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FOIA MARKER

**This is not a textual record. This is used as an
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Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Chief of Staff, White House Office of
Series: Skinner, Sam, Files
Subseries:

OA/ID Number: 40920
Folder ID Number: 40920-007

Folder Title:
Memos - 2/92 [2]

Stack:	Row:	Section:	Shelf:	Position:
G	0	0	0	0

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From Clayton Yeutter to Sam Skinner Re Democratic tax proposal (1 pp.)	2/18/92	P3 Open on Expiration of PRA (Document Follows) By <u>CSL</u> (NLGB) on <u>4/5/95</u>	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Skinner, Samuel
Subseries:
WHORM Cat.:
File Location: Memos February 92 [2 of 2]

Date Closed:	11/24/2004	OA/ID Number:	05826
FOIA/SYS Case #:	1999-0277-F	Appeal Case #:	
Re-review Case #:	2005-0368-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE
WASHINGTON

February 18, 1992

MEMORANDUM FOR SECRETARY SAM SKINNER

FROM: CLAYTON YEUTTER *CY*

Sam, I agree with the consensus at the leadership meeting this morning that everybody ought to trash the Democratic tax proposal the rest of the week. The House Democrats have obviously made a decision to thumb their noses at the Administration, so there's no point in trying to work out any kind of accommodation with them. As Vin Weber said, the only way we'll get tax legislation this year will be to veto whatever the Democrats send up, blister their hides for wasting everyone's time, and then take another crack at getting something worthwhile.

One of the points that didn't get any mention at the leadership meeting is that the Democrats are irresponsibly delaying the economic recovery and irresponsibly delaying the creation of new jobs, by ignoring the President's proposal while concentrating their attention on a counterproposal that they know the President will and should veto. This will deprive people who are now without jobs of any benefit from tax legislation for at least two months, maybe more--a cruel outcome. And they accuse the President of lacking compassion for those who are out of work!

I'd suggest that the President make the above points this week, in addition to the other very good talking points that are already available.

And he ought to hit this subject tomorrow during his trip.

cc: D. Darman
H. Moore
D. Demarest
R. Porter
N. Calio

file
To Moulton F. ✓ sent 2/18

M E M O R A N D U M

To: The Honorable Sam Skinner
From: Charlie Black
Date: February 18, 1992

This would be an excellent event for you to do, if you have time in the near future.

This would be a good opportunity to get top Washington lobbyists talking up the President's economic program.

Please consider.

fyf

103
683-6612
Budget was informed
to tell Charlie
to Allied Signal

You declined to meet w/
this group. I will let
Charlie's office know.



Allied-Signal Inc.
Suite 700
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 662-2650

Ken W. Cole
Vice President
Government Relations

February 7, 1992

Sandy Bushue
Office of Samuel K. Skinner
Chief of Staff
The White House
Washington, D.C. 20500

Dear Sandy:

As a followup to your telephone conversation with my assistant, Patty Davis, I would like to invite Mr. Skinner to speak at a meeting of the Business-Government Relations Council. As mentioned to you, this organization is made up of the vice presidents that head the Washington offices of major corporations. Typically, these meetings are a breakfast or a luncheon format and are held at hotels downtown or on the Hill and are attended by 75-80 members of the Council.

I thought this organization would give Mr. Skinner the opportunity to discuss the President's economic and health programs. If possible, we would like for him to address the group at one of its February meetings. The meetings are generally conducted on a Tuesday or a Thursday, however this can be changed to accommodate Mr. Skinner's schedule.

If you need any more information on this group, please advise. I hope that you can include this in Mr. Skinner's schedule in February.

Sincerely,

A handwritten signature in dark ink, appearing to read "KWC".

KWC/pd

file

THE WHITE HOUSE
WASHINGTON

February 18, 1992

SCHEDULE PROPOSAL

TO: SAMUEL K. SKINNER
CHIEF OF STAFF TO THE PRESIDENT

FROM: RONALD C. KAUFMAN *RCX*
DEPUTY ASSISTANT TO THE PRESIDENT FOR
POLITICAL AFFAIRS

REQUEST: For Chief of Staff Skinner to address an issue
briefing for members of the Tennessee Republican
Party.

PURPOSE: This group will be in Washington for a series of
briefings and events on March 4 and 5. They will
be attending a White House briefing and are very
interested to hear more about the President's
domestic agenda as outlined in his State of the
Union address.

BACKGROUND: These individuals are key supporters of the
Tennessee Republican Party. They will be
accompanied by State Chairman Tommy Hopper, and
will be joined at lunch by Congressman Duncan.
The White House briefing will concentrate on the
Administration's agenda.

DATE AND TIME: Thursday, March 5, 1992
For half an hour between 10:30 a.m. and 12 p.m.

LOCATION: Room 22, OEOB

PARTICIPANTS: Republican State Chairman Tommy Hopper
Approximately 40 key supporters of the Tennessee
Republican Party

OUTLINE
OF EVENT:

10:30 a.m.	Speaker
11:00 a.m.	Speaker
11:30 a.m.	Speaker
12:00 p.m.	Briefing concludes

REMARKS
REQUIRED: Remarks for 15 minutes and Q & A for 15 minutes.

MEDIA
COVERAGE: Closed press
Political Photographer

Accept
Decline *2-20*
Declined
to Pathy
2/22
Rosenfeld

RECOMMENDED

BY:

Ronald C. Kaufman

PROJECT
OFFICER:

Susan B. Dawson

Congress of the United States
House of Representatives
OFFICE OF THE REPUBLICAN WHIP
Washington, DC 20515

DCF HAS SEEN

February 19, 1992

To: Lynn Martin
Clayton Yeutter

From: Newt Gingrich

THE CHIEF of STAFF
has seen

Bill

A letter is being circulated in the House (attached) calling for two specific actions on the Beck decision. These two steps are long overdue. It will weaken our opponents and encourage our allies if we take these two steps:

1. Order the Department to require the posting of workplace notices that specifically inform workers of their Beck rights.
2. Order the Office of Labor-Management Standards to institute changes in the LM-2 union reporting and disclosure form to provide union members with essential information on dues expenditures.

Can we set a schedule to implement these two items by the end of March?

✓ cc: Sam Skinner
Henson Moore
Bob Teeter
Mary Matalin
Fred Malek
Robert Mosbacher

SKS -
A big issue
in the South.
- Cam

Congress of the United States

Washington, DC 20515

February 19, 1992

The Honorable George Bush
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

At the January 1992 meeting of the Republican National Committee, a resolution passed urging your Labor Department to act forcefully to enforce the protections placed by the Supreme Court on the political rights of working men and women in the *Beck* decision.

This follows a similar resolution in 1991 that passed the Committee unanimously.

Mr. President, you have called for the implementation of *Beck*. In June of 1989 you stated,

I also propose to strengthen the Supreme Court's *Beck* decision, which held that union members can't be forced to have their dues go to political causes they do not support. No Americans — not one— should be compelled to give money to a candidate against his or her will.

We are writing to reaffirm our support for your position in favor of firm, forceful and swift action to enforce *Beck*. The 1988 Party platform strongly endorsed *Beck*. We in Congress have attempted to enact legislation that would codify *Beck*, efforts supported by your administration, but our efforts have been thwarted by the House leadership.

Secretary Martin and the Labor Department's role in enforcing *Beck* cannot be understated. The Supreme Court decision has been on the books since 1988, yet many employees are unaware that their political rights have been given an added safeguard. First, Secretary Martin can order the department to require the posting of workplace notices that specifically inform workers of their *Beck* rights.

The Honorable George Bush
February 19, 1992
Page two

Second, the Secretary can order the Office of Labor-Management Standards to institute changes in the LM-2 union reporting and disclosure forms that are mandated by the Labor Management Reporting and Disclosure Act. Specifically, these changes should require all expenses incurred by negotiation and administration of the collective bargaining agreement listed on a line-by-line basis, providing union members with essential information on dues expenditures.

Mr. President, these two administrative actions are necessary to begin the *Beck* implementation process. We urge you to act quickly and make a formal request of Secretary Martin for administrative action to protect the rights of working men and women.

