that this should pass in both the House and the Senate.

Rick/Bill

FOR ACTION
FYI

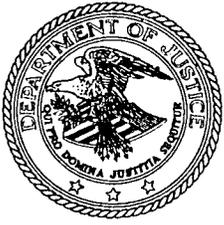
	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION

		VICE PRESIDENT
		JORDAN
X		EIZENSTAT
		KRAFT
X		LIPSHUTZ
	X	MOORE (les)
		POWELL
	X	RAFSHOON
		WATSON
		WEXLER
		BRZEZINSKI
		MCINTYRE
		SCHULTZE
		ADAMS
		ANDRUS
X		BELL
		BERGLAND
		BLUMENTHAL
		BROWN
		CALIFANO
		HARRIS
		KREPS
		MARSHALL
		SCHLESINGER
		STRAUSS
		VANCE

		ARONSON
		BUTLER
		H. CARTER
		CLOUGH
		CRUIKSHANK
		FIRST LADY
		HARDEN
		HERNANDEZ
		HUTCHESON
		KAHN
		LINDER
		MARTIN
		MILLER
		MOE
		PETERSON
		PETTIGREW
		PRESS
		SANDERS
		WARREN
		WEDDINGTON
	X	WISE
	X	VOORDE

	ADMIN. CONFIDEN.
	CONFIDENTIAL
	SECRET
	EYES ONLY





Office of the Attorney General
Washington, D. C. 20530

February 15, 1979

9/11 do it -
①
—

MEMORANDUM TO THE PRESIDENT

SUBJECT: Presidential Message on Civil Justice

You have already approved as part of the Legislative Agenda the sending of a message to Congress on judicial reform. The message will set forth Administration proposals to increase efficiency, cut costs, and improve the effectiveness and fairness of the federal court system. Taken as a whole, the package constitutes the most significant set of court reform proposals of this century. It has been developed over the past two years in the Department of Justice in consultation with key Senators and Congressmen, the Bar, the judiciary, citizen and public interest groups, and academic experts.

Set forth below are brief descriptions of items proposed for inclusion in the Presidential message. (We have worked closely on this message with Steve Simmons and Frank White, of your Domestic Policy Staff.)

The first four of these proposals are among my highest legislative priorities. They were drafted in the Department of Justice and were all introduced and made substantial progress in the 95th Congress but did not pass. Prospects for passage for all four are excellent during this Congress. All of the remaining proposals, with the exception of the Minor Dispute Resolution Act (item 5), are new. In developing these new proposals, we have worked closely with the House and Senate Judiciary Committees, and some of the ideas originated in those Committees.

Bills We Developed in the Last Congress

1. Magistrates' Jurisdiction. This proposal would enlarge federal magistrates' jurisdiction in both civil and criminal matters. Uncomplicated cases would be removed by consent of the parties from dockets of federal district judges

and assigned to magistrates for resolution. This measure should promote speedier and less costly disposition of cases and a clearing of court dockets. Last Congress it passed both Houses but died in Conference, and is widely supported. *f.o.c*

2. Court-Annexed Arbitration. This proposal would authorize district courts to adopt plans requiring the submission to arbitration of tort and contract cases involving less than \$100,000. Litigants would be permitted to appeal the arbitration award to the court. Based on successful state experiences, experiments have been run in three federal district courts which have proven beneficial in producing faster disposition and significant cost savings in cases without formal judicial proceedings. Last year this passed the Senate but was not acted on in the House. Although some trial lawyers are skeptical, there is no significant opposition. *f.o.c*

3. Diversity of Citizenship and Federal Question Jurisdiction. This proposal would eliminate from the district courts purely state law cases which are presently in the federal courts only because the opposing parties happen to be citizens of different states. The original reason for diversity jurisdiction was the assumed prejudice against out-of-state parties. Today, mobility and communications have greatly lessened, if not eliminated, that kind of prejudice. Yet diversity cases, typically auto accidents and contract disputes where parties in one state are suing those in another, continue to occupy 25% of the federal court caseload (over 30,000 cases annually). State courts can adequately handle this caseload and are quite willing to do so. Last year, the House passed a bill completely eliminating diversity by 2 to 1. We proposed a more limited step preventing plaintiffs from invoking the federal diversity jurisdiction in their home states. However, this would reduce the federal caseload by less than 10%. We are convinced now that complete abolition of diversity jurisdiction is the best way to proceed. (I believe that our position of last year is a good fall back position.) *ok*

We should note that the diversity issue has been controversial. Eliminating diversity is opposed by the American Bar Association (ABA) and by many trial lawyers. It is supported by the federal and state judiciaries, the Chief Justice, leading scholars, the ACLU and other groups, and is strongly backed by Senator Kennedy and Representative Kastenmeier, two key Congressional leaders on court reform.

The proposal would also eliminate the current jurisdictional \$10,000 minimum for federal question cases in the

federal courts; some federal question cases involving less than \$10,000 must now be heard in state courts. The net effect of both these changes would be to have most state law issues decided in state courts and most federal law issues decided in federal courts, which is the way judicial business should be allocated.

4. Supreme Court Jurisdiction. This proposal would enlarge the Court's existing control over its docket by eliminating statutes which compel the Court to decide certain types of cases on the merits regardless of the importance of the individual case. The Court would thereby be able to devote its time and energies to cases of genuine importance. This proposal is favored by all members of the Supreme Court and relevant interest groups. There is no known opposition.

5. Minor Dispute Resolution. This proposal would allow the Law Enforcement Assistance Administration to use its current and projected appropriations to promote innovative means of resolving minor disputes (including improvements in small claims courts) and would foster more widespread use of Neighborhood Justice Centers, a new concept now being successfully tested by the Department of Justice in Atlanta, Kansas City, and Los Angeles. No new funding would be required.

The New "Federal Court Improvements Act of 1979"

1. Appellate Court Consolidation. This proposal would consolidate two existing but underutilized appellate-level courts (Court of Claims and Court of Customs and Patent Appeals) into a new U.S. Court of Appeals. The new court would retain all of the jurisdiction of the two existing courts, and, in addition, would be given jurisdiction over appeals in all patent and trademark cases in order to promote uniformity and stability of law, encourage technological innovation, and end the harmful forum shopping now widespread in these areas of the law.

Consolidation of the two existing courts is supported by the judges of those courts, the Court of Claims Committee and Patent, Trademark and Copyright Law Section of the D.C. Bar Association, and numerous other lawyers, judges and

professors. It was also strongly endorsed by your recent domestic policy review task force on industrial innovation.

2. Transfer of Cases. Due to the complexity of federal court structure, it is possible for a litigant to file a case in an improper federal court and not have the error discovered until it is too late to file in the proper federal court. This proposal would permit such a case to be transferred to the proper federal court and treated there as if it had been properly filed from the outset. It would save time and money.

3. Prejudgment Interest. Current federal law is vague about when a compensatory award of damages can or should include interest from the time of the loss. With litigation often taking years, a failure to award interest often deprives an injured party of true compensation. This proposal would authorize a court, in the interest of justice, to award interest to a plaintiff from the time the defendant was first informed of the claim. It should also encourage settlements as defendants would have an incentive to prevent the running of interest. This is likely to be opposed by insurance companies but supported by the ABA and plaintiff's bar.

4. Important Technical Proposals. A number of important technical proposals will be made to enhance the integrity of judicial decisionmaking and increase efficiency. These include requiring federal courts of appeals to appoint advisory committees on rules and procedures; altering the composition of the judicial councils, which govern the eleven circuits, to include district judges as well as appellate judges; and limiting the time during which a judge can serve as a chief judge (in the district and circuit courts) to five years.

The package also includes two provisions to overcome defects in the law concerning retirement of federal judges. One would establish a "rule of 80", which provides a rational formula for federal judicial retirements that takes into account both age and years of service. The other would allow credit toward retirement of executive officers for prior periods of service as federal judges. These retirement provisions are not mentioned in the message to Congress.

Class Actions. A class action bill will not accompany the message to Congress. However, you have urged improvements in class action procedures in your State of the Union

message last month and in your Consumer Message and Los Angeles Bar Association speech last year. We developed a bill last year which was introduced in the Senate. Currently, we are working closely with the House and the Senate Judiciary Committees to revise that bill in an effort to arrive at some proposals for improvements in class actions that will gain wide acceptance. Since I have not yet fully endorsed the present bill, and OMB has not cleared it, we do not want to take a firm position yet. However, it is important to reiterate our support for continued efforts to devise a politically acceptable bill. Accordingly, statements to this effect are included in the draft message.

Griffin B. Bell

Griffin B. Bell
Attorney General

DECISION

- Complete Draft Presidential Message based on above proposals (Recommended)
- Do not complete Draft Presidential Message based on above proposals

J

Press Briefing Appearance

It would be helpful for you to appear for 5 or 10 minutes at a White House press briefing to focus press and public attention on the Message and your proposals. Following your introductory remarks briefly summarizing the major points in the Message, you could turn the podium over to me. Senators Kennedy and DeConcini and Representatives Rodino and Kastenmeier would be asked to attend. Your appearance would:

- Further exemplify your commitment to greater efficiency and effectiveness in government, focusing this commitment for the first time on the Judicial Branch.

- Focus upon this court reform package as the most significant proposed in the 20th century.
- Emphasize your concern for improving access to justice and for reducing the costs of litigation for all citizens.
- Establish the Administration's leadership on the court reform initiatives we have developed.

An appropriate date for late February is being discussed with the White House press, public liaison and congressional liaison offices.

DECISION

I will appear at press briefing.

I will not appear at the press briefing.

J

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for Preservation Purposes

THE WHITE HOUSE

WASHINGTON

February 23, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
STEVE SIMMONS
SUBJECT: Bell Memo re: Presidential Message
on Civil Justice

You have already indicated in your written State of the Union Message and in your decision on the legislative agenda that you will send a message to Congress on judicial reform, and Judge Bell's memo summarizes the contents of the proposed message. The message will describe 5 of our bills which made significant progress, but did not pass last Congress and which are being reintroduced this Congress (all should fare extremely well). The message will also describe and transmit a new "Federal Courts Improvement Act of 1979."

We have worked closely with the Justice Department on this matter. Over the past few weeks, Justice has dropped several proposals from the new Act, which were questionable on policy grounds and would have been highly controversial politically (an example of such an item was including tax appeals in the new proposed Federal Circuit Court). As presently constituted, the package makes sense on both policy and political grounds, and as Judge Bell says the message recommends the most significant set of court reform proposals in the Twentieth Century.

We agree with Judge Bell's strong recommendation that you appear, for a few minutes, at a White House briefing announcing the message, which will hopefully be scheduled on either February 26 or 27. In that way, you can be visibly identified with reforming the Judicial Branch, just as you have reformed the Executive Branch with civil service reform and other initiatives. In addition, an important aspect of the package is reducing the cost of litigation for all citizens, and this is supportive of our overall anti-inflation emphasis. In all probability a number of

of the individual bills discussed in the message will pass, and an appearance by you would further your identification with what is likely to be a successful legislative program. Senator Kennedy, a key player in this area as Chairman of the Senate Judiciary Committee and with whom Justice has been working on the initiative, will certainly be visible on the issue.

We are now working on a draft of the message with Justice, and should have it to you very shortly.

 Agree to Appearance

 Disagree



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

FEB 23 1979

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. MCINTYRE, JR. *Jem*

Subject: Presidential Message on Civil Justice

We have no problem with the Attorney General's list of legislative items to be discussed in the proposed Message on Civil Justice.

Of the bills originally proposed by the Administration to the 95th Congress, the Magistrates', Diversity of Citizenship, Supreme Court Jurisdiction, and Disputes Resolution proposals were not formally resubmitted by Justice to the 96th Congress, but are simply being reintroduced by either Kennedy or DeConcini in the Senate and Rodino or Kastenmeier in the House.

No additional funds for the Disputes Resolution proposal are requested in the 1980 Budget. Justice ranked this proposal as a low priority. Consequently, we concur with the Attorney General's commitment to use LEAA funds for this purpose, thus avoiding the need for additional appropriations.

The Court-Annexed Arbitration proposal, which was revised and substantially improved by Justice over the 95th Congress version, was recleared by OMB and has been introduced by Kennedy and DeConcini; Justice advises that Rodino will probably introduce it soon in the House.

As to the new "Federal Court Improvements Act of 1979," the proposals to apply the "rule of 80" to Federal judicial retirements and for crediting prior judicial service in the civil service retirement system for those judges who later take executive positions have been objected to by the Office of Personnel Management (OPM). We are working with

Justice, OPM, and Domestic Policy Staff to resolve these differences. Accordingly, I agree with the Attorney General that these retirement provisions should not be mentioned in the message.

Finally, we understand that the Department of Commerce is objecting to one aspect of the proposed appellate court consolidation. We will work to resolve this issue as soon as possible.

ID 790680

THE WHITE HOUSE

WASHINGTON

+

DATE: 21 FEB 79

FOR ACTION: STU EIZENSTAT *- add name +*
Simmons w/Bent

BOB LIPSHUTZ

FRANK MOORE (LES FRANCIS) *abandoned*

JERRY RAFSHOON *(recomm VP, not P)*

JIM MCINTYRE

PHIL WISE *referred us*

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

JACK WATSON

ANNE WEXLER

FRAN VOORDE

SUBJECT: ATTORNEY GENERAL MEMO RE JUDICIAL REFORM

o

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: ~~1200 PM FRIDAY 23 FEB 79~~ *COB Juvs* +
all notified

+++++

ACTION REQUESTED:

STAFF RESPONSE: () I. CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE
WASHINGTON

Feb 21, 1979

Rick-

Attached is the decision memo on the Administration's court reform package. We have been working very closely with Justice & the Attorney General on the memo. Because of last minute policy changes, Justice held up the memo several days, until now. There's a real time bind since we want to announce the message to Congress on Monday or Tuesday of next week. Can we give this expedited senior staff circulation?

Thanks very much

Steve Simmons

DATE: 21 FEB 79

FOR ACTION: STU EIZENSTAT

BOB LIPSHUTZ

FRANK MOORE (LES FRANCIS)

JERRY RAFSHOON

JIM MCINTYRE

PHIL WISE

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

JACK WATSON

ANNE WEXLER

FRAN VOORDE

SUBJECT: ATTORNEY GENERAL MEMO RE JUDICIAL REFORM

*Xc: FM ✓
SL
HL
Ronna*

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM FRIDAY 23 FEB 79 +

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

We will pass these in House - The Pres. probably should not be used in announcement. The V.P. perhaps. Rodino and subcommittee chm. should be included & have already been consulted - J-F.

DATE: 21 FEB 79

FOR ACTION: STU EIZENSTAT

BOB LIPSHUTZ

FRANK MOORE (LES FRANCIS)

JERRY RAFSHOON

JIM MCINTYRE

PHIL WISE

INFO ONLY: THE VICE PRSIDENT

JODY POWELL

JACK WATSON

ANNE WEXLER

FRAN VOORDE

SUBJECT: ATTORNEY GENERAL MEMO RE JUDICIAL REFORM

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM FRIDAY 23 FEB 79 +

+++++

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

*The President should not appear at press briefing,
 Rick, please send this in through me for
 a final note to Carter from me with it,
 Phil*

THE WHITE HOUSE
WASHINGTON

DATE
FOR

21 FEB 79

TO: STU EISENSTADT

BOB LIPSHUTZ

FRANK MOORE (LES FRANCIS)

~~JERRY RAESHORN~~

JIM MCINTYRE

PHIL WISE

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

JACK WATSON

ANNE WEXLER

FRAN VOORDE

SUBJECT: ATTORNEY GENERAL MEMO RE JUDICIAL REFORM

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+ RESPONSE DUE TO RICK HITCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM FRIDAY 23 FEB 79 +
+++++

*Jerry says recommends
against Presidential
remarks at press briefing.
Use VP instead*

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT.

() HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

Jerry -

*If you think this is a good
5 min. hit, I suggest Feb. 28 -
best news day & will give the
press something other than the meeting
w/ the Black Caucus -*

fran

THE WHITE HOUSE
WASHINGTON
2/24/79

Stu Eizenstat
Jim McIntyre
Frank Moore

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

The signed transmittal letters
will be held in my office
until we hear from you.

Rick Hutcheson

cc: The Vice President
Hamilton Jordan

President added advertising light
restrictions; messages to Congress
were redone & given to
B. Linder

THE WHITE HOUSE
WASHINGTON

2/23/79

Mr. President:

The NSC has no objections to the attached proposals.

Fred Kahn and Jack Watson concur with the McIntyre/Eizenstat recommendations.

Esther Peterson's recommendation is included in the text of the attached memo.

Comments from Moore and Rafshoon are attached.

4 SIGNATURES REQUESTED.

Rick/Bill



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

February 23, 1979

*Give Frank
a day or two
J*

DECISION

MEMORANDUM FOR: THE PRESIDENT

FROM: Jim McIntyre *Jim*
Stu Eizenstat *Stu*

SUBJECT: Standby Gasoline Rationing and Mandatory
Energy Conservation Plans

The Department of Energy has prepared a standby gasoline rationing plan and four standby mandatory energy conservation plans for your transmittal to the Congress. The four mandatory conservation measures are: (1) restrictions on weekend sales of gasoline and diesel fuel, (2) restrictions on commuter parking, (3) restrictions on heating, cooling, and hot water thermostats, and (4) restrictions on nonresidential advertising lighting. Secretary Schlesinger has made a commitment to Senator Johnston to submit the gasoline rationing plan and at least one conservation plan on February 26.

These plans have been under development since passage of the Energy Policy and Conservation Act of 1975 (EPCA), which required a rationing plan and one or more conservation plans to be prepared by mid-1976. The individual plans are subject to Congressional approval, requiring an affirmative vote of each House within 60 days of continuous session following transmittal. The plans, if approved by Congress, can be implemented only after the President notifies the Congress that a severe energy supply interruption exists or that implementation is required to meet U.S. obligations under the International Energy Program. The effective date and manner for exercise of the plans would be included in the notification. A Presidential decision to implement the rationing plan, but not the conservation plans, is subject under EPCA to a second review by Congress and can be vetoed by either House within 15 days of the President's action.

The plans are intended to be used only in the case of a severe energy supply interruption. Gasoline rationing would not be used unless there was a substantial shortfall in gasoline supplies, which is not anticipated by DOE or others. DOE believes that if the present petroleum supply situation does not improve, there would be justification for implementing one or more of the conservation plans in June. We believe very strongly that it is too early to tell whether any mandatory conservation measures will be required to deal with the Iranian situation. Any announcements at this time that the Administration plans to implement such measures would

be premature and could make matters worse, adversely affecting consumer and business confidence.

An interagency group headed by Stu Eizenstat is reviewing the world outlook for oil and the various strategies and measures for dealing with the domestic and worldwide effects of the Iranian problem. At this time the need for measures beyond a general call for voluntary conservation is dependent on future events including Iranian production, OPEC production and price responses, etc. Various measures are being evaluated including revising pricing policies on domestic crude, encouraging industry to switch from oil to natural gas and coal, encouraging utilities to use power transfers to substitute coal and nuclear power for oil-fired generation, temporarily suspending the phaseout of lead in gasoline, and others.

We expect this group to complete its work and provide you with alternatives in the near future. Until you have made overall decisions, we recommend that all Administration officials avoid giving any impression that the conservation plans or the rationing plan will be used to deal with the Iranian problem. All we need do and all we should do on February 26 is submit some or all of these emergency plans to the Congress for their review and approval.

The rationing plan and the four mandatory conservation plans are briefly described and assessed below. Two sets of budget cost estimates are provided for the four conservation plans. The second set was provided by DOE today. There has not been time to review them in any detail.

Gasoline Rationing Plan

Gasoline rationing would be used only as a last resort during a severe petroleum supply interruption. The plan is designed to provide ration allotments to individuals, firms and organizations primarily on the basis of vehicle registration, with the size of the allotment varying by the type of vehicle. Businesses and units of government that use significant amounts of gasoline in off-highway vehicles and equipment would be eligible for supplemental allotments. Priority allotments would be provided for national defense, fire protection, police services, emergency medical services, sanitation services, snow removal, mass public transportation, the Postal Service, and farm production of food and fiber. A small portion of the ration allotments would be held in State Ration Reserves to meet special needs or hardships and in a National Ration Reserve for special national emergency needs.

Ration allotments would be issued quarterly to registered vehicle owners by means of ration checks, which could be exchanged for ration coupons at financial institutions or other designated places. Those institutions would receive a check cashing fee from the government. The sale or transfer of ration coupons among individuals or organizations, i.e., a white market, would be permitted. This would contribute to a more efficient use of

gasoline by allowing individuals with a smaller demand or need for gasoline to sell a portion of their ration coupons to others with a larger demand or need.

The rationing plan is complex and will require at least 6 to 8 months of additional preimplementation work before it will be ready for implementation, should the need arise. Once preimplementation work is complete, the plans should be implementable in 90 days. Funds for this work were included in the budget--\$24.6 million in a proposed FY 1979 supplemental and \$28.8 million in FY 1980. In addition, it will cost up to \$6 million annually to maintain the plan in a ready state. If implemented, it would require thousands of Federal, State and local employees and would cost an estimated \$1.6 billion to operate for 9 months, according to DOE. Time has not permitted a thorough OMB review of the \$1.6 billion estimate. The estimated costs of implementation, but not preimplementation, would be covered by a special fee on gasoline amounting to about 1-1/2 cents per gallon.

We recommend that DOE's plan be transmitted to the Congress. Congressional approval is needed before the necessary preimplementation work can begin. We anticipate three major criticisms of the plan: it cannot be ready for implementation in less than 6 to 8 months; the use of a white market to match supply with demand; and the feeling by some, including the Office of Consumer Affairs, that single car families will be discriminated against.

As to the first criticism, any substantial modifications in the present plan would only delay readiness even more. We do not believe it would be possible to devise a more effective and equitable plan that would not be unreasonably costly to administer and which could be made ready in a shorter time. As to the second, we believe the white market is an essential feature of the plan to allow gasoline to be distributed more efficiently and in greater correspondence with individual needs. The government does not have a workable method to precisely determine individual needs, so it will be essential to have the white market so that ration rights can be reallocated to more closely correspond with individual needs. The only alternative, and in our view a much less preferable one, would be an incredibly costly and complicated system of preferences and allocations based on a dozen or more different factors, such as distance from work, etc.

Finally, the use of vehicle registrations will allocate ration rights in approximate proportion to gasoline use. Single car families tend to have lower incomes and will receive smaller allotments than multi-car families. On the other hand, lower income families tend to drive less so that the standard allotment may provide for a greater share of their normal driving requirements than for higher income families. The economic analysis conducted by DOE indicates that access to the white market would make it possible for lower income families to improve their income position by selling rights to families with a higher demand for gasoline. We believe

the administrative and efficiency advantages of using vehicle registrations outweighs any adverse effect on income distribution. We expect the plan to generate considerable interest and controversy within the Congress and by affected interest groups.

DECISION

Transmit the plan (DOE, OMB, DPS, CEA) (Kahn, Watson)

Do not transmit plan (Office of Consumer Affairs)

Conservation Plan No. 1 - Weekend Restrictions on Gasoline and Diesel Fuel Sales

The purpose of this plan would be to reduce nonessential driving on weekends. It would prohibit retail sales of gasoline or diesel fuel to operators of automobiles, small trucks (essentially pickup trucks), or non-commercial marine or aircraft during part of or the entire weekend (noon Friday to midnight Sunday). Emergency vehicles, government vehicles, commercial passenger carriers, common carriers and energy-production vehicles would be exempt. There also would be no restrictions on farmers' use of fuel from their own bulk storage tanks. DOE proposes to rely on State and local government for enforcement.

DOE estimates that this plan could reduce petroleum consumption by 170,000 to 400,000 b/d (barrels per day) averaged over an entire crisis period if sales are prohibited for each entire weekend. The DOE estimate assumes 100 percent enforcement effectiveness and that the restrictions will not encourage drivers to top off their gas tanks in anticipation of the weekend. If these factors were to obtain, the savings could be only 90,000 to 320,000 b/d. The plan would adversely affect auto travel-related industries (motels, resorts, etc.) and it could damage consumer and business confidence. The plan could result in shorter waiting lines at filling stations during the week but this advantage may be partially or totally offset by longer waiting lines at the beginning and end of the restrictions period. Earlier DOE estimated that it would cost \$6.2 million (\$.07 to \$.25 per barrel conserved) and require some 410 employees (Federal, State and local) to implement and operate the plan for a 9-month disruption. Estimates received today indicate that it would cost \$5.2 million and require only 170 employees. States would be reimbursed for costs incurred.

We recommend that the plan be transmitted to the Congress at this time. DOE has agreed to prepare for Presidential decision and possible transmittal to Congress within 120 days an amendment or separate plan that would discourage "tank topping" by motorists as well as an alternative plan limiting fuel sales to noncommercial and other nonpriority vehicles to odd/even days

based on license plate numbers. These options have not been evaluated by DOE and may prove to be a desirable amendment or alternative to the weekend restrictions plan. No commitment should be made to implement the weekend restrictions plan during Congressional review.

DECISION

- Transmit plan (DOE, OMB, DPS, CEA) (Kahn, Watson)
- Do not transmit plan

Conservation Plan No. 2 - Restrictions on Commuter Parking

This plan attempts to encourage carpooling and use of mass transit by commuters by reducing the number of parking spaces available at commercial parking facilities and at employer work sites where 100 or more people are employed. The plan is aimed at commuters and would impose a limit on the number of parking spaces that could be used by applying a parking fraction (e.g., 20 to 40 percent of available spaces) at affected work sites and during morning commuting hours (6:00-10:00 a.m.) at commercial parking facilities. Parking lot operators and employers would be expected to administer the restrictions and self-certify that they were being met. Overall administration and enforcement would require 1,200 people and cost \$18.4 million for a 9-month disruption according to DOE's earlier estimates. DOE revised these estimates today to \$5.6 million and 175 employees.

DOE estimates that oil savings ranging from 44,000 to 292,000 b/d could be realized. For reasons indicated below, we believe more realistic savings estimates would be only half these amounts, making this the most expensive plan in terms of administrative costs per barrel saved--\$0.46 to \$3.05 per barrel based on the earlier DOE estimates.

We believe this plan should not be transmitted to the Congress. There is considerable doubt about whether it is workable and would achieve the desired results. Moreover, although DOE disagrees, we believe that a significant portion of the savings which we think would actually result from this plan could be achieved by a vigorous effort to encourage voluntary carpooling.

Enforcement of this plan would be very difficult and costly because on-site inspections would be required. Extensive surveys of normal patterns of parking and carpooling would also be required to administer the plan effectively and fairly. Much of the estimated savings could easily be lost through noncompliance, by motorists driving around hunting for parking spaces, by wives or husbands making round trips to work to drop off the spouse, by shifts in commuting hours, and by increased fuel use by mass transit. No analysis has been made of the ability of mass transit systems to handle the estimated 0.7 to 4.4 million increase in daily ridership.

It would also be very difficult to implement the plan fairly. Most of the economic burden would fall on workers and commercial parking lot owners. High density cities would be severely impacted while low density cities and towns would be hardly affected. Places where a high degree of carpooling is normal would be penalized because it would be virtually impossible to accurately reflect these normal patterns in setting the parking fractions. Much time, productivity, and fuel would be wasted in hunting for parking spaces.

DOE believes the plan should be transmitted to the Congress because the potential fuel savings are significant and because it is an effective means of dealing directly with commuter driving, which represents about 25 percent of all gasoline use. At the present time the average passenger load per commuter vehicle is only 1.4, indicating that there is great potential for fuel savings in this sector. The difficulties in administering the plan and its potentially disruptive effect on commuters can be mitigated by applying it only to large employers and using relatively high parking fractions in the initial stages, and expanding its coverage later as the shortfall increases. In a severe emergency the fuel savings may be crucial, despite the problems of administration, and for this reason the plan should be available if needed, according to DOE.

DECISION

Transmit plan (DOE)

Do not transmit plan (OMB, DPS, CEA) (Kahn*, Watson)

Conservation Plan No. 3 - Heating, Cooling and Hot Water Restrictions

This plan would require owners of most commercial, industrial, and public buildings to set thermostats no higher than 65 degrees (space heating), no lower than 80 degrees (cooling), and no higher than 105 degrees for hot water used for personal hygiene and general cleaning. Residential buildings and health care facilities would not be affected. The plan could reduce oil consumption by up to 350,000 b/d, and it would have little or no adverse impact on economic activity. DOE's earlier estimates indicate that it would cost \$12.8 million to operate the plan for a 9-month period (\$0.13 to \$0.19 per barrel of petroleum conserved) and require 800 administrative and enforcement personnel, primarily from State and local governments. Today's estimates are \$8.1 million and 278 employees.

A potential problem with this plan is that it could affect apartment dwellers in multi-purpose buildings. DOE is aware of this situation and plans to take necessary steps to ensure that such residents are not adversely affected.

* (Kahn concurs with the reasons stated, and for the additional reason that "the parking-lot operators are likely to respond to mandatory decreases in capacity by sharply raising the prices of their remaining spaces. Voluntary efforts to encourage carpooling are preferable.")

We recommend that this plan be transmitted to the Congress.

DECISION

Transmit plan (DOE, OMB, DPS, CEA) (Kahn, Watson)

Do not transmit plan

Conservation Plan No. 4 - Advertising Lighting Restrictions

Under this plan electricity could not be used to illuminate signs unless they are essential to direct customers to an open business or to inform customers of the products or services supplied by an open business. The resulting reduction in oil consumption is estimated to be only 4,000 b/d. Implementation costs would be about \$2.6 million for a 9-month period (\$2.37 per barrel conserved) and 260 personnel would be required, according to DOE's earlier estimates. The estimates provided today are \$3.1 million and 86 employees.

The advertising lighting industry and many small businesses would strongly oppose this plan claiming, with some validity, that it will unfairly disadvantage small businesses because they cannot afford to switch to TV, newspaper and magazine advertising. Businesses will also correctly argue that they can and will take voluntary steps (reducing heating, cooling and indoor lighting, etc.) that would conserve much more oil than this mandatory restriction. Moreover, the potential oil savings from the plan are minuscule, and it should be possible to achieve a good portion of the savings by vigorous appeals for voluntary compliance.

We believe that a voluntary approach to reducing unnecessary advertising lighting would be nearly as effective as this mandatory plan and would not create the ill will and frustration involved with the mandatory approach. A voluntary approach would also achieve the same symbolic purpose as the mandatory plan by appealing to the public to exercise its good faith and moral suasion to reduce unnecessary energy consumption. Thus, we recommend against sending this mandatory plan to the Congress. We recommend instead that DOE prepare alternatives for carrying out a voluntary program for consideration by the DPS-led interagency group.

As with many other conservation alternatives which would be impractical for the Federal Government to implement and monitor, we believe that the Governors of all States should be asked to direct their attention to the oil savings potential available in the advertising lighting area and to take appropriate action at the State level to encourage or require conservation efforts. The Governors will and should be key actors in any overall conservation initiative.

DOE believes this plan should be transmitted to the Congress because of its symbolic importance to voluntary energy conservation during a severe energy shortfall. DOE believes that during a severe emergency, voluntary conservation by private citizens will be enhanced if the government takes action to prevent highly visible instances of wasted energy, even if they do not result in substantial fuel savings. Examples include the excessive advertising lighting of Las Vegas, Times Square and the main thoroughfares of every large city in America. The plan includes an exemption that allows advertising lighting during business hours to identify a business, to direct customers to it, and to indicate the goods and services offered for sale. This exemption is adequate to protect small businesses. Most of the objections to the plan have come from sign industry representatives who purport to speak for small businessmen, not small businessmen themselves.

DECISION

- Transmit plan (DOE)
- Do not transmit plan (OMB, DPS, CEA) (Kahn, Watson)

Because of Secretary Schlesinger's commitment to transmit the rationing plan and one or more of the conservation plans to the Congress by February 26, we ask that you consider this matter and reach a decision as soon as possible. Copies of transmittal letters to the Senate and the House are enclosed for your signature should you decide to send one or more of the plans forward. DOE is making final changes in the plans and assures us that they will be ready by the 26th.

Attachments

THE WHITE HOUSE

WASHINGTON

February 23, 1979

MEMORANDUM FOR THE PRESIDENT

FROM:

FRANK MOORE 

SUBJECT:

Eizenstat/McIntyre Memorandum re Standby
Gasoline Rationing and Mandatory Energy
Conservation Plans

Generally, we believe submission of the standby gasoline rationing plan and some or all of the conservation plans will be proof to the Congress that you are taking positive steps to prepare our nation for an energy emergency. In that sense, it will mute growing criticism that the Administration's conservation measures are toothless. Congress does not want to get blamed for the country having no plan.

We have no recommendation on the substance of the plans, nor do we recommend how many of the plans should go forward. Reaction on the Hill will be based largely on each Member's constituent interests, although the standby rationing plan will draw substantial criticism from those who advocate deregulation as a means of ensuring conservation through higher prices. We can expect deregulation amendments and bills that attempt to prohibit implementation of the standby plan.

Many House Members do not understand the impact of the conservation plans. Many of the new Members were not in Congress in 1975 when EPCA was passed.

Industry is already lobbying House Members. The advertising lighting provision will be difficult, but restrictions on weekend gas sales will prove the hardest to win.

Our major concern is that all affected Members be briefed the day before the plans go forward by DOE, White House CL, and policy people. It is essential that Members be handed information sheets with energy savings figures and arguments in support of whatever plans go forward. Each of them will be required to respond immediately to inquiries from their constituents about the impact of the plans. They are more likely to be supportive if they have favorable information to help them respond to complaints.

It is particularly essential that Senators with substantial resort and tourist facilities be briefed immediately before the announcement on the plan to restrict weekend gas sales.

The present agenda is to send up the stand-by gasoline rationing plan and at least one conservation plan on Monday. However, this would not allow sufficient time for the above-mentioned briefings.

I propose that we honor Secretary Schlesinger's commitment to Senator Johnston by fully briefing the Senator on Monday but delay submitting the plan to Congress until Thursday, after which key Members of the Senate and the House will have been briefed. If you approve, my staff will prepare a list and a briefing schedule for the key Members.

Approve _____ ✓

Disapprove _____

*Thursday seems
excessive
delay*

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RAFSHOON COMMENT

THE WHITE HOUSE

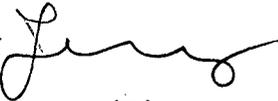
WASHINGTON

February 23, 1979

EYES ONLY

MEMORANDUM FOR THE PRESIDENT

FROM:

JERRY RAFSHOON 

SUBJECT:

Comment on McIntyre/Eizenstat memo on
gasoline rationing

You have been incredibly ill-served by the Department of Energy. They have had two years to develop workable mandatory conservation programs in addition to rationing. What they have produced are four plans - two of which have the look of hairbrained schemes. You don't have much choice, as I see it, but to go along with Stu's and Jim's recommendations to send plans for rationing, Sunday sales curtailment, and the heating, cooling and hot water action. Further action (implementation following Congressional approval) would clearly violate the intent of the law in that we are not currently in a crisis situation -- even by DoE's estimate.

The position that DoE has put you in could not be much worse. First, Schlesinger has done his best to convince the world that an energy crisis of a magnitude demanding President action is imminent -- while in the judgement of his department, no crisis justifying mandatory action will occur until June at the earliest. That put you in the box. Second, DoE has provided you, after two years work, with the choice of admitting that we could only think up two -- not four -- workable mandatory plans or going forward with plans that will be ridiculed.

My recommendation is that you take bold action -- but the option I would favor is nowhere mentioned in the memo.

STANDBY GAS
RATIONING PLAN

THE WHITE HOUSE

WASHINGTON

Dear Mr. President:

As required by Section 201 of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6261, I am hereby transmitting to the Congress for its approval the following two energy conservation contingency plans: Emergency Weekend Gasoline Sales Restrictions and Emergency Building Temperature Restrictions. I have also today directed the Secretary of Energy to publish these conservation plans in the Federal Register, as the final step in my prescribing these plans as required by Sections 202 and 523 of the EPCA.

The plans which I am transmitting are the product of extensive plan development and refinement. They can be effective tools in reducing consumption of energy in the event of a severe energy supply emergency. Work on the development of contingency plans is continuing and any additional measures will be transmitted for approval pursuant to Section 201 of the EPCA upon their completion.

Together with the Standby Gasoline Rationing Plan which I am also transmitting to the Congress today under separate letter, these energy conservation contingency plans could help mitigate the effects upon the United States of a severe energy supply interruption. These measures, along with voluntary conservation efforts and other measures contained in existing legislation and the Department of Energy's present contingency programs, will provide the Government with several options to deal with energy emergencies of varying types and degrees of severity. Such flexibility is essential if we are to prevent unnecessary inconvenience to our citizens and harm to our economy in the event of future curtailments of our energy supplies.

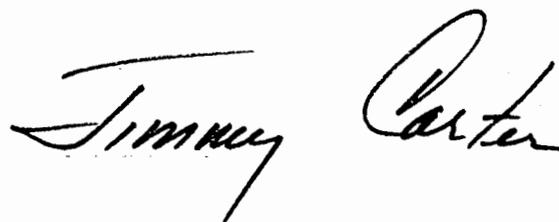
As required by Section 201(f) of the EPCA, each energy conservation contingency plan is accompanied by an analysis which assesses the economic impacts of the plan.

The procedures for approval by Congress of a contingency plan are detailed in Section 552 of the EPCA, and require among other things that a resolution of approval be passed by each House of Congress within 60 days of submittal of the plan. The EPCA does not specify the form which the resolution of approval is to take. It is my view

and that of the Attorney General that actions of the Congress purporting to have binding legal effect must be presented to the President for his approval under Article I, Section 7 of the Constitution. Therefore, I strongly recommend that congressional approval of these plans be in the form of a joint resolution. If this procedure is followed, the plans themselves, agreed to by Congress and the President, will not later be subject to possible judicial invalidation on the ground that the President did not approve the resolution.

I urge the prompt and favorable consideration by the Congress of these plans.

Respectfully,

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the typed name.

Honorable Walter F. Mondale
President of the Senate
Washington, D. C. 20510

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THE WHITE HOUSE

WASHINGTON

DATE: 23 FEB 79

FOR ACTION: FRANK MOORE (LES FRANICS)

JERRY RAFSHOON *attached*

ZBIG BRZEZINSKI *no om*

ALFRED KAHN *attached*

ESTHER PETERSON *cover*

INFO ONLY: THE VICE PRESIDENT

HAMILTON JORDAN

BOB LIPSHUTZ

JACK WATSON *cover*

ANNE WEXLER

SUBJECT: EIZENSTAT MCINTYRE MEMO RE STANDBY GASOLINE RATIONING
AND MANDATORY ENERGY CONSERVATION PLANS

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 0300 PM FRIDAY 23 FEB 79 +
+++++

ACTION REQUESTED: IMMEDIATE TURNAROUND

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE

WASHINGTON

February 23, 1979

MEMORANDUM FOR RICK HUTCHESON

FROM: RON LEWIS *Roz*

SUBJECT: Eisenstat/McIntyre Memo Re Standby Gasoline Rationing and Mandatory Energy Conservation Plans

Fred* recommends that the Gasoline Rationing Plan and Conservation Plans No. 1 (Weekend Restrictions on Gasoline and Diesel Fuel Sales) and No. 3 (Heating, Cooling and Hot Water Restrictions) be transmitted.

He recommends against transmitting Conservation Plan No. 2 (Restrictions on Commuter Parking) for the reasons stated by OMB, DPS and CEA, and for the additional reason that parking-lot operators are likely to respond to mandatory decreases in capacity by sharply raising the prices of their remaining parking spaces. Voluntary efforts to encourage carpooling are preferable.

He recommends against transmitting Conservation Plan No. 4 (Advertising Lighting Restrictions), since the reduction in oil consumption that it would achieve is too small to outweigh its costs as a mandatory measure; he supports the DPS proposal that a voluntary program be prepared.

*Kahn

THE WHITE HOUSE

WASHINGTON

February 23, 1979

INFORMATION

MEMORANDUM FOR: THE PRESIDENT

FROM: ZBIGNIEW BRZEZINSKI *ABZ*

SUBJECT: Standby Gasoline Rationing and Energy Conservation Plans

Attached at ~~Tab A~~ is McIntyre/Eizenstat memorandum on standby gasoline rationing and mandatory energy conservation plans.

NSC has no objection to the standby gasoling plans or the four energy conservation plans from the view-point of foreign relations and national security. It is essential that the standby mandatory conservation measures be submitted to the Congress in order to demonstrate progress toward readiness to deal with the oil shortage.

NSC also recommends that OMB solicit views among the Executive Office senior staff as to whether the submission of these plans should be announced by the President.

*No need to
mention - per RL
- Since Sr Staff does
not want it - NSC
does not seem that
Oes do it.*

20

DATE: 23 FEB 79

FOR ACTION: FRANK MOORE (LES FRANICS)	JERRY RAFSHOON
ZBIG BRZEZINSKI	ALFRED KAHN
ESTHER PETERSON	

INFO ONLY: THE VICE PRESIDENT	HAMILTON JORDAN
BOB LIPSHUTZ	JACK WATSON
ANNE WEXLER	

SUBJECT: EIZENSTAT MCINTYRE MEMO RE STANDBY GASOLINE RATIONING
AND MANDATORY ENERGY CONSERVATION PLANS

+++++
+ RESPONSE DUE TO RICK MITCHESON STAFF SECRETARY (456-7052) +
+ BY: 0300 PM FRIDAY 23 FEB 79 +
+++++

ACTION REQUESTED: IMMEDIATE TURNAROUND

STAFF RESPONSE: () CONCUR () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

Handwritten initials: OK LP

Handwritten notes: 5:30m

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

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Together with the Standby Gasoline Rationing Plan which I am also transmitting to the Congress today under separate letter, these energy conservation contingency plans could help mitigate the effects upon the United States of a severe energy supply interruption. These measures, along with voluntary conservation efforts and other measures contained in existing legislation and the Department of Energy's present contingency programs, will provide the Government with several options to deal with energy emergencies of varying types and degrees of severity. Such flexibility is essential if we are to prevent unnecessary inconvenience to our citizens and harm to our economy in the event of future curtailments of our energy supplies.

As required by Section 201(f) of the EPCA, each energy conservation contingency plan is accompanied by an analysis which assesses the economic impacts of the plan.

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The Standby Gasoline Rationing Plan which I am transmitting today is the result of an extensive rulemaking proceeding in which over 1,100 comments from citizens throughout the United States were received and considered. I believe this plan, which would be implemented only in a severe energy supply emergency, would equitably allocate gasoline supplies and minimize economic hardships to the maximum extent possible without undue administrative costs and complexity.

Together with the energy conservation contingency plans which I am also transmitting to the Congress today under separate letter, the Standby Gasoline Rationing Plan would help mitigate the impact of a severe energy supply interruption. These measures, along with voluntary conservation efforts and other measures contained in existing legislation and the Department of Energy's present contingency programs, will provide the Government with several options to deal with energy emergencies of varying types and degrees of severity. Such flexibility is essential if we are to prevent unnecessary inconvenience to our citizens and harm to our economy in the event of future curtailments of our energy supplies.

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I urge the prompt and favorable consideration by the Congress of this plan.

Respectfully,

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the word "Respectfully,".

Honorable Thomas P. O'Neill, Jr.
Speaker of the House
Washington, D.C. 20515

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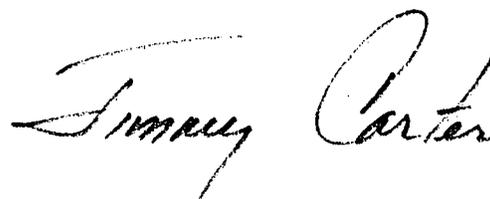
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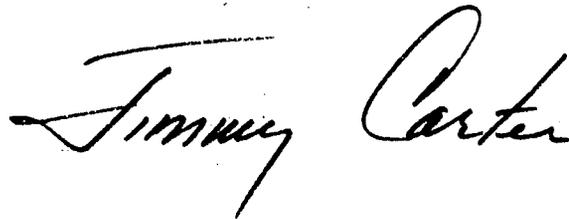
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Vol. 37, No. 8

• Pages 313-348

• Feb. 24, 1979

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