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December 18, 1992

Mr. Robert Zoellick
Deputy Chief of Staff
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

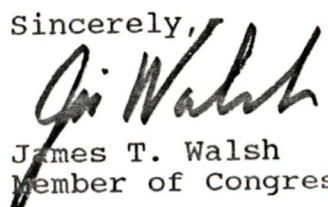
Dear Mr. Zoellick,

I am writing on behalf of the physicians in my district who support the recent recommended changes in the Clinical Laboratory Improvements Act of 1988.

Since passage of CLIA '88 there have been many concerns over the burdensome regulations that accompanied this Act. The changes proposed by Dr. Louis Sullivan will bring some relief to the practitioners who must comply with the new regulations. While more modifications will be necessary, this is a good start and I hope that the recommendations by Dr. Sullivan will be implemented immediately and not put on the back burner for the next administration.

Please contact me as soon as possible with information on the progress of Dr. Sullivan's proposed changes.

Sincerely,


James T. Walsh
Member of Congress

JTW:mjc

Z, I am told that OMB Jim Macrae (395-4852) is handling this subj, since Tom Scully has now left.

Shd I ask him to

respond w/yr signature on this letter —

respond directly to this inquiry —

Co 1/4

1/5 Pls ask Tosh or Nick to handle, as appropriate, working with Jim Macrae.



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

31 December 1992

MEMORANDUM FOR ROBERT ZOELICK

FROM:

PAUL GILMAN

SUBJECT:

USDA'S 1993 COTTON ACREAGE REDUCTION PROGRAM
(Decision Requested)

Purpose: To select the cotton acreage reduction level that best fulfills statutory requirements, enhances farm incomes, and achieves deficit reduction. OMB recommends a 10 percent level for the reasons described below.

Action Forcing Event: The 1990 Farm Bill requires USDA to announce the final acreage reduction level by December 31st. OMB disagrees with the level proposed by Secretary Madigan and he would like to speak with you to resolve the impasse.

Background: The Administration has achieved real savings in certain farm subsidies. In the cotton program, however, outlays have increased significantly: from \$382 million in FY 1991 to an estimated \$2.4 billion for FY 1993, and \$2.3 billion for FY 1994.

The acreage reduction program (ARP) for a specific commodity like wheat, corn, or cotton helps to control Federal expenditures. By reducing planted acres and thereby decreasing production for a commodity, it serves to increase market prices. When market prices are higher, Federal outlays for income-support payments to farmers fall. By statute, the cotton ARP selected must lead to a 30 percent stocks-to-use ratio (the ratio of end-of-year stocks to that year's total domestic use plus exports).

Last year the cotton ARP was 10 percent. For the 1993 preliminary ARP, announced November 1st, USDA chose 7.5 percent despite OMB's dissent. Since the October preliminary analysis, USDA's estimate of cotton production is up eight percent. The ARP level that now comes closest to the required stocks-to-use ratio is 10 percent, by USDA's own analysis. Nonetheless, the Department insists on the 7.5 percent ARP. Since conditions have changed, OMB believes the ARP should be changed accordingly.

Cotton ARP Should Be Higher Than 10 Percent -- OMB analysis indicates that the ARP should be even higher (12.5 percent). OMB takes into account an increase in the price-support loan rate for cotton that USDA announced in October. This is the rate upon which cotton subsidies are based and which has been maintained at the minimum authorized level since the 1980's. USDA in October

1/5 To → Bob Brady
Pls handle as
we discussed &
agreed with Sec
Madigan.
Thanks
your agent
RBZ

increased the cotton loan rate to the maximum permitted. This greater subsidy will encourage even more cotton production that USDA has not factored into its analysis.

Producer Net Income Will Not Change Significantly -- With a higher ARP, producer income declines. According to USDA figures, if the ARP is set at 7.5 percent, producers will see an increase in total net returns in 1993 of \$144 million (as compared to an increase of \$39 for 1992 over 1991). Income changes little with a higher ARP (-\$20 million) because, notwithstanding their reduced acreage, producers are receiving a higher price in the market for their product, and have lower costs of production.

To provide the estimated \$20 million more income to producers with the 7.5 percent ARP, USDA must spend \$129 million; in effect, a Federal outlay of \$6.45 for every dollar boost in farm income.

Cotton Council Reaction -- The Cotton Council, an industry trade group, supported the lower 7.5 percent ARP. Its rationale concerned the fact that it believes that ARPs have little effect on the domestic market price, because world production would displace the reduced U.S. production. However, because the U.S. maintains a quota on cotton imports, domestic prices will depend upon domestic supplies and not vary substantially depending on world reaction.

As far as any implications for the GATT that the Council also mentioned, there is no difference between a 7.5 percent ARP and a 10 percent ARP, particularly since it is the same as last year's. Only by moving to a zero ARP could we send any dramatic signal to the Europeans (who are not major cotton producers anyway).

The reduction in projected exports under a 10 percent ARP is slight (100 thousand bales, or 2 percent of projected exports). Achieving this 2 percent increase using the 7.5 percent ARP would be at a cost of \$129 million (which, on a per bale of cotton basis, is four times the market value of the cotton).

Texas Producers -- In 26 counties in Texas, planting operations may have commenced. If a 10 percent ARP is selected, it must be determined if these producers would be unfairly disadvantaged by the change from the preliminary ARP. In that case, Secretary Madigan has the option of allowing those producers to continue to use the preliminary 7.5 percent ARP.

Recommendation: The USDA should announce a 10 percent ARP.



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

Executive Associate Director

December 29, 1992

MEMORANDUM FOR ROBERT B. ZOELICK

FROM:

Robert E. Grady *Bob G.*

SUBJECT:

Possible Presidential Remarks at International Meeting of Scientific Experts on Biodiversity

As you may recall, one of the President's promises at the UNCED summit in Rio de Janeiro last summer was to advance the state of world knowledge of biodiversity. At that time, the Administration offered to host a meeting of international experts to assess the current state of data and to promote international cooperation in developing inventories.

A meeting is now scheduled to be hosted by the Smithsonian Institution in Washington DC from Monday, January 11 to Friday, January 15, 1993. Tom Lovejoy has been the point person for the U.S. government in organizing the meeting.

The question arises as to whether the President might want to make a brief speech at the meeting. This may be a chance for him to highlight his Administration's record on the environment.

A one page fact sheet describing the meeting is attached for your information.

cc: Kathy Super

Attachment

12/30
→ Bob Grady
As we discussed, I suspect he'd rather have you represent all of us!
RBE

P.S. I am assured that no one from the "Amerika with a k" school will be present.