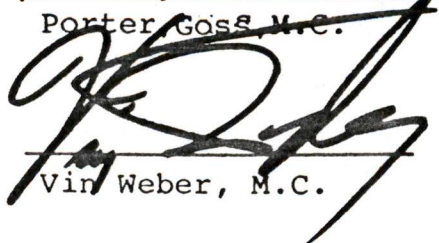
Sincerely,


Tom DeLay, M.C.

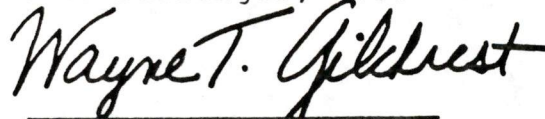

Alex McMillan, M.C.

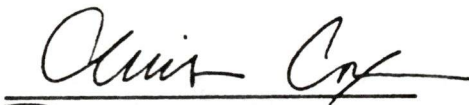

Bob Stump, M.C.

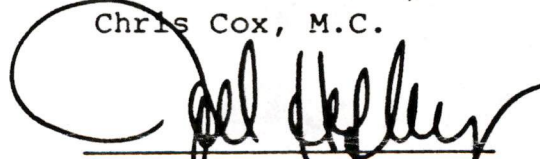

Porter Goss, M.C.

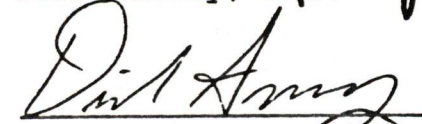

Vin Weber, M.C.

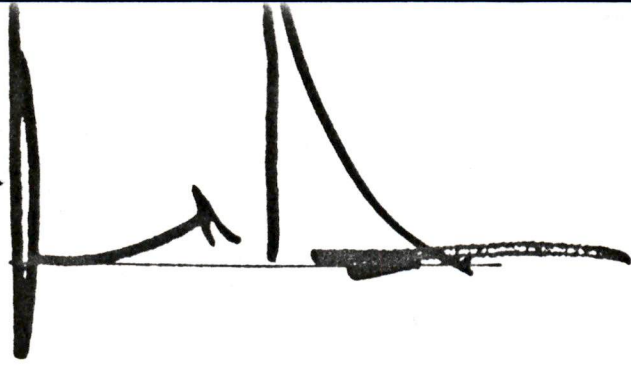

Cass Ballenger, M.C.


Wayne Gilchrest, M.C.


Chris Cox, M.C.


Joel Hefley, M.C.


Dick Armey, M.C.



Don Kip

Burt M. Meyer

BS Livingston

Tom Lewis

Robert K. Dorman

John A. Bochner

Don Schaefer

Randy "Nuke" Cunningham

Graig Daves

Bill Lowery

1) Conn
2) Sleg

THE WHITE HOUSE
WASHINGTON

DCF HAS SEEN

file

February 20, 1992

THE CHIEF of STAFF
has seen

MEMORANDUM FOR SAM SKINNER

FROM: CONNIE HORNER

CH

SUBJECT: Maureen O'Neill

You had asked me about the appointment of a woman named O'Neill at EPA. Currently, Maureen O'Neill is serving as the Program Advisor for the Human Resources Council, Water Policy Office at EPA. This is an administratively-determined appointment; not political. My office was not aware of her placement until after the fact.

THE WHITE HOUSE
WASHINGTON

February 21, 1992

MEMORANDUM FOR THE WHITE HOUSE STAFF

FROM: SAMUEL K. SKINNER *SKS*

SUBJECT: Campaign Tactics

After reading recent media accounts of an attempt by a Democratic campaign to damage a rival candidate's character by sending an unsolicited fax to the media, the President asked me to remind everyone that such tactics will not be tolerated here in the Administration or at the Bush-Quayle campaign. He asked me to reiterate that any such incident involving an Executive Branch or Bush-Quayle campaign employee would be considered grounds for termination from employment.

The first three years of the Bush Administration have been remarkably free of any charges of serious ethical or political misconduct. I know that the President is extremely proud of that record. Please take care not to take any actions in the heat of the coming political contest which could be construed as unethical, improper, or unfair.

Thank you for your cooperation in continuing to uphold the highest standards of ethical conduct in this Administration.

#

THE WHITE HOUSE

WASHINGTON

February 22, 1992

*Reading
File*

MEMORANDUM FOR SAMUEL K. SKINNER
CLAYTON YEUTTER
HENSON MOORE
MARLIN FITZWATER

FROM: ROGER B. PORTER *RBP*

SUBJECT: Economic and Domestic Policy Agenda

The attached three page document supplements my earlier memorandum this morning on themes for 1992. It takes our major initiatives and organizes them into three basic categories:

1. Increasing economic growth;
2. Investing in America's future; and
3. Expanding opportunity and responsibility for individuals, families, and communities.

It also divides them into those initiatives that are already enacted or in the process of being implemented and those we have proposed that Congress has not acted on favorably.

If you have any questions, please let me know.

Attachment

February 22, 1992

Economic and Domestic Policy Agenda

I. Increasing Economic Growth

Enacted or Implemented

- Budget Agreement and associated enforcement actions
- Fast Track Extension Authority
- Withholding adjustment
- Regulatory reform review
- Accelerated Federal spending
- Farm Bill of 1990

Proposed

- Investment incentives
 - Capital gains rate reduction
 - 15 percent Investment Tax Allowance
 - Modified Alternative Minimum Tax
- Real estate incentives
 - \$5,000 tax credit for purchase of first home
 - Modified passive loss rule for real estate developers
 - Penalty-free IRA withdrawal for first-time homebuyers
 - Low-income housing credit
 - Loss deduction for personal residences
- Fiscally responsible budget to restrain Federal spending
 - Domestic discretionary spending freeze
 - Domestic civilian personnel freeze
 - Responsible reductions in defense spending

- 246 terminations of unnecessary Federal programs
- Restraints on growth of mandatory spending programs
- Commitment to maintaining spending restraints in budget agreement
- Family Savings Plan (IRA Plus)
- Permanent R&E tax credit and 861 provisions
- Job Training 2000
- Product liability and civil justice reforms
- Telecommunications deregulation
- Expanding exports and opening foreign markets
 - Uruguay Round
 - North America Free Trade Agreement
 - Enterprise for the Americas Initiative

II. Investing in America's Future

Enacted or Implemented

- Surface Transportation Act of 1991
- R&D spending initiatives
- Clean Air Act of 1990
- Comprehensive Drug Strategy
- Adopted National Education Goals
- America 2000 States and Communities
- Head Start expansion
- National Standards and Assessment System

Proposed

- Education Excellence Act and America 2000
 - Choice
 - New American Schools

- Flexibility
- National Energy Strategy
- Comprehensive Financial Institution Reform
- Comprehensive Health Reform Program
 - Health insurance market reforms
 - Health insurance tax credit and tax deduction
 - Coordinated care incentives
 - Prevention initiatives
 - Medical malpractice reforms
 - Cost-effectiveness and cost containment measures

III. Expanding Opportunity and Responsibility for Individuals, Families and Communities

Enacted

- Child Care
- Americans with Disabilities Act
- Civil Rights Act of 1991
- Affordable Housing Act (HOPE)
- Legal Immigration Reform

Proposed

- Comprehensive Crime Control Act
- Weed and seed initiative
- Strengthening Families
 - Increasing the personal deduction for children
 - Student loan interest deduction
 - Penalty-free IRA withdrawals for health, education or first home purchases
- Enterprise Zones
- Turnback Proposal



Chief Counsel

February 26, 1992

NOTE TO THE CHIEF OF STAFF

Sam:

As I mentioned to Cam last night, Judge Holderman unfortunately rendered a \$2 million verdict against us in the Reiser trial involving a student pilot's fatal accident and N20's departure at DuPage Airport while you were on board. Tom DeMetric tried the case and successfully used a "washed-out" controller and colorful ATC terminology ("Pushin' and Jammin'") to establish negligence. DoJ had made a \$350,000 settlement offer.

I have not seen any adverse publicity, but thought you might want to be aware of this development. Attached is a more detailed summary.

Best regards,

A handwritten signature in cursive script, appearing to read "Ken", is written above the typed name.

KENNETH P. QUINN
Chief Counsel

Attachment

ALERT BULLETIN

The United States District Court for the Northern District of Illinois has entered a judgment adverse to the FAA in Reiser v. United States. The case arose out of the April 15, 1989 accident at DuPage Airport when Carol Ann Reiser, a student pilot with 33 hours of flight experience, crashed while on final approach to the airport. Ms. Reiser was single and had no dependents. The action was brought by her parents.

At the time of the accident, Ms. Reiser had successfully completed three full stop landings and was on her fourth approach when the accident occurred.

The court found that:

- Ms. Reiser and another Cessna 152 (97M) were doing practice landings on runway 28 when N20 taxied out and requested take-off on that same runway.

- Ms. Reiser was on the downwind when ATC, in a single transmission, cleared her to land and at the same time cleared N20 into position on the runway.

- almost immediately upon receipt of the clearance, Ms. Reiser turned to her base leg.

- immediately upon the lift-off of Cessna 97M, N20 was cleared for take-off.

- at or about the same time that N20 was cleared for take-off, Ms. Reiser turned final (only 1/2 mile from the threshold).

- N20 did not immediately initiate its take-off roll, but instead delayed for perhaps as much as 15 seconds.

- at least one of the controllers on duty realized that separation was compromised, but no controller took any action to assist Ms. Reiser.

- the ground controller was aware that Ms. Reiser was a student pilot, but did not inform the other controllers in the tower cab.

- Ms. Reiser initiated S-turns and slowed her aircraft in an attempt to ensure adequate separation.

- upon realizing that N20 had delayed its take-off roll, ATC should have offered Ms. Reiser the option of landing on runway 33, or instructed her to discontinue the approach to runway 28 and to go around.

The court determined that the combined negligence of ATC and the N20 flightcrew amounted 90% of the cause of the accident. The court set damages at \$2 million dollars.

U.S. Department of Transportation
Federal Aviation Administration
Office of the Chief Counsel
800 Independence Avenue, S.W.
Washington, D.C. 20591

file

FACSIMILE TRANSMISSION COVER PAGE

Date: 2/26/92
Time: 5:15

FROM

Name: Kenneth P. Quinn
Routing Symbol: AGC-1
Phone: 202/267-3222
FAX: _____

TO

Name: Chief of Staff, Mr. Skinner
Routing Symbol: _____
Phone: 456-6797
FAX: -2883

COMMENTS:

PAGE ____ of ____

DCF HAS SEEN

THE WHITE HOUSE
WASHINGTON

February 26, 1992

MEMORANDUM FOR SAMUEL K. SKINNER
CHIEF OF STAFF

FROM: CONSTANCE HORNER *CH*
ASSISTANT TO THE PRESIDENT AND DIRECTOR OF
PRESIDENTIAL PERSONNEL

RE: PRESIDENTIAL PERSONNEL STAFF

I would like to hire Ed Rodriquez of OMB to serve as Deputy Associate Director of Presidential Personnel for the National Security portfolio. He currently serves as special assistant to Bob Howard at OMB at a GS 13 level.

We approached OMB about detailing Ed Rodriquez to our office, as we must do with the majority of our staff. Dick Darman has refused my request and has stated personally to me that he does not believe in details.

I have one remaining White House payroll position available to our office; however I need to hold that in reserve for anticipated senior level departures where I may be unable to find the appropriate people to detail.

I would very much like to have Ed Rodriquez join our staff, and Bob Howard is supportive. Would you please assist me in getting Dick to reverse his decision?

2/27/92
Tim

What say here?
What about details?
Sam

EDWIN A. RODRIGUEZ

2224 North 24th Street
Arlington, Virginia 22207
(202) 395-6859 (o)
(703) 522-9246 (h)

EXPERIENCE

**SPECIAL ASSISTANT TO THE ASSOCIATE DIRECTOR
FOR NATIONAL SECURITY & INTERNATIONAL AFFAIRS
OFFICE OF MANAGEMENT & BUDGET (WASHINGTON, D.C.)**

1991-

Responsibilities include: conducting short & long-term studies on issues of special interest to the Associate Director; reviewing, coordinating, & integrating career staff papers ; monitoring congressional actions, including status of the President's Enterprise for the America's Initiative (EAI) legislation; maintaining contact with congressional staff; participating in interagency working groups, including several EAI & Agency for International Development (AID) working groups.

Accomplishments

- Highlighted congressional, interagency, & public outreach problems undermining EAI, & initiated action to resolve them.
- Prepared EAI narrative for the President's FY-93 Budget.
- Managed & contributed to preparation of AID briefing book for Director Darman.
- Prepared Defense Health Care issue paper for FY-93 Budget Director's Review.

**INTELLIGENCE OFFICER
UNITED STATES NAVAL RESERVE (WASHINGTON, D.C.)**

1988-

Responsibilities include: analyzing, writing, & briefing intelligence on Latin American political, security, & economic developments for high-level U.S. officials.

Accomplishments

- Top graduate of 1990 Direct Commission Officer Course.
- Specially selected Escort Officer for 1989 Inter-American Naval Conference.

**CONFIDENTIAL ASSISTANT TO THE UNDER SECRETARY
DEPARTMENT OF THE ARMY (WASHINGTON, D.C.)**

1990-91

Responsibilities included: reviewing, coordinating, integrating, & monitoring the development & implementation of policies, plans, programs, & budgets having to do with force structure changes, base realignments & closures, & the Defense Management Report.

Accomplishments

- Developed & began implementing strategy to restart Army's Total Quality Management effort.
- Began "Project Partnership" initiative to increase number of Hispanics in Army's workforce.

**CONSULTANT
RAND CORPORATION (SANTA MONICA, CA)**

1987-90

Researched & wrote a case-study on Soviet-Nicaraguan relations as part of a project on Soviet involvement in the 3rd World headed by Frank Fukuyama.

**SPECIAL ASSISTANT TO THE DEPUTY UNDER SECRETARY (POLICY)
DEPARTMENT OF DEFENSE (WASHINGTON, D.C.)**

1989

Responsibilities included: analyzing Latin American political, security, & economic developments; & advising the Under Secretary on DOD public diplomacy programs.

Accomplishments

- Developed a concept paper on the use of public diplomacy in U.S. counternarcotics strategy.

**RESEARCH ASSISTANT TO THE CHIEF OF STAFF-DESIGNATE
OFFICE OF THE PRESIDENT-ELECT (WASHINGTON, D.C.)**

1988-89

Responsibilities included: research & writing on issues ranging from domestic & foreign policy to local, national, & international politics; coordinating & ensuring the completion of special projects; & exercising political sensitivity in oral & written communications.

**RESEARCH ASSISTANT TO THE CAMPAIGN MANAGER
GEORGE BUSH FOR PRESIDENT (WASHINGTON, D.C.)**

1988

Responsibilities included: research & writing on issues ranging from domestic & foreign policy to local & national politics; drafting a weekly report for top Bush supporters nationwide assessing the campaign's progress & outlining future strategy & tactics; coordinating & ensuring the completion of special projects; & exercising political sensitivity in oral & written communications.

**INTELLIGENCE OFFICER
CENTRAL INTELLIGENCE AGENCY (WASHINGTON, D.C.)**

1985-86

Responsibilities included: analyzing, writing, & briefing intelligence on Latin American political, security, & economic developments for U.S. officials; & coordinating work with intelligence community analysts.

Accomplishments

- Organized a government/think-tank/university conference on Colombia

EDUCATION

HARVARD UNIVERSITY (CAMBRIDGE, MA)

1986-87

*John F. Kennedy School of Government
Sloan Foundation Fellowship; National Hispanic Scholarship*

UNIVERSITY OF TEXAS (AUSTIN, TX)

1983-85

*Honors B.A. in Latin American Studies
Phi Beta Kappa; Phi Kappa Phi; Junior Fellows*

U.S. AIR FORCE ACADEMY (COLORADO SPRINGS, CO)

1980-82

Superintendent's/Commandant's/Dean's Honor Lists; Brazilian Air Force Academy Exchange Program

HONORS: OUTSTANDING YOUNG MEN OF AMERICA, 1989

REFERENCES: AVAILABLE UPON REQUEST

THE WHITE HOUSE
WASHINGTON

DATE: 3/10

TO: *Secretary Skinner*

FROM: TIMOTHY J. McBRIDE
Assistant to the President
for Management and Administration

file

- ☒ FYI
- ☐ Appropriate Action
- ☐ Let's Discuss
- ☐ Per Our Conversation
- ☐ Per Your Request
- ☐ Please Return

COMMENTS:

To "close the loop" Connie decided to use her available WS slot. We're working with her to get Ed Rodriguez on board right away.

2-24

Manager - ~~done~~ 2/26 2:15pm
May I ask a favor? Will
you pls. call Tom & let him
know that SKS cannot meet.
Note - This group has already met w/
Jenny. Many thanks! SKS

2-26

MEMORANDUM TO: Samuel K. Skinner**RE: National Realty Committee request for meeting**

Jerry Marsh approached me regarding a meeting between yourself, the appropriate officials in the White House, and the National Realty Committee. Jerry felt the issues they want to talk about have significant political, as well as, policy implications. The issues include depreciation recapture, passive losses, and debt forgiveness rules as they effect the real estate industry.

The group appears to have done their work in meeting with Rostenkowski and others in Congress and Robson at Treasury. Mr. Larson, President of NRC and a member of the RTC oversight board, met with the President and Jack Kemp last Fall. They hope to meet with you in the next several weeks.

I pass this along only because I respect Jerry a great deal and he asked me if I could help out.



Tom Morsch

February 24, 1992

Set up?

yes —

No — X 2-26

TREASURY

HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

THREE FIRST NATIONAL PLAZA CHICAGO 60602 (312) 558-6600
TELECOPIER (312) 558-6536 (312) 558-6876 TELEX 206231WASHINGTON, D.C. OFFICE 808 NINETEENTH STREET, N.W. 20006
DALLAS OFFICE 1717 MAIN STREET SUITE 5700 75201MICHAEL P. MORRISON
(312) 558-6790

February 14, 1992

BY MESSENGERThomas Morsch, Jr., Esq.
Hayes & Griffith
Suite 2800
190 South LaSalle Street
Chicago, Illinois 60603Re: National Realty Committee (NRC) - Bush's Tax Policy

Dear Tom:

I know that Jerry Marsh has spoken to you about NRC's tax policy proposals.

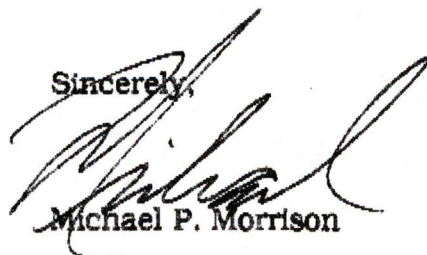
Sam Skinner is key to this process because of the Treasury's position on depreciation recapture. In many instances, the lower capital gains rate, combined with the proposed recapture rules, results in a tax that is higher than what is now allowed.

In any event, I am enclosing some NRC materials that explain the problem and NRC's position.

Tom, if you have time, Jerry and I would like to meet with you soon.

Please give me a call.

Sincerely,


Michael P. MorrisonMPM:jb
Enclosures



NATIONAL REALTY COMMITTEE

Real Estate's Roundtable

1250 Connecticut Ave., NW
Suite 630
Washington, DC 20036
(202) 785-0808
Fax (202) 223-3857

OFFICERS

Chairman of the Board
ROBERT C. LARSON
Taubman Companies

Chairman of the Executive Committee
EDWIN N. SIDMAN
The Beacon Companies

Senior Vice Chairman of the Board
JAMES J. DILLON
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Dear NRC Member:

As you know, two weeks ago, the Bush Administration unveiled its economic growth plan. Several of the tax-related initiatives we've been advocating concerning pension capital were embraced by the Administration and are part of its growth initiative. And, consistent with our recommendation that the passive loss rules should be modified, the Administration has also proposed that "active developers" be treated the same as taxpayers actively engaged in other businesses under the passive loss rules. Although we believe a different approach -- equal treatment for all those in the real estate business -- is highly preferable, the Bush proposal is a real breakthrough in thinking from the Administration, the importance of which should not be minimized. Unfortunately, the Administration's plan to cut capital gains taxes -- something we also recommended last year -- is coupled with a plan to modify the real estate depreciation recapture rules, resulting in a tax increase for sellers of real property whose value is now below, at, or just above initial cost.

During the next several weeks the economic growth plans of the Bush Administration, the House and Senate Democratic leadership as well as many others will be discussed, further developed, and, ultimately, acted upon. All this means it's time for you to call, write, fax and meet with your elected representatives, members of the tax-writing committees, Congressional leadership and Administration officials to discuss the set of tax proposals we've developed as part of our effort aimed at addressing the credit crisis through various national policy options. To help you do just that, we've attached "The Road to Recovery Begins With Rational Tax Policies for Real Estate", a series of fact sheets that contain talking points and explain the tax initiatives National Realty Committee thinks it's important for you to raise now.

Clearly, passive losses and capital gains (and how to tax depreciation recapture) are on the table for discussion and action. We're also providing information on four additional issues we think need to be raised in your communications -- the tax treatment of debt forgiveness, seller financing by banks, leasehold improvements, and pension investment in REITs. The more we get policymakers to consider these four issues in addition to the first two, the better our chances will be to advance them as well. And, because the extension of the low-income housing tax credit is also important and has been recommended by President Bush, you may also want to suggest its extension, or permanent adoption, in your communications.

After you've had a chance to review this material, please call me with any questions or thoughts. And please let us know whom you've communicated with and what you've learned. It'll help us immensely.

Sincerely,

Steven A. Wechsler
President

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**NATIONAL
REALTY
COMMITTEE**

Real Estate's Roundtable

1250 Connecticut Ave., NW
Suite 630
Washington, DC 20036
(202) 785-0808
Fax (202) 223-3857

The Road to Recovery Begins with Rational Tax Policies for Real Estate



February 1992

ROAD TO RECOVERY

Summary

Modifying the Passive Loss Rules—Tax Equity for Real Estate: Congress should pass H.R. 1414/S. 1257, permitting people who materially participate in the real estate business to be treated under the same passive loss rules that apply to those in all other businesses. This is not only fair and equitable but also would help owners hold troubled properties, encourage the purchase of existing properties, and ease pressure on financial institutions. The Administration has taken a welcome step by calling for changes in the law to allow losses from properties developed by the taxpayer to be deducted against other income. Unfortunately, the proposal is too narrow—many active developers would not qualify—and only very limited relief is proposed for properties acquired, but not developed, by the taxpayer.

Depreciation Recapture—Current Law Should Be Maintained in any Capital Gains Tax Cut: The Administration proposes to cut the capital gains tax. However, in an abrupt change from current law, only gain in excess of all prior depreciation deductions would qualify as capital gains. All gain from depreciation would be "recaptured" and taxed at ordinary income tax rates—today 31 percent—unlike the current rules where only accelerated depreciation is recaptured. Repeal of the current depreciation recapture rules amounts to a tax increase of 11 percent on properties sold for the same amount as originally purchased and should be soundly rejected.

Pension Fund Investment—A Logical Choice for Real Estate: As noted by President Bush in his budget proposal, pension funds, with their long-term liabilities, are a logical source of capital and credit for long-term real estate investment. REIT ownership restrictions should be modified to permit domestic pension funds to invest in real estate through REITs on terms equal to those permitted foreign funds. This should be done by amending the "five or fewer" ownership rules to allow domestic pension funds to be treated the same as foreign funds—a "look-through" rule would treat each beneficiary as an investor.

Debt Restructurings—Current Law Discourages Workouts: The tax on debt restructurings, foreclosures, or deeds in lieu of foreclosure generally exceeds cash received in the related transaction, adding substantial negative pressure on today's marketplace. Congress should reinstate the law that was in effect prior to 1987 by passing H.R. 3651, a bill to allow taxpayers to defer this tax liability by reducing the tax basis in other property by the amount of any forgiven debt. No tax would be avoided...its payment only would be delayed until a sale generated cash to satisfy the liability...and many bankruptcies would be avoided.

Lenders and the "At-Risk" Rules—Sales are Discouraged: Financial institutions are inhibited from providing financing for the sale of properties held in their portfolios because the at-risk rules discriminate against seller financing, even when provided by a financial institution selling properties held temporarily in its portfolio. This makes it tougher for lenders to market properties taken back. Congress should adopt H.R. 3650, allowing financing provided by institutions selling real estate-owned properties to be treated the same under the at-risk rules as financing provided by a third-party lender.

- **Leasehold Improvements—Depreciation Rules are Uneconomic:** Because taxpayers are required to depreciate leasehold improvements to real estate over 31.5 years, even though in practice these leasehold improvements have little or no value beyond the expected term of the lease, the after-tax cost of building-out space to accommodate a new tenant is artificially high at a time of limited credit availability and construction employment opportunities are reduced. Congress should permit leasehold improvements to be recovered over the life of the lease term—which is really their true useful life.

ROAD TO RECOVERY

H.R. 1414 / S. 1257: Modifying the Passive Loss Rules— Tax Equity for Real Estate

PROBLEM

Current tax law unfairly discriminates against people who earn their livelihood in the real estate business. The law treats *all* losses from the business of renting real property as inherently "passive"—even if the taxpayer is actively and materially engaged in the real estate business.

"Passive" rental losses can't be currently deducted against salaries, fees, commissions, and other "active" income—even if that income is *also* earned in the real estate business. Thus, the taxpayer pays tax overall on *more* than he or she actually earns.

No other industry in the country is barred from combining current losses and current profits. For people in the real estate business the passive loss rules are *"heads the IRS wins, tails the taxpayer loses."*

For example, the owner-manager of several apartment buildings who earns \$150 of management fees, but takes home only \$100 because \$50 must go to cover an operating deficit caused by rents not covering expenses, is taxed on the full \$150—an amount that clearly exceeds the \$100 he actually takes home.

The Administration's recent proposal provides some relief but does not fully eliminate the discriminatory provisions of current law.

The Administration's proposal would treat ongoing rental losses as "active" only if they were incurred by an owner who had actually *physically constructed* or renovated the building. Thus, buildings purchased from the RTC / FDIC or from troubled builders or financial institutions would not qualify for relief—a policy that makes no sense in today's economic climate.

Limited relief would be provided for purchased buildings during a brief "lease-up" period after construction, but this would provide no assistance to help carry a property through a later cyclical or geographic downturn—the very problems real estate is suffering from today.

SOLUTION

Equal treatment: Congress should enact the Andrew-Thomas / Boren-Symms bills (H.R. 1414 / S. 1257), an improvement on the Administration's proposal that would provide those in the real estate business with treatment equal to that received by taxpayers engaged in other businesses. These bills allow taxpayers engaged full-time in the real estate business to deduct losses from rental businesses under the same "material participation" and "activity" rules that apply to all other businesses.

The taxpayer would still be required to "materially participate" in the rental real estate business to claim a loss—so no tax shelters would be permitted for anyone. Real estate businesses would simply be tested under the same standards that apply to all other businesses—not the discriminatory, "auto-fail" test now applicable solely to the business of renting property.

ROAD TO RECOVERY

Depreciation Recapture— Current Law Should Be Maintained

PROBLEM

Buried in the Administration's plan to "cut" capital gains taxes is a proposal that would actually *raise* gains taxes on real estate owners. In short, the Administration wants to tax, upon sale, the difference between an asset's basis adjusted downward for depreciation and the amount of the original investment at the higher, ordinary income rates rather than as capital gain. This "recapture tax" must be eliminated, or the Administration's capital gains plan will make the real estate economy worse, not better.

The technical term for this problem is "Section 1250 depreciation recapture". The Administration's proposal is tantamount to *eliminating* depreciation deductions for real estate—hardly something designed to stimulate the economy or real estate values.

The Administration's proposal must be changed to keep Section 1250 recapture the way it has been for over 30 years, since the Kennedy Administration. Otherwise, what is intended as a stimulus to the economy will depress real estate values still further.

Ironically, the new recapture tax would most hurt owners whose properties had experienced only modest appreciation above cost, or only enough for inflation to mask the real wear, tear, and obsolescence of the building.

SOLUTION

The Administration's capital gains proposal should be changed to leave Section 1250 recapture alone—the way it has been for over 30 years.

EXPLANATION

When someone invests in an apartment building, office complex, or retail mall, they are really investing in a bundle of different assets: the land and the site; the intangible business factors—i.e. the decision that it is worth taking a risk that a particular project will "work" in a particular location at a particular time; and the actual physical improvements (e.g., bricks and mortar, plumbing fixtures, electrical systems, etc.).

While the physical improvements are inevitably wearing out and depreciating, the owner hopes that the value of his investment in the land, the site, and the overall business will *grow*—e.g., because consumers find it's convenient to shop where the mall is located, or because an apartment complex is attractively designed and well-run. That's successful, entrepreneurial risk-taking—what the capital gains cut is designed to promote and reward.

Physical wear and tear on a building, and appreciation in the land and business value of a development, occur at the same time. For this reason the tax code has for more than 30 years recognized that a taxpayer may have capital gains at the same time the value of his physical assets is depreciating due to wear and tear and obsolescence.

For example, under current law if a \$4 million *physical structure* drops in value to \$3 million over 8 years (something the tax code assumes to be normal, economic depreciation due to wear and tear and obsolescence), while the \$1 million site underneath the building appreciates to \$2 million, the taxpayer gets the capital gains rate applied to the

ROAD TO RECOVERY

\$1 million gain in his land and overall development. Currently, that gain is taxed at a 28 percent capital gains rate, not the 31 percent ordinary rate. The \$1 million decline in the value of his physical assets due to wear and tear is taken over time as annual depreciation deductions.

The Administration's proposal changes this longstanding treatment and effectively denies that economic *depreciation* on physical assets takes place while there also may be *appreciation* in the location, design and other entrepreneurial aspects of the investment due to inflation and business factors.

In the above example, the taxpayer would be denied the ability to treat the \$1 million of appreciation in his land and business value as capital gains. That would be treated instead as ordinary income—a tax increase compared to current law. In effect, it is tantamount to denying the fact that physical assets wear out and must be replaced, and denying the taxpayer's ability to claim depreciation deductions. *In fact, this proposal is called depreciation recapture.*

In short, while the Administration is offering a lower capital gains rate, it isn't applying the new capital gains rate to the same things that currently enjoy capital gains treatment. It is actually proposing to impose *higher* ordinary tax rates on gains in real estate that are currently taxed at capital gains rates.

To make matters worse, the Administration's proposal to impose *ordinary* income rates on appreciation that is currently taxed as *capital gains* is retroactive—as it would apply to existing investments when sold, even though many owners elected slower depreciation benefits in the past to assure themselves of full capital gains treatment when they sold.

Far from stimulating owners to sell property, this proposal will increase the "lock-in" effect and make real estate markets even less liquid—aggravating today's problems.



ROAD TO RECOVERY

Facilitating Pension Fund Investment In Real Estate through REITs

PROBLEM

One real solution to the credit crunch is to make it more efficient and safer for pension funds to lend money to or invest money in real estate—the nation's most important tangible asset.

The Administration has made several proposals to advance this objective, but they omit one important feature.

Real estate investment trusts, which provide liquidity, are a key vehicle for investments in real estate and mortgages. However, current law makes it difficult for U.S. pension funds to invest in REITs.

The problem is truly a technical glitch. REITs must be widely held; no more than half of their shares can be held by five or fewer individuals. Even though a pension fund really represents the pooled investment of hundreds or thousands of pensioners, it is treated as a single "individual" for purposes of this rule.

Thus, if five pension funds hold more than half the shares of a REIT, the REIT is disqualified—even though many thousands of pensioners are effectively investing in the REIT.

The glitch gets even worse. *Foreign* pension funds enjoy a more favorable rule—they enjoy a "look-through" rule that treats only the pensioners as the "individuals" to which this rule applies, not the overall fund.

SOLUTION

To help alleviate the credit crunch, domestic pension funds should be provided with the same investment and liquidity opportunities that foreign pension funds enjoy in U.S. real estate.

Permit domestic pension funds to use the same "look-through" rule for making REIT investments that foreign pension funds use today.



ROAD TO RECOVERY

H.R. 3651:**Facilitating Work-Outs of Troubled Properties
By Rationalizing Rules for Debt Reductions****PROBLEM**

One of the fundamental problems facing the U.S. economy is working through the inventory of existing properties, and working out troubled loans secured by property.

Unfortunately, the tax law tends to "kick 'em when they're down" in the case of many work-outs. Work-outs are difficult enough in today's climate—the tax law shouldn't make things worse.

When a lender and an owner try to salvage a project, often both sides give a little. The owner gives up something, and the lender gives up something. The owner may put more cash into the deal, and the lender may write down the loan amount—effectively forgiving some of the owner's obligation.

Technically, that loan forgiveness is "income" to the owner. No one disputes that. The problem is determining *when* the IRS should be paid the taxes due on that amount.

If the taxpayer is bankrupt or insolvent, the IRS waits. Any reduction or forgiveness of the debt of a bankrupt or insolvent taxpayer is excluded from current gross income. Instead, that amount reduces the taxpayer's basis in property.

If the taxpayer is still solvent, however, the tax hit is immediate. There is no option to reduce the basis of property by the amount of the discharge—something that would stretch out the tax hit—as was the law prior to 1987.

This is the wrong time to be hitting a taxpayer with a large tax bill. It creates a disincentive for solvent taxpayers to cooperate with lenders, creates an incentive for them to consider costly and time-consuming bankruptcy proceedings, and may force them to sell other buildings at "fire sale" prices—aggravating the overall economic problem.

SOLUTION

Taxes from debt discharges should be collected on a deferred schedule, by allowing the amount of any debt discharge to be subtracted from the basis of any depreciable property owned by the taxpayer. That would mean fewer depreciation deductions in the future—a rational way of scheduling out the tax bill from a real estate work-out.

Congress should enact H.R. 3651, introduced by Representative Clay Shaw (R-FL). It would give troubled real estate owners the right to work-out properties without a current tax hit. This was permitted before 1987, and even today, farmers—who in 1986 found themselves in a similar cash crunch—are allowed the option.



ROAD TO RECOVERY

H.R. 3650: Rationalizing Treatment of Work-Outs Involving Loans Secured by Foreclosed Property

PROBLEM

One of the fundamental problems facing the U.S. economy is how to work-out troubled bank loans and troubled properties without undue distress to the nation's financial system.

Making it possible for lenders that foreclose on properties to sell them again in real estate markets is a key ingredient for an overall solution.

Generally, banks can make commercially reasonable, nonrecourse loans (loans secured only by the property, without personal obligation of the borrower), and there are no adverse tax consequences to the buyer.

Yet, the "at-risk" rules treat buyers differently when they receive seller-financing from banks, even on commercially reasonable loans. With such financing the tax law limits the extent to which the new owner can claim tax deductions. The concern here is that sellers and buyers might collude to set up a loan that artificially inflates the buyers' deductions.

Changes in other rules (e.g., imputed interest rules) during the 1980's have substantially limited the need for this nonrecourse seller-financing rule, particularly when applied to institutional lenders.

When this law was written, times were good and no one thought about when a bank foreclosed on property, found a buyer for the property, and wanted to make a nonrecourse loan to that buyer. Should this case be treated like all other commercially reasonable bank loans? Or should it be treated like seller-financing in the past? Current law treats it like seller-financing, and thus makes it difficult for lenders to work-out foreclosed properties.

SOLUTION

Congress should enact H.R. 3650, introduced by Representative Clay Shaw (R-FL). It would fill this gap in the law by providing that commercially reasonable nonrecourse loans by banks to buyers of foreclosed property would be treated like all other commercially reasonable bank loans—and would not be treated as "seller-financing" for purposes of the at-risk rules. There is no potential abuse here, since banks have no incentive and no ability to artificially inflate the amount of the loan.



ROAD TO RECOVERY

Ensuring Fair Tax Treatment for Leasehold Improvements

PROBLEM

One of the fundamental problems facing the U.S. economy today is how to absorb the oversupply of office and other space in many markets with minimum disruption to the economy—something that is difficult given the central place of real estate in the economy.

Helping to make the operation and management of *existing buildings* more economically feasible will keep projects from going into work-outs and foreclosures, and ultimately keep them out of the hands of the RTC or FDIC.

Leasehold improvements are such things as partitions, wiring, plumbing, etc., made to property that is subject to a lease. A good example is when an office building owner "builds-out" the space with custom walls and equipment to accommodate a new tenant entering into a five- or 10-year lease.

In practice, many leasehold improvements have no value beyond the expected term of a lease. This is because improvements are made to a tenant's specifications, and when the tenant leaves, the space is typically built-out all over again for a new tenant.

Current law bars tenants and landlords from amortizing leasehold improvements over the expected term of the lease—which is really their true useful life. Instead, taxpayers are required to depreciate such improvements over the 31.5-year useful life of real property (27.5 years for residential property).

This makes it more expensive to build-out space for tenants, and makes it more difficult for many existing commercial structures to be profitable. The 31.5-year rule is particularly harsh since leasehold improvements (e.g., internal walls, wiring, plumbing, etc.) in fact don't have the same useful life as an overall building (which includes foundations, bricks, steel girders, etc.).

SOLUTION

One critical change that would help construction employment without adding more space would be to rationalize the tax treatment of leasehold improvements.

The law should be changed to allow taxpayers to amortize leasehold improvements over their reasonably expected useful life—the way it was before 1987—taking into account the reasonably anticipated term of the lease.



THE WHITE HOUSE
WASHINGTON

February 26, 1992

CHIEF OF STAFF'S MEETING WITH DEFENSE LEADERS

DATE: Wednesday, February 26, 1992
TIME: 1:30 P.M.
LOCATION: Chief of Staff's Office
THROUGH: SHERRIE ROLLINS
FROM: SICHAN SIV
BILL CALDWELL
JIM SCHAEFER

I. PURPOSE

To get acquainted with key leaders in the Defense and National Security arena and to participate in a roundtable discussion on current issues which affect the defense and national security of the United States.

II. BACKGROUND

In response to the end of the Cold War the Defense Department is about to reduce its structure by 25% over the next five years. The key defense and national security leaders, who have traditionally been supportive of the President, have concerns over the drawdown of the Department of Defense.

The implications of a personnel drawdown will have an impact on the entire economy. Both the civilian and military work force will be effected. Concerns are being raised in terms of military readiness, reduced industrial output, and movement of over 1 million persons to the civilian work force.

The following are several important issues which may be discussed at the meeting:

1. Nuclear Weapons Proliferation.

Controlling the development and eventual destruction of nuclear weapons in the former Soviet Union is a key item of discussion. Perhaps the private sector could be engaged in this effort.

2. Promotion of democracy and capitalism in the C.I.S.

The United States' responsibility to assist in the efforts of these states to achieve democracy and market reform. A portion of our peace dividend should be used to ensure we do not have to again rearm.

3. Base Force.

The case for the base force must be clearly articulated. The war scenarios the press recently printed do not substantiate the base force. Although there may be additional reductions in the future, DoD must hold with the base force to ensure an orderly drawdown. Perhaps the Administration may need to acknowledge that further cuts may be made. The questions of streamlining the intelligence community, reducing staffs in the military and Congress are also areas of concern.

4. Restructuring of the Defense Industrial Community.

The Department of Defense will not want to modernize, unless it is absolutely essential. There is a question as to what degree the government should be involved in the transition of the industrial base to a market base. The critical technologies that need to be preserved also have to be identified.

5. Readiness.

A major concern is the high level of readiness required by a smaller armed force. Personnel stability and morale are also essential for an effective armed force and must be principal concerns of our military establishment. Any accelerated draw-down of personnel will challenge the services ability to properly provide for transition and to assure those still on active duty.

III. PARTICIPANTS

Mr. John Adams
Director of Governmental Affairs
The Retired Enlisted Association

Mr. Tyrus W. Cobb
President
Business Executives for National Security

Mr. Ken Cornell
Director, Finance and Administration
Navy League of the US

General William Eicher (Ret)
Vice-President
American Defense Preparedness Association

Judy Shreve, VP, Armed Forces Communications
Electronics Asso.

Mr. John M. Fisher
Chairman
American Security Council

MGen. Evan L. Hultman (Ret)
Executive Director
Reserve Officers Association

Mr. Doug Johnston
Executive Vice-President
Center for Strategic and International Studies

VAdm. Thomas J. Kilcline (Ret)
President
The Retired Officers Association

General Jack Merritt (Ret)
Executive Director
Association of the US Army

Mr. John Moore
Board of Director
George C. Marshall Institute

John Parachini
Director
Committee for National Security

IV. PRESS PLAN

White House Photographer.

V. SEQUENCE OF EVENTS

- Guests enter the Chief of Staff's office.
- Chief of Staff greets the guests/photo-op.
- Chief of Staff participates in Roundtable discussion.
- Guests depart.

VI. REMARKS

Talking points provided by the Office of Public Liaison.

February 26, 1992

**Chief of Staff's Meeting
with Defense Leaders
1:30 p.m. - 2:00 p.m.**

- On behalf of the President, I'd like to welcome you to the White House and take this opportunity to get acquainted with you and hear your thoughts on key issues pertaining to America's national defense.
- I know there are several issues of interest to many of you namely, the monitoring and eventual destruction of most of the former Soviet Union's nuclear arsenal,

- the promotion of democracy and capitalism in the former Soviet Union,
 - whether the eventual "draw down" of one million U.S. military personnel is adequate, given the end of the Cold War, and
 - the general restructuring of the Defense Industrial community.
- I know these are only a few of the possible issues for discussion. Given the number of topics, why don't we get started and hear your views on these and other topics.

92 FEB 26 P6:35 ✓

(Billing Code 6718.02.)

FEDERAL EMERGENCY MANAGEMENT AGENCY

CALIFORNIA

(FEMA-935-DR)

AMENDMENT TO NOTICE OF A MAJOR DISASTER DECLARATION

AGENCY: Federal Emergency Management Agency

ACTION: Notice

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA-935-DR), dated February 25, 1992, and related determinations.

DATED: February 26, 1992

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 646-3606.

NOTICE: The notice of a major disaster for the State of California, dated February 25, 1992, is hereby amended to include Individual Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 25, 1992:

The counties of Kern, Los Angeles, Orange, San Bernardino, and Ventura for Individual Assistance.
(Previously designated for Public Assistance.)



Grant C. Peterson
Associate Director
State and Local Programs and Support
Federal Emergency Management Agency

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20500

DCF HAS SEEN

Michael R. Deland
Chairman

February 27, 1992

File

(202) 395-5080

MEMORANDUM TO CHIEF OF STAFF SKINNER

FROM: MICHAEL R. DELAND

SUBJECT: STATUS-TELEPHONE QUEUING FOR EMISSION ALLOWANCES

Current status: EPA is reviewing comments received on proposed mechanisms to distribute Phase I extension allowances for achieving early control of sulfur dioxide. Upon completion of review, EPA will brief the Council on Competitiveness and other White House officials on their thinking for a final rule. This is likely to occur within the next few weeks.

Background: The issue is the mechanism by which approximately 3.5 million allowances are allocated to utilities who basically commit to early installation of scrubbers. The public comment period ended February 12 on proposed mechanisms for EPA to distribute emission allowances for advanced pollution control (scrubbing.) The letters you have received are often from mid-west interests who are concerned about EPA's proposed telephone queuing system to distribute the allowances.

EPA's all or nothing telephone queuing system was proposed based on negotiated advice from their Acid Rain Advisory Committee and the language of the statute that the allowances shall be distributed "in order of receipt." The EPA also asked for comment or is considering other distribution methods such as: standing in line, a lottery, pro-rata distribution of the total among all those who apply, and some measures inbetween.

Current trade estimates are that the 3.5 million allowances will be over-subscribed so the queuing system will leave some people with nothing.

Our understanding of the key positions are:

EPA position: They are reviewing all approaches. (Based on a quick scan of the comments, very few comments were in favor of telephone queuing, many favored a pro-rata system. In general, high sulfur coal interests and mining workers prefer pro-rata; low sulfur prefer queuing; utilities split, but want EPA to pick any method soon.)

OMB position: That the language of the statute (in order of receipt) rules out pro-rata. Given that these allowances can be viewed as a subsidy, it may be desirable to limit the number of recipients of the subsidy.

THE WHITE HOUSE
WASHINGTON

DATE: February 25, 1992

TO: Mike Deland

FROM: SAM SKINNER

Status, please.

RICHARD J. DURBIN

20TH DISTRICT, ILLINOIS

AT-LARGE WHIP

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON AGRICULTURE AND
RURAL DEVELOPMENT

SUBCOMMITTEE ON TRANSPORTATION

COMMITTEE ON THE BUDGET

SELECT COMMITTEE ON CHILDREN,
YOUTH AND FAMILIES



Congress of the United States

House of Representatives

Washington, DC 20515

February 18, 1992

129 CANNON BUILDING
WASHINGTON, DC 20515
(202) 225-5271

525 SOUTH 8TH STREET
SPRINGFIELD, IL 62703
(217) 492-4062

363 SOUTH MAIN STREET, ROOM 110
DECATUR, IL 62523
(217) 428-4745

531 HAMPSHIRE STREET, ROOM 305
QUINCY, IL 62301
(217) 228-1042

DCF HAS SEEN

The Honorable Dan Quayle
Vice President of the United States
Old Executive Office Building
Washington, D.C. 20501

Dear Vice President Quayle:

We are writing to urge the Council on Competitiveness to reject the U.S. Environmental Protection Agency's proposal to award Phase I Clean Air Act bonus allowances on a first-come first-serve basis rather than a pro rata distribution.

It is our understanding that the Council on Competitiveness will have an opportunity to review the USEPA's proposed regulations for the distribution of "bonus allowances" provided by the Clean Air Act Amendments of 1990. As Chairman of the President's Council on Competitiveness you have a unique opportunity to reduce the adverse impact of the Clean Air Act on the economy of the Midwest and to encourage the development of technologies which will increase our nation's energy security.

Under the Clean Air Act Amendments of 1990, utilities which choose "scrubbers" are eligible for "bonus allowances." USEPA has proposed to allocate these bonus allowances based on a first-come first-serve basis. However, this approach will deprive many utilities of the extra allowances they need to cover their excess emissions during installation of the scrubbers and to make the installation of this technology economically feasible.

The bonus allowances provide critical incentives for utilities to use scrubbers. Without these bonus allowances, many utilities will be forced to switch from Midwestern coal to low-sulfur Western coal to comply with the emissions standards of the Clean Air Act. This will result in the loss of thousands of jobs in the coal industry and have a devastating effect on Illinois' economy.

Pro rata distribution will allow more utilities to qualify for bonus allowances if they choose to use scrubbers. This will not only prevent further job losses in the coal industry, but it will encourage the development of clean coal technologies. The pro rata system will also increase market incentives to choose the most cost effective way to comply with the requirements of the Clean Air Act rather than basing such decisions on the arbitrary results of a queuing system.

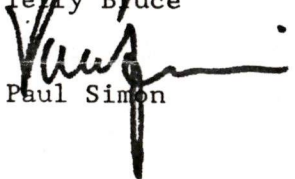
To Mike
DeLard
Status 3

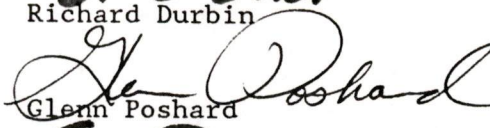
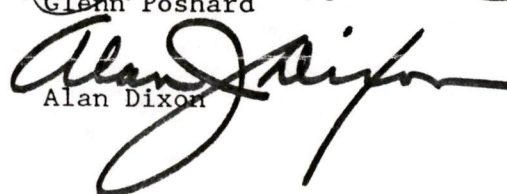
Being from Indiana, I'm sure you appreciate the economic hardship experienced by the Midwest and the importance of preventing further job losses. As Chairman of the Council on Competitiveness, we urge you to reject EPA's proposed regulations for the distribution of bonus allowances and to support modifications which will protect coal mining jobs in the Midwest.

Thank you for your attention to this matter.

Sincerely,


Jerry Costello

Terry Bruce

Paul Simon


Richard Durbin

Glenn Poshard

Alan Dixon

cc: Samuel K. Skinner

U.S. DEPT OF
TRANSPORTATION

92 FEB 20 PM 1:50

OFFICE OF SECRETARY
OF TRANSPORTATION
EXECUTIVE SECRETARIAT

THE WHITE HOUSE
WASHINGTON

February 27, 1992

MEMORANDUM FOR: SAM SKINNER
FROM: CLAYTON YEUTTER 

Sam, I had a telephone call last week from John Rollins, a big Administration supporter and one of the nation's most successful businessmen. John is from Wilmington, Delaware, and has a whole variety of business investments. He is always candid so I thought you'd appreciate his comments on our tax proposals.

His general evaluation is that we drummed up a whole host of propositions that cost very little, and lumped them together to make what would hopefully be a salable package. He is not terribly impressed, his critique being that though they don't cost anything, they don't do anything either!

Finally, his general comment on the State of the Union speech was that we "can't have 12 messages!" His view is that when we try to shove that much at a listener, the listener will not remember anything.

cc: H. Moore
D. Demarest

10 Boe
FUI
8

File -
Forward to
Sector



OFFICE OF THE
CHIEF OF STAFF
COVER PAGE

TO: Mary Lukens

FROM: Sandy Bushue

TOTAL NUMBER OF PAGES: 2
(including cover page)

DATE: 3-2-92

TIME: 6:45 AM

MESSAGE:

Good Morning Little Lady!

Mr. S. would like Mr. T.

to see this memo from Yeutter!

As a caveat, I really enjoy
working with you. You're the greatest!!

If you have any questions or problems with the transmission, please call:

202-456-6797

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN

OCF
2/2

file

Read 3-15

SHOW
POTUS

CB

February 28, 1992

MEMORANDUM FOR SAMUEL K. SKINNER
CHIEF OF STAFF

FROM: C. BOYDEN GRAY *CB*
COUNSEL TO THE PRESIDENT

SUBJECT: Implementation of Beck decision

This memorandum responds to your request for a summary of the Beck issue. Because this issue is very contentious and has a somewhat tortuous history, I decided to provide you with a lengthier analysis.

The Beck decision. In 1988, the Supreme Court in Beck held that a union may not, over the objection of a non-member employee,¹ expend dues or fees collected from that employee pursuant to a union-security clause on activities unrelated to collective bargaining, contract administration or grievance adjustment (so-called "core" or "representational" activities). In particular, a union may not spend an employee's fees or dues for political or other "non-representational purposes," over the objection of the employee. The decision was rendered under the National Labor Relations Act, and followed Supreme Court decisions under the Railway Labor Act and under 42 U.S.C. 1983 and the First Amendment (public employees).

The Beck decision is not self-executing. Because no law or regulation requires unions or employers to notify employees of these protections, and unions have a strong financial disincentive to provide such notice, many employees do not know

¹A major issue is whether union members may also object to the expenditure of their dues for political or other non-representational purposes. (The employees in Beck were nonmembers.) In 1988, the General Counsel of the National Labor Relations Board issued guidance to all field offices that members should have the right to resign their full membership in order to object their objection, and that the union must honor the resignation and objection. This guidance is not (yet) the position of the Board; only the position the General Counsel's office is pursuing in adjudications. This precise issue is before the Board in an adjudicatory proceeding.

of their rights. Indeed, some unions and employers claim ignorance of the ruling. A related problem is that employees are often hindered or frustrated in their attempt to object to the use of their dues for non-representational purposes.

Why implementing Beck is important, and contentious. The Beck issue has great potential for mobilizing the support of the more than 15 million American workers who are unionized. Union dues and fees average \$330, but may run as high as \$500 or more, per employee, per year; only 10-25% of this amount has historically been expended for core union activities. There is a lot of money at stake here: union PACs contributed \$37 million in the 1987-88 Federal election cycle alone, and this does not count the much larger soft money expenditures. Organized labor knows it has much to lose if a large number of nonmember employees object and other union members resign their membership to object. But on the merits, there is not much that can be said against enforcement of the rights recognized by the Supreme Court (in a decision authored by Justice Brennan) in Beck. And Common Cause has sided with the Right to Work Committee and the Heritage Foundation in calling for enforcement of Beck. Still, any steps the Administration takes to implement Beck are sure to antagonize organized labor.

The history of Administration initiatives to implement Beck. Soon after the Beck decision, President Bush included a Beck enforcement provision in his 1989 campaign finance reform package that was sent to Congress, but nothing has come of it. Neither the Senate-passed nor the House-passed campaign finance reform bill pending now in conference contains any Beck provision. So long as the Democrats control Congress, there is virtually no prospect for meaningful Beck legislation.

Even in 1989, when the President sought legislative reform, attention was also turned to what the Executive Branch could do. In 1989, the National Right to Work Legal Defense Foundation petitioned the Labor Department to issue a rule requiring the posting of workplace notices advising employees of their Beck rights. Later, Right to Work requested that the Labor Department revise the financial report form (LM-2) required of unions (and publicly available) to specifically require unions to report their expenditures on political and other non-core activities. A group of about 50 House Republicans has twice written the Labor Secretary, most recently Secretary Martin, echoing these requests. Under three Secretaries, the Labor Department has taken no action on either request, deferring to the President's legislative proposal (until late last year) and expressing doubt about the extent of its authority to take either step. Critics suspect that the Department has been reluctant to take any action

that would upset organized labor or its support on the Hill.²

The National Labor Relations Board, the primary agency to implement Beck, has done little in the three and one-half years since Beck was decided. Critics suspect that the Board is hostile to the decision (the Board, as well as the Justice Department, was on the losing side of the case), or at least, like the Labor Department, reluctant to take actions that are guaranteed to antagonize organized labor. (The Board is considered an independent agency because there are statutory restrictions on the President's power to remove Members of the Board.)

The Board has traditionally implemented the NLRA through adjudication.³ In 1988, the General Counsel (who serves at the pleasure of the President) issued guidance to all field offices for their use in handling and issuing complaints. The General Counsel has now initiated a good number of complaints seeking to enforce Beck against recalcitrant unions, and has sought to consolidate cases to frame common legal issues for the Board. But all complaints must go to an administrative law judge before being considered by the Board. ALJ's typically hold protracted evidentiary hearings. As of this writing, only two Beck cases are before the Board, both of them filed within the last three months. However, in 1991 the Board remanded to ALJ's for hearing two cases previously submitted to the Board on stipulations. Given the Board's adjudicatory process, it is unlikely that key Beck issues will be decided in the near future.

Criticism of the Administration's three years of inaction increased significantly last summer. House Republicans, Right to Work, Heritage, Charlton Heston, and an editorial in the Wall Street Journal all called on the President to do something to implement Beck. Charlton Heston met separately with me and Secretary Martin, meetings that were reported in a Jack Anderson column, and wrote the President. In September the President saw the Journal editorial, and inquired of Roger Porter "Where do we stand in implementing (enforcing) the Beck decision?" Both Roger Porter and I responded to the President's question. About this

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At the request of Jim Stephens, Chairman of the NLRB, I met with him initially last October to discuss the Beck issue.⁴ At that meeting the Chairman agreed with me that the Board should consider a rulemaking to mandate workplace notification, as well as to determine a number of Beck-related issues wending their way through the adjudicatory process.⁵ I also indicated that we were looking to the Labor Department, not the Board, to revise the financial reports.

After many more meetings and discussions between my staff and other White House officials, including one or more discussions between the Secretary and the Vice President, **the Labor Department will soon issue a proposed rule to revise the LM-2 Form.** Marshall Breger, Solicitor of Labor, told me yesterday that he believes the proposed rule will be ready to be sent to OMB as early as March 6. As revised, this report will require unions to spell out their expenditures in a number of functional categories. Whether a particular expenditure in a functional category is non-representational, and therefore an expenditure that may not be made with the dues of objecting non-members, is primarily for the Board (and ultimately the courts) to determine. But the LM-2 Form will provide sufficient notice to employees that a substantial amount of their dues are going to political and other non-core activities.

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Because nothing is public at this time, the Administration has continued to receive criticism from Right to Work and others. The campaign's response to Right to Work's questionnaire on Beck was edited by our office to state in pertinent part, "But I won't wait for Congress to act. My Administration has begun to take significant steps to ensure that workers are informed of their rights recognized by the Supreme Court in 1988 in the Beck decision, and that they are allowed to exercise them without hindrance, intimidation or coercion." Without some tangible Administration action, this response was deemed inadequate by Right to Work. In several mailings to its membership before the New Hampshire primary, Right to Work compared the campaign's response unfavorably to Pat Buchanan's, and carrying at least an implicit suggestion to exercise a protest vote.⁶

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THE WHITE HOUSE
WASHINGTON

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POTUS

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