[Signature]

FACT SHEET
INTERNATIONAL MEETING OF SCIENTIFIC EXPERTS AT THE SMITHSONIAN
INSTITUTION, WASHINGTON, D.C., TO DISCUSS BIODIVERSITY
Monday, January 11 to Friday, January 15, 1993

HOSTED BY: The Smithsonian Institution

CONVENED BY: The United States Government

ORGANIZED &
SUPPORTED BY: A consortium of U.S. Federal agencies

MEDIA: Open

PURPOSE: (1) To fulfill one of the President's commitments made at the UNCED summit in Rio de Janeiro last summer to advance international cooperation on biodiversity surveys, inventories and data organization. At that time, the Administration offered to host a meeting of international experts to advise nations on such biodiversity issues as data comparability and inventories.

(2) The meeting is intended to explore priorities for inventories and how information can become more standardized so that meaningful comparisons and trends can be determined on both national and global scales. It will also focus discussion on how the planet's biodiversity experts can make their work more accessible to each other.

NOTE: A written report of the meeting will be compiled.

INVITEES: (1) Approximately 40 scientific experts from more than 10 countries.

(2) Roughly 60 observers from a number of nations, international organizations, non-governmental organizations and other interested groups.

PROPOSED AGENDA:

TOPIC 1 -- Consideration of uses and users in data collection for inventories and surveys.

TOPIC 2 -- Consideration of priorities for data collection for inventories and surveys.

TOPIC 3 -- Consideration of scale in data collection for inventories and surveys.

TOPIC 4 -- Consideration of scientific standards in data collection for inventories and surveys.

TOPIC 5 -- Developing an international framework for data collection for biodiversity inventories and surveys.

DISTRIBUTED MATERIAL: An invitation, a proposed agenda, and a description of the US Proposal were distributed by the Smithsonian to the invitees in December 1992.

ADVANCE WORK: At the meeting, the scientific experts will participate in pre-assigned work groups. Two co-chairs for each group have been chosen and asked to begin appropriate coordination.

LIKELY BUDGET: \$80,000. The following agencies have pledged contributions in the amounts indicated: USDA, \$25,000+; State, \$25,000; DOI, \$25,000; EPA, \$20,000; and NSF, \$10,000. Total amount presently committed: \$105,000. The Smithsonian will advance any necessary cash and will in turn receive the required Federal reimbursement.

THE WHITE HOUSE

WASHINGTON

January 7, 1993

MEMORANDUM FOR ROBERT B. ZOELICK
ROGER B. PORTER

FROM: MICHAEL FROMAN *MF*
SUBJECT: Extruded Rubber Thread

This morning, the TPSC Sub-Committee met to consider the Section 201 case concerning extruded rubber thread imports from Malaysia.

With the exception of the Department of Labor, all agencies agreed to recommend that the President adopt the determination of ITC Vice Chairman Watson and Commissioners Brunsdale and Crawford that the imports of extruded rubber thread are not a substantial cause of serious injury to U.S. industry and that no further remedy is necessary.

The Department of Labor continues to argue in favor of finding serious injury but not recommending further relief. Given the fact that they agree with the rest of the TPSC that no further relief is necessary, it is unlikely that they will ask for a TPRG to consider this issue further.

USTR is currently preparing the final paper for interagency clearance. Ambassador Hills is expected to forward her recommendation to the President early next week for a decision by Friday, January 15, 1993.

cc. Josh Bolten

To Roger Porter / M. Froman

Given that most of us will be out by 1/15, I hope you can work with USTR to get this moving towards ASAT? I'd hate to leave one more opportunity for protectionism.

*THK
RBZ*

THE WHITE HOUSE

WASHINGTON

December 23, 1992

MEMORANDUM FOR ROBERT B. ZOELLICK

ROGER B. PORTER

FROM: MICHAEL FROMAN *mf*

SUBJECT: Extruded Rubber Thread

12/23

To → Roger Porter
Michael Froman

① THX
② What handling at USTR?
③ See * below: I'm wary
of letting the effort to get a
unanimous drag this
me out

Earlier this week, you asked me to keep you informed of a result that developments concerning extruded rubber thread. This morning, a TPSC Sub-Committee met to consider the report submitted on Monday by the U.S. International Trade Commission (ITC). *our 3 Commissioners*

- The TPSC is considering three issues: 1) whether the imports of extruded rubber thread are causing a serious injury, 2) if so, whether to provide a remedy, and 3) if yes, what type of remedy to provide.
- Three ITC Commissioners found no serious injury and therefore recommended no remedy (*i.e.* the negative determination). The other three Commissioners found serious injury and recommended imposing a quota on imported extruded rubber thread which would, in effect, grant 50 percent of the U.S. market to domestic producers (*i.e.* the positive determination).
- The President need not adopt either position in entirety. He can, for example, find a serious injury but decide not to provide a remedy, given the fact that the imported product has already been removed from the GSP list and is subject to anti-dumping and countervailing duties. Some agency representatives on the TPSC, however, are reluctant to make that recommendation.
- Most of the agencies appear to be inclined toward recommending that the President adopt the negative determination. There is at least one member of the TPSC, however, who finds the positive determination of injury persuasive, and there are a few who have requested further time to examine the issue (*e.g.* Labor, Commerce).
- The TPSC Sub-Committee will meet again in early January with the goal of reaching a consensus. In the meantime, Bill Primosch (NSC) and I are working with USTR to begin preparing the necessary papers to expedite a decision should a consensus be reached.

What do you
suggest to
get this done
in a way
consistent w.
open market?

THX

RBE
cc Josh Bolton

I will keep you informed of further developments early in 1993.

THE WHITE HOUSE
WASHINGTON

December 21, 1992

MEMORANDUM FOR ROBERT B. ZOELLICK

FROM: ROGER B. PORTER *RBP*
SUBJECT: Extruded Rubber Thread

At this morning's senior staff meeting, you inquired about the extruded rubber thread issue that was reported in last Friday's Wall Street Journal.

I asked Mike Froman of our staff to look into it. A copy of his brief report is attached. He will continue to follow it and keep us informed.

If you have any questions, please let me know.

12/21
To → Roger Porter
① Thx
② Could you please keep me informed?
③ My inclination is the same as NSC's
Thx again

cc: Michael Froman

RBZ

cc Michael
Froman
Dan Carse (Cub Affairs)

THE WHITE HOUSE
WASHINGTON
December 21, 1992

MEMORANDUM FOR ROGER B. PORTER

FROM: MICHAEL FROMAN *M.F.*
SUBJECT: Extruded Rubber Thread

This morning, you inquired about the Wall Street Journal article of Friday, December 18, 1992, concerning extruded rubber thread.

- On October 14, 1992, the U.S. International Trade Commission (USITC) voted 3-3 on whether extruded rubber thread is being imported into the United States in such increased quantities as to be a substantial cause of injury, or threat thereof, to a U.S. industry producing an article like, or directly competitive with, the imported article.
- Under Section 201, following a tie vote, the USITC completes a report of the affirmative finding, including recommendations of any remedy or remedies, and submits it to the President for decision. The Commissioners who found in the negative may also submit their finding and reasons.
- Within 60 days of receiving this report, the President must make a decision based upon the findings of either group of Commissioners. If he finds for the affirmative, he "shall take all appropriate and feasible action within his power which [he] determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs."
- The Commissioners' report is expected to be submitted to USTR late today and will be available tomorrow. The 60-day deadline for a decision is February 19, 1993.
- As the attached Wall Street Journal article indicates, in the past year extruded rubber thread from Malaysia has already been removed from the GSP list and has been subjected to anti-dumping and countervailing duties.
- Extruded rubber thread is used primarily in the making of elastic. There are two small producers (*i.e.* 150 employees) of extruded rubber thread in Falls River, MA, one of which brought this case to the ITC. The more numerous and larger producers of elastic who purchase imported extruded rubber thread, primarily from Malaysia, oppose further tariffs and

threaten to move offshore should tariffs be raised.

- USTR has convened a TPSC Task Force to consider this issue on Wednesday, December 23, 1992. At that meeting, all interested agencies are invited to give their opinion as to the decision the President should make.
- NSC is arguing in favor of making a decision before January 20, 1993. USTR believes that most agencies will urge the President to find in the negative, and thereby end the case, rather than impose further measures against imported extruded rubber thread.

I will keep you informed of developments later in the week.

By JAMES BOVARD

Last Friday, Bill Clinton nominated Laura Tyson — one of the nation's premier advocates of managed trade and industrial policy — to be chief of his Council of Economic Advisers. Coincidentally, the U.S. International Trade Commission on Monday will drop on President Bush's desk a textbook case of protectionist industrial policy. The government is on the verge of devastating dozens of manufacturers in a vain attempt to compensate two small companies for the fact that rubber trees do not grow in America.

Rubber thread is a key component of the waistbands of panties and other underwear, sock tops and bungee cords. The ITC's three Democrats — David Rohr, Don Newquist and Janet Nuzum — recently voted for an added tariff of as much as 25% on rubber thread imports. Imports from Malaysia, the main supplier, are already hit by various tariffs totaling 29%; the new levy will raise the tariff to 54%. The ITC's three Republicans — Anne Brunsdale (the Reagan-Bush administration's unsung hero of free trade), Carol Crawford and Peter Watson — voted against providing added protection.

After the two ITC factions forward recommendations to the White House, the president will have 60 days to decide whether to impose new barriers. If Mr. Bush passes the buck, Mr. Clinton will have to decide the case early on.

Rubber thread is composed primarily of latex, and Malaysia produces most of the world's latex from its rubber trees. Latex, which accounts for more than half the cost of producing rubber thread, is extremely expensive to transport, and Malaysian producers have many advantages from being next to the rubber plantations. The ITC concluded that, for 1990, the average cost of producing rubber thread was \$1.79 a pound for U.S. companies but only 77 cents a pound for Malaysian companies. But, American trade policy makers refuse to be intimidated by mere facts of geography.

Though rubber thread imports are already heavily taxed, two Falls River, Mass., companies — Globe Manufacturing Co. and North American Rubber Thread Co. — want more. Globe and NART petitioned the ITC to impose more tariffs on Malaysian rubber thread imports to give themselves a chance to charge higher prices and modernize their equipment.

The two petitioners have fewer than 150 workers employed making rubber thread, while total employment in U.S. companies using rubber thread is more than 3,000. Thus, additional protection could destroy 20 times as many jobs as it saves.

Globe and NART have been loudly damned by their American customers. Thomas Butler, president of Norbut Manufacturing Co. of Falls River, complained to the ITC that his company experienced "three weeks of constant rubber breaks in our [rubber] covering machines" after buying thread from NART. Michael Asheghian of Elastic West Industries of Los Angeles declared, "Because of late deliveries and sticky rubbers, the U.S. producers cannot meet customers' needs." Dave Casty, president of Elastic Corp. of America, the largest purchaser of rubber thread in the U.S., denounced the petition at an ITC hearing: The rubber thread industry "abdicated that whole marketplace years ago." (Even with high levels of protection, NART and Globe could not possibly supply American demand.)

The 29% tariff on Malaysian rubber thread imports is already pummeling rubber thread users. John Elliott, president of Rhode Island Textiles, which produces elastic, complained that his firm recently lost "a very large customer" in Los Angeles to a Hong Kong firm that can buy rubber thread at world prices (roughly 30% to 40% below current U.S. prices) — and must pay only an 8% U.S. tariff on its elastic exports. The high tariffs are also undercutting U.S. companies' efforts to export American-made elastic.

The ITC's Democrats even propose adding new tariffs on a specific type of rubber thread not produced in the U.S. Food-grade rubber thread is used for mesh wrapping for hams and other meats, and strict production controls are necessary to avoid carcinogens. Timothy Carroll of C&K Manufacturing of Westlake, Ohio, railed: "I cannot fathom what the U.S. industry hopes to gain by requesting additional duties and quotas on this product when they don't produce them." Mr. Carroll also worried about the danger to U.S. companies of using tainted American-made thread: "All we have to do is have one product not meet the statute, and we are sued and we are out of business."

Trade barriers divert capital from more productive to less productive uses. Globe is reaping large profits from producing Spandex — a frequent substitute for rubber thread. ITC Commissioner Nuzum asked Globe's Bob Bailey: "If you have essentially two different opportunities and one gives you a better return on your dollar, why isn't it that you would continue to devote more resources towards that more profitable line?" Mr. Bailey replied: "Because we still want to be a full service manufacturer. We don't only want to make Spandex." But corporate vanity should not drive U.S. trade policy.

According to U.S. trade law, before the president can impose these special higher duties, he must conclude that they would "provide greater economic and social benefits than costs." The U.S. government, by trying to forcibly enrich two small companies, could export a much larger industry. Several manufacturers warned the ITC that they may move their operations overseas if the ITC imposes new restrictions on rubber thread imports. The rubber thread case vivifies the essence of protectionism — politicians intervening to allow floundering American companies to take successful American companies hostage. As Mr. Casty of Elastic Corp. warned, "If we lose that competitive entreprenuring edge by actions like this, we just put America 50 leagues behind the rest of the world."

Mr. Bovard writes often on trade.

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directors, the board also is said to be trying to recruit respected executives from corporate America. But one executive close to

By JOHNNIE L. ROBERTS
AND LAURA LANDRO
Staff Reporters of THE WALL STREET JOURNAL
NEW YORK

ists

THE WHITE HOUSE
WASHINGTON

December 21, 1992

MEMORANDUM FOR BOB ZOELLICK

FROM:

DANIEL CASSE *DC*

SUBJECT:

ITC Rubber Thread Issue

In response to your inquiry regarding the Wall Street Journal article on rubber thread I've learned the following:

- On Wednesday, a USTR trade policy task force will meet to discuss the ITC recommendations on rubber thread. (Representatives of the NSC and the Office of Policy Development are members of this task force.)
- The task force will then make recommendations to Ambassador Hills; if she deems it appropriate, Hills will submit a recommendation to the President.
- The President then has 60 days to decide on the USTR recommendation.

12/21

Dan,

Thks

*Pls see Roger Porter & / or Mike Froman of ORP
re this step. -- they sent me a note explaining
the inclusion going into the TRSC.*

BSZ

THE WHITE HOUSE

WASHINGTON

December 17, 1992

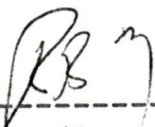
MEMORANDUM FOR BOB ZOELLICK

FROM: EDE HOLIDAY ^{val} ^{for}
BOBBIE KILBERG **OK**

SUBJECT: SECRETARY CARD REPRESENTING THE PRESIDENT AT THE
INAUGURATION OF PUERTO RICO GOVERNOR ROSSELLO

The Governor-elect of the Commonwealth of Puerto Rico, Dr. Pedro Rossello, has invited the Secretary and Mrs. Card to be the guests-of-honor at the governor's inauguration on January 2nd.

The Governor-elect would like to have the Secretary and Mrs. Card designated as the President's official representative at the event. Secretary Card is very willing to attend the ceremonies in that capacity, especially given his work with the Commonwealth during his tenure here.

 12/21/92

(Approve)

(Disapprove)

Original returned to Bobbi 12/21; she will notify Secretary Card. CDJ

cc: Tony Benedi

12-15
To: Tony Beron
From: Jim Jimball
to all
J
Q



The Secretary of State
San Juan, Puerto Rico

45-6208 Reto Rinc
Jan 2
• FAX - 1001
Message
orig: Kim
cc: S-10
12-14

December 9th, 1992

The Honorable
Andy Card
Secretary
Department of Transportation
Washington, D.C.

Dear Mister Secretary:

On behalf of the Government of the Commonwealth of Puerto Rico, we request the pleasure of your company, and Mrs. Card's as honor guests at the Inaugural Ceremonies of the Governor Elect of the Commonwealth of Puerto Rico, Doctor Pedro Rosselló, on Saturday, the second of January, in San Juan.

The Department of State of Puerto Rico will be glad to make all necessary arrangements during your visit, and we hope they meet with your approval.

Please let us know by fax if you, and your distinguished wife, will honor us with your presence.

We avail ourselves of this opportunity to express to you, Mister Secretary, the assurances of our highest consideration.

Salvador M. Padilla
Salvador M. Padilla



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

12/14
December 11, 1992

MEMORANDUM

TO: Robert B. Zoellick
Deputy Chief of Staff

FROM: Michael R. Deland
Chairman

SUBJECT: California Low Emission Vehicle Waiver

Mike, Thanks for handling the call Bob

On Tuesday, December 8 your office referred a phone call to the Council on Environmental Quality. The call was from Mr. Dean Marriott, Commissioner of the Maine Department of Environmental Protection. This memorandum is to apprise you of Mr. Marriott's concerns and to recommend an appropriate course of action.

The 1990 Clean Air Act Amendments allow California and other states with serious air quality non-attainment problems to adopt emissions standards more stringent than the rest of the nation. California has proposed lower emissions standards, tied to the phased introduction of a fleet of "low emission vehicles" (LEV). Implementation of the California program requires that EPA grant a waiver of federal preemption. It is my understanding that OMB has requested the opportunity to review EPA's waiver decision, citing the authority of EO 12291.

Mr. Marriott represents Maine on the Ozone Transport Region, a consortium of twelve northeastern states established under the Clean Air Act to coordinate air pollution control strategies. The members of the Ozone Transport Region have all signed a declaration agreeing to proceed with LEV programs in their jurisdictions. The northeastern states fear that denial of the waiver would be precedent setting, leading eventually to restrictions on their ability to deal successfully with Clean Air Act requirements. If the states in the Ozone Transport Region do not have the option to control mobile source emissions through LEV programs, it may place excessive burdens on existing and/or planned stationary sources and impede economic development.

In my view, OMB review of the EPA decision is unnecessary. EPA has historically granted waivers for emissions standards more stringent than required under federal law. This process has never been subject to review under EO 12291. Denial of the waiver would be inconsistent with the federalist approach long practiced by this Administration. It would also send the wrong signals to states and the environmental community, possibly prompting a series of lawsuits.

cc: Richard Darman

THE WHITE HOUSE
WASHINGTON

December 11, 1992

MEMORANDUM FOR BOB ZOELLICK

THROUGH: HENSON MOORE *HM*
FROM: CLIFF ALDERMAN *CA*
SUBJECT: DISASTER DECLARATION REQUEST FROM MEMBERS OF THE
NEW JERSEY GENERAL ASSEMBLY

Attached is a letter signed by several Republican members of the New Jersey General Assembly.

They have requested that FEMA's investigation of the damage caused by the current storm in New Jersey be expedited as soon as possible to ascertain whether federal disaster aid can be provided.

While we understand that any such request must be initiated by Governor Florio, we thought you should be aware of this request.

Please note they have already cc'd Wallace Stickney on this request.

12/14

To Phil Brady
Bob Grady

FyI

RBZoellick



GENERAL ASSEMBLY OF NEW JERSEY

GARABED "CHUCK" HAYTAIAN
SPEAKER

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DONALD SICO
EXECUTIVE DIRECTOR

December 11, 1992

The Honorable George Bush
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20050

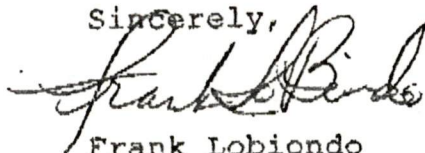
Dear Mr. President:

Representing districts along the New Jersey shore, we are seriously concerned about the damage to the coast that has taken place during the last several hours due to a severe storm still in progress as we write. Flooding is extensive, thus making it difficult to assess the damages at this point, but several towns have been evacuated, and reports of beach and home destruction are prevalent. It appears that this storm may be more destructive than the October 1991 and the January 1992 storms that struck our coast.

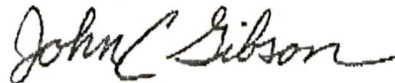
We are writing to request your assistance in activating the Federal Emergency Management Agency's (FEMA) investigation of the damage as soon as possible to ascertain whether federal disaster aid can be provided. As you know the prior two storms seriously damaged our coast; the coastal towns cannot afford further devastation. Tourism represents one of the most significant aspects of our economy, already in troubled waters. The integrity of our coast is also of paramount importance for environmental reasons.

We thank you in advance for your capable assistance in this most important matter and stand ready to be of whatever assistance we can in effectuating a speedy and successful resolution of this unfortunate situation.

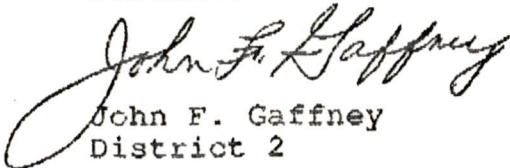
Sincerely,



Frank Lobiondo
District 1



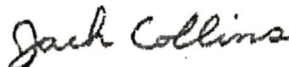
John C. Gibson
District 1



John F. Gaffney
District 2



Fredrick Nickles
District 2



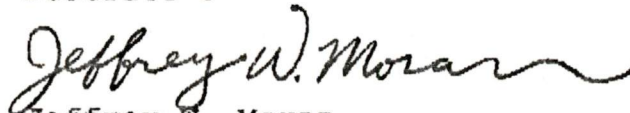
Jack Collins
District 3



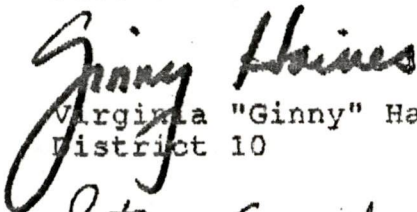
Gary W. Stuhltrager
District 3



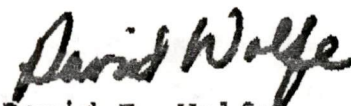
Christopher J. Connors
District 9



Jeffrey W. Moran
District 9



Virginia "Ginny" Haines
District 10



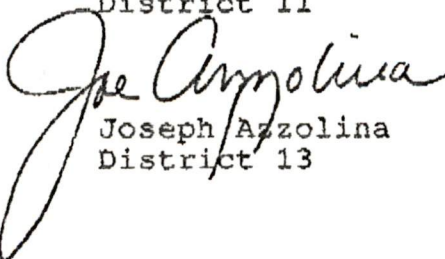
David E. Wolfe
District 10



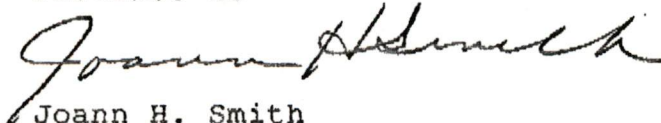
Steve Corodemus
District 11



Tom Smith
District 11



Joseph Azzolina
District 13



Joann H. Smith
District 13

cc: Wallace Stickney, Director
Federal Emergency Management Agency
Federal Center Plaza
500 C. Street S.W.
Washington, D.C. 20472

THE WHITE HOUSE

WASHINGTON

November 30, 1992

MEMORANDUM FOR BOB ZOELLICK

FROM:

EDE HOLIDAY

SUBJECT:

Regulations for the Federal Death Penalty

This morning, the Justice Department announced the publication of proposed rules establishing procedures for administering the death penalty for federal criminal cases (press release attached). There is a thirty-day comment period on these proposed rules, which describe which Justice agencies have the responsibility for carrying out federal death sentences.

Neither my office nor Lee Liberman of Boyden's staff had any advance notice of this announcement, which might attract some attention.

Attachment

11/30

Fede,

So have either you or Boyden & called
DoJ to ask for better wordings in the future?

RBE



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, NOVEMBER 30, 1992

CRM
202-514-2007
(TDD) 202-514-1888

JUSTICE DEPARTMENT ANNOUNCES PROPOSAL TO
IMPLEMENT DEATH PENALTY IN FEDERAL CRIMES

WASHINGTON, D.C. -- The Department of Justice announced today the publication of a proposed rule establishing the procedures the government will follow in administering the death penalty for federal crimes.

The procedures would be followed by government attorneys, the United States Marshals Service (USMS), and the Bureau of Prisons (BOP) in obtaining and executing death sentences. Public comments on the proposed rule must be submitted within 30 days of its publication in the Federal Register. The Department expects publication of a final rule shortly thereafter.

The rule was necessitated by Congress' 1984 repeal of 18 USC, Sec. 3566, which had provided that federal executions would be carried out in the manner prescribed by the state in which the sentence was imposed.

The Department said the need for the rule has become imperative with the growing number of cases under 21 USC, Sec. 848, which provides the death penalty for certain drug-related offenses, and with recent Supreme Court decisions indicating the vitality of the capital sentencing procedures under 18 USC, Sec. 1111.

(MORE)

- 2 -

Under the proposed rule, federal executions would be conducted by BOP and USMS, with the date, time and place of the execution determined by the BOP Director. The rule establishes lethal injection as the method of execution.

The proposal also establishes rules for access to prisoners under sentence of death and accommodates the interest of the media and the public in reports of the execution.

For further information or to comment on the proposed rule, contact: Thomas R. Kane, Assistant Director, Information Policy and Public Affairs, Federal Bureau of Prisons, 320 First St. NW, Room 641, Washington, D.C. 20534.

####

92-383

THE WHITE HOUSE
EXECUTIVE OFFICE OF THE PRESIDENT



FACSIMILE TRANSMITTAL SHEET

DATE November 24, 1992 **NO. OF PAGES** 2, including cover

TO Bruce Silverglade, Ctr for Science in the Public Interest

FAX NUMBER 265-4954 (and POC for Food & Nutrition
Labeling Group)

OFFICE NUMBER 332-9110 **SENT** 11/24 5:50 PM

COMMENTS Mr. Silverglade, per your request.

Cozetta, assistant to Deputy Chief of Staff Robert B. Zoellick

FROM Robert B. Zoellick/Cozetta

FAX NUMBER 202/456-1121

OFFICE NUMBER 456-2533

THE WHITE HOUSE
WASHINGTON

November 23, 1992

Dear Mr. Ballin:

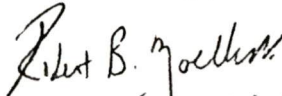
I received the letter of November 18 sent by you and your colleagues with the Food and Nutrition Labeling Group. Because your letter did not include a single address through which I could contact your group and because I have not yet received the call you noted, I hope you will share this reply with your associates.

Your letter states your understanding that I have met with food industry representatives. That is incorrect. To the contrary, I decided not to meet with food industry representatives so I could better assure those of varying views within the Administration that I was trying to intermediate their differences fairly or, if need be, help represent them to the President.

I did receive a phone call from a person who wanted to discuss this issue; I referred him to the OMB official who was handling the matter at that time.

In any event, the food labeling issue is now before the President, and I expect he will make his decisions soon.

Sincerely,



Robert B. Zoellick
Deputy Chief of Staff

Mr. Scott Ballin
American Heart Association
1150 Connecticut Avenue, N.W. - Suite 810
Washington, D.C. 20036

Food and Nutrition Labeling Group

American Association of Retired Persons
American Cancer Society
American College of Physicians
American College of Preventive Medicine
American Diabetes Association
American Heart Association
American Home Economics Association
American Institute for Cancer Research
American Nurses Association
Association of Schools of Public Health
Association of State and Territorial Health Officials
Association of State and Territorial Public Health Nutrition Directors
Center for Science in the Public Interest
Citizens for Public Action on Cholesterol
Consumer Federation of America
Food and Allied Service Trades
National Consumers League
National Council on the Aging
National PTA
Public Voice for Food and Health Policy
Society for Nutrition Education
The American Dietetic Association

WOULD YOU LIKE A REPLY
DRAFTED?

SCHEDULE A MEETING? YES _____
NO _____

November 18, 1992

Robert Zoellick
Deputy Chief of Staff
The White House
West Wing, First Floor
Washington, D.C. 20500

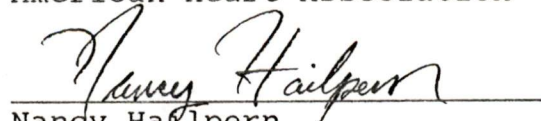
Dear Mr. Zoellick:

We are writing to request an urgent meeting with you to discuss the status of FDA's food labeling regulations and to express our strong desire that the final package of regulations favored by Secretary Sullivan be promptly approved by the President for publication in the Federal Register. The prompt publication of these regulations constitute an essential public health measure and will surely be viewed as one of the major accomplishments of President Bush's tenure.

We understand that you and members of the Administration have met with food industry representatives who have presented their views on this matter. In the interest of fairness, we urge you to promptly grant our request and to meet with us this week. We will call you to arrange a time to meet.

Sincerely,


Scott Ballin
American Heart Association


Nancy Hailpern
American Cancer Society

Coordinating Committee:

American Association of Retired Persons Larry White (202) 434-3800
American Cancer Society Nancy Hailpern (202) 546-4011
American Heart Association Scott Ballin (202) 822-9380
Center for Science in the Public Interest Bruce Silverglade (202) 332-9110
Public Voice for Food and Health Policy Ellen Haas (202) 659-5930

Bruce Silverglade
Bruce Silverglade
Center for Science in the
Public Interest

Patti Morris
Patti Morris
Public Voice for Food &
Health Policy

Pam Thornton
Pam Thornton
American College of Physicians

Donna Grossman
Donna Grossman
American College of Preventive
Medicine

Jean Whalen
Jean Whalen
American Diabetes Association

Mary Jane Kolar
Mary Jane Kolar
American Home Economics
Association

Christine Murray
Christine Murray
American Institute for
Cancer Research

Martha Levin
Martha Levin
Association of Schools of
Public Health

George Degnon
George Degnon
Association of State &
Territorial Health Officials

Natalie Gonzales

Natalie Gonzales
Association of State &
Territorial Public Health
Health Nutrition Directors

Gerald Wilson

Gerald Wilson
Citizens for Public Action
on Cholesterol

Edith Furst

Edith Furst
Consumer Federation of America

Lauren Hill

Lauren Hill
National Consumers League

Victoria Wagman

Victoria Wagman
National Council on the Aging

Nancy Chapman

Nancy Chapman
Society for Nutrition
Education

Patti Blumer

Patti Blumer
The American Dietetic
Association

THE WHITE HOUSE

WASHINGTON

11/23/92

Note for Boyden Gray

Re: Attached

Boyden,

Could you tell me if we're considering any
action on this?

Thanks,

A handwritten signature in dark ink, appearing to be 'RB' followed by a stylized flourish.

Robert B. Zoellick

AKIN, GUMP, HAUER & FELD, L.L.P.

ATTORNEYS AT LAW

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

1333 NEW HAMPSHIRE AVENUE, N.W.
SUITE 400

WASHINGTON, D.C. 20036

(202) 887-4000

FAX (202) 887-4288

WRITER'S DIRECT DIAL NUMBER (202) 887-4004

2100 FRANKLIN PLAZA
111 CONGRESS AVENUE
AUSTIN, TEXAS 78701
(512) 499-6200

1500 NATIONSBANK PLAZA
300 CONVENT STREET
SAN ANTONIO, TEXAS 78205
(512) 270-0800

1900 PENNZOIL PLACE-SOUTH TOWER
711 LOUISIANA STREET
HOUSTON, TEXAS 77002
(713) 220-5800

4100 FIRST CITY CENTER
1700 PACIFIC AVENUE
DALLAS, TEXAS 75201-4618
(214) 969-2800

65 AVENUE LOUISE, P.B. NO. 7
1050 BRUSSELS, BELGIUM
(011) 32-2-535.29.11

November 20, 1992

The Hon. Robert B. Zoellick
Deputy Chief of Staff
The White House
Washington, D.C. 20500

Dear Bob:

I want to bring to your attention a very important matter which you may have heard about by now: the effort to keep Bill Ellen from going to prison on November 30 for digging a duck pond. I won't repeat the points discussed in the enclosed documents. I will only say that this is an opportunity to right a wrong committed in the cause of environmental extremism, and only the President can do it. I would be pleased to provide you with any additional information you may require.

Yours truly,


James W. Cicconi

JC/knp

Enclosures

Bob -

I know this is a tough period,
and I thank you for considering
this. It would be a true
perversion of justice to allow this
man to go to jail.



AKIN, GUMP, HAUER & FELD, L.L.P.

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(214) 969-2800

65 AVENUE LOUISE, P.B. NO. 7

1050 BRUSSELS, BELGIUM

(011) 32-2-535.29.11

WRITER'S DIRECT DIAL NUMBER (202) 887-4001

November 20, 1992

Bill Burrow
Associate Director
President's Counsel on
Competitiveness
Room 286
Old Executive Office Building
Washington, D.C. 20501

Dear Bill:

Per our conversation yesterday, enclosed you will find the two so-called "cease and desist orders" in the Bill Ellen case. Also enclosed is a copy of the transcript of the hearing on the motion en limine in which Ellen's counsel attempted to keep the two "orders" out of evidence on the grounds that the Corps of Engineers lacks authority to issue a cease and desist order. Reading the transcript, it is clear that these "orders" which have taken on such significance were not considered by the prosecution or the court to have any significance or relevance beyond proving that Bill Ellen had notice that it is unlawful to fill wetlands without a permit, an issue which was never in dispute.

Jane Barrett, the Assistant U.S. Attorney who prosecuted the case, characterized the documents as follows: "[ac]tually what we are talking about is a letter on Corps of Engineers stationery that says do so and so, you know, we inspected, we found it, cease and desist. It doesn't say order at the top." (Tr. Page 9, line 2.) Nor did the prosecutor object when the judge stated:

The court: . . . I don't care whether you call it a cease and desist order or a valentine's day card. It doesn't make any difference. If in the communication it says don't do this any more, that certainly is relevant to state of mind, isn't it . . . ? (Tr. Page 9, line 15.)

Bill Burrow
November 20, 1992
Page 2

Nor did she intervene when defense counsel attempted to argue hat the jury would be confused if the prosecution referred to these letters as a "cease and desist order":

The court: Forget it. The jury doesn't know a cease and desist order from your mother-in-law's brief case.
. . (Tr. Page 11, line 4.)

Hence, the judge gave the prosecutor strict instructions regarding what she could say about these letters in her opening statement:

The court: I don't care. It sounds like an order when somebody with government credentials say cease and desist, and I want you to tell the jury -- if you plan to raise this in you opening statement, I want you to tell the jury that the jury's job is not to consider whether or not he violated orders from a government agency. *The only question is whether or not permits were required for what was done.* (Tr. Page 9, line 7.)
(Emphasis added.)

Thus, the judge determined to give a precautionary instruction to the jury "so long as the jury clearly understands that it is not a violation of criminal law to ignore that order." (Tr. Page 10, line 4.)

An examination of the documents in question confirms the view of the prosecutor and the judge that these documents were simply letters with no legal significance, and relevant only to show that Bill Ellen knew about Section 404. The February 11, 1988 document is a form letter which says nothing specific about the Tudor Farms property, let alone the actual work being done by Bill Ellen. The February 15, 1989 letter is no more specific; moreover, it was given to Bill Ellen on March 3, 1989 and he immediately stopped work. (The Wall Street Journal editorial incorrectly reports that two loads of dirt were dumped after Ellen received this letter.)

In short, the story that Bill Ellen "violated" the Corps' "orders," and that this is somehow of legal or factual significance, is revisionist history. A citizen violates no law or regulation by failure to stop work when he receives such a letter. As the court points out, the only relevance of the letter to show notice. The "crime" in this case must be judged on its merits. As pointed out in prior correspondence, digging a duck pond and creating new wildlife habitat simply isn't the type

AKIN, GUMP, HAUER & FELD, L.L.P.

Bill Burrow
November 20, 1992
Page 3

of action for which people should be incarcerated in federal prisons.

I hope these materials help lay to rest the misleading assertions about cease and desist orders. If you are interested in the legal argument that the Corps lacks any authority to issue orders and may therefor only send advisory letters, I'd be pleased to provide you with the briefs.

Yours truly,

Roger J. Marzulla

RJM/knp

Enclosures



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MARYLAND 21203-1715

100

FEB 15 1989

REPLY TO ATTENTION OF:
Operations Division

Subject: CENAB-OP-RE(Tudor Investment Corporation)88-1566-3

Tudor Investment Corporation
160 Broadway, Suite 905
New York, New York 10038

Gentlemen:

This is in reference to the unauthorized fill material placed on Federally regulated wetlands at your property near Bucktown in Dorchester County, Maryland.

In a letter dated February 11, 1988 from this office you were advised of the permit requirements of Section 10 of the River and Harbor Act and Section 404 of the Clean Water Act. In addition you were instructed to perform no further work in these areas without compliance with the law.

On February 11, 1988 a representative of this office met on-site with your project manager Mr. Bill Ellen. At that time a copy of the February 11, 1988 letter was issued to Mr. Ellen and he was personally advised of the jurisdiction boundaries and permit requirements of the Corps of Engineers and of the specifics of the subject violations. In addition, the site was reviewed and the proposed work was discussed. At that time, Mr. Ellen was clearly advised of the permit requirements for further road and berm construction work on this property.

A recent field investigation disclosed that additional unauthorized filling of wetlands has occurred in the exact areas discussed with Mr. Ellen in further violation of the law. Accordingly, you are hereby ordered to perform no further work in waters of the United States including wetlands, without compliance of the law. It is strongly recommended that you contact Mr. Alex Dolgos at the Easton Shore Enforcement Office at (301)820-7925 to discuss any future work planned in or around wetland areas.

Your failure to comply with this directive will require us to take further legal action on this matter.

Sincerely,

Thaddeus J. Rugiel
Thaddeus J. Rugiel
Chief, Enforcement Section

1043



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MARYLAND 21203-1715

11 FEB 1988

REPLY TO ATTENTION OF:

Operations Division

Subject: CENAB-OP-RE(Tudor Investment Corporation)88-1566-3

Tudor Investment Corporation
160 Broadway, Suite 905
New York, New York 10038

Dear Sir:

A recent field investigation has disclosed that fill material has been placed on wetlands adjacent to the Chicamcomico and the Transquaking Rivers at your property located near Bucktown in Dorchester County, Maryland.

Records in this office indicate that neither a Department of the Army permit nor a letter of permission authorizing this work was issued by this office. Any work performed, including the placement of fill material, in a navigable waterway of the United States or on adjacent wetlands without prior approval of plans by the Department constitutes a violation of Section 10 of the River and Harbor Act of 3 March 1899 and Section 404 of the Clean Water Act.

No further work is to be performed at this or any other location in a navigable waterway or on wetlands without compliance with the law. Violations of Section 10 and Section 404 are subject to prosecution by the Attorney General of the United States. You are to furnish this office within 10 calendar days following receipt of this letter, the name and address of the contractor who performed this work.

If you have any questions concerning this matter, you may contact Mr. Alex Dolgos of this office at (301) 820-7925.

Sincerely,

Thaddeus J. Rugiel
Thaddeus J. Rugiel
Chief, Enforcement Section

Copy Furnished:

Environmental Protection Agency
Fish and Wildlife Service - Annapolis
Water Resources Administration
National Marine Fisheries Service - Oxford
Dorchester County Zoning and Planning
Dorchester County Soil Conservation Service

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

GOVERNMENT'S EXHIBIT NO.
CASE NO. S-90-0215
IDENTIFICATION: _____
ADMITTED: _____

1042

000506

1 VEGETATION, THE CONFUSION WHICH THEN EXISTED, AND THE
2 DISAGREEMENT THAT EXISTED IN THE AGENCIES AS TO THE
3 PROCEDURES THAT WERE TO BE FOLLOWED AND WHAT CONSTITUTES
4 WETLANDS. THOSE ARE THE ELEMENTS OF THE TESTIMONY OF DR.
5 SANDERS BASICALLY.

6 THE COURT: WHAT ABOUT THIS HONEST MISTAKE BUSINESS?

7 MR. TABACKMAN: DR. SANDERS WILL NOT TESTIFY, YOUR
8 HONOR, WITH RESPECT TO THE ISSUE OF -- HE WILL NOT SAY, YOUR
9 HONOR, THE WORDS THAT GIVE AN OPINION AS TO MR. ELLEN'S STATE
10 OF MIND. WHAT HE WOULD TESTIFY TO IS A PREDICATE THAT WOULD
11 PERMIT THE ARGUMENT OF A MISTAKE.

12 THE COURT: OF COURSE, AND THAT IS PERFECTLY
13 PERMISSIBLE. I THINK THE CONCERN IS THAT HE IS NOT GOING TO
14 GET UP ON THE STAND AND SAY IN HEC VERBA THAT A LAY PERSON
15 COULD LOOK AT THIS AND MAKE AN HONEST MISTAKE. THAT'S A
16 MATTER OF ARGUMENT, NOT TESTIMONY.

17 MR. TABACKMAN: OF COURSE, AND HE IS NOT GOING TO
18 TESTIFY TO THAT.

19 THE COURT: ALL RIGHT, FINE. THE MOTION IS MOOT.
20 ALL RIGHT.

21 MR. TABACKMAN: YOUR HONOR, IF I MAY, THERE WAS
22 ANOTHER MOTION THAT WE WANTED TO RAISE WITH THE COURT, EVEN
23 THOUGH WE DID NOT FILE IT, IN LIGHT OF --

24 THE COURT: ALL RIGHT. LET'S HAVE IT.

25 MR. TABACKMAN: WE THINK IT DOES IMPACT ON THE ISSUE

1 OF THINGS THAT MIGHT BE RAISED IN OPENING STATEMENT.

2 THE COURT: ALL RIGHT. GO AHEAD.

3 MR. TABACKMAN: IT HAS TO DO WITH THE QUESTION OF THE
4 CEASE AND DESIST ORDERS THAT WERE PURPORTEDLY ISSUED BY
5 INSPECTOR DOLGOS OF THE ARMY CORPS OF ENGINEERS. IT IS OUR
6 CONTENTION, YOUR HONOR, THAT THE ARMY CORPS OF ENGINEERS DID
7 NOT HAVE LEGAL AUTHORITY IN 1988 OR '89 TO ISSUE CEASE AND
8 DESIST ORDERS IN PERMITLESS SITUATIONS. THAT WAS AN AUTHORITY
9 UNDER THOSE CIRCUMSTANCES THAT WAS DELEGATED BY STATUTE TO THE
10 ENVIRONMENTAL PROTECTION AGENCY AND ONLY TO THE ENVIRONMENTAL
11 PROTECTION AGENCY.

12 THE COURT: LET ME SEE THE STATUTE.

13 WHAT DOES THE GOVERNMENT HAVE TO SAY ABOUT THIS?

14 MS. BARRETT: YOUR HONOR, HE IS NOT CHARGED WITH
15 VIOLATING THE STATUTE. THE GOVERNMENT'S POSITION, YOUR HONOR,
16 IS THAT THE FACT THAT -- NOTWITHSTANDING WHAT THE LEGAL
17 AUTHORITY IS, THE FACT THAT MR. ELLEN RECEIVED A LETTER FROM
18 THE CORPS OF ENGINEERS THAT SAID YOU ARE TO CEASE AND DESIST
19 FILLING WETLANDS GOES TO THE STATE OF MIND, NOT TO THE LEGAL
20 CORRECTNESS OF THAT CEASE AND DESIST.

21 THE COURT: WELL, WAIT A MINUTE. ARE YOU CONTESTING,
22 THEN, THAT THE CORPS OF ENGINEERS HAD NO AUTHORITY TO TELL HIM
23 TO STOP WORK?

24 MS. BARRETT: NO, YOUR HONOR -- YES, YOUR HONOR. WE
25 THINK THEY DID HAVE THE AUTHORITY TO TELL HIM TO STOP WORK,

1 BUT WHETHER OR NOT THE TERMINOLOGY IS -- THERE IS A LEGAL
2 STANDARD FOR CEASE AND DESIST -- LET ME REPHRASE.

3 THE INSPECTOR CLEARLY HAD THE AUTHORITY TO TELL THE
4 DEFENDANT TO STOP WORKING THE WETLANDS. HE CLEARLY HAD THE
5 AUTHORITY, WHICH HE DID. HE SENT A LETTER SAYING WE HAVE
6 INSPECTED IT, YOU ARE WORKING IN WETLANDS, STOP WORKING IN
7 WETLANDS.

8 THE COURT: WELL, WHAT IS IT THAT HE DIDN'T HAVE THE
9 AUTHORITY TO DO?

10 MS. BARRETT: WELL, APPARENTLY WHAT MR. TABACKMAN IS
11 SAYING IS THAT HE DIDN'T HAVE THE AUTHORITY TO ISSUE A FORMAL
12 CEASE AND DESIST. THIS IS THE FIRST TIME THAT THE DEFENSE
13 HAVE RAISED THIS, AND I AM UNSURE --

14 MR. TABACKMAN: MAY I APPROACH YOUR HONOR AND GIVE
15 YOUR HONOR --

16 THE COURT: THIS IS marginally RELEVANT TO ANYTHING,
17 MR. TABACKMAN, AS FAR AS I'M CONCERNED. HE IS NOT CHARGED
18 HERE FOR CRIMINAL CONTEMPT OR CIVIL CONTEMPT FOR VIOLATING AN
19 ORDER AS TO WHICH I WOULD HAVE TO MAKE A FINDING FOR A
20 PREDICATE STATUTORY AUTHORITY TO ISSUE THE ORDER. IS HE
21 CHARGED WITH THAT?

22 MR. TABACKMAN: HE IS NOT, YOUR HONOR.

23 THE COURT: ALL RIGHT. THEREFORE, WHAT IS THIS
24 RELEVANT TO?

25 MR. TABACKMAN: IT IS RELEVANT, YOUR HONOR, TO THE

1 QUESTION THAT HE WAS SUPPOSEDLY ORDERED TO STOP DOING
2 SOMETHING.

3 THE COURT: HE IS NOT BEING PROSECUTED FOR THAT,
4 SIR. HE IS BEING PROSECUTED FOR FILLING THE WETLANDS, WHICH
5 IS ILLEGAL WITHOUT A PERMIT WHETHER OR NOT YOU HAVE BEEN
6 ORDERED NOT TO DO IT. IT'S LIKE MY SAYING THAT -- IT'S LIKE
7 A POLICEMAN IS ON THE STREET AND HE SEES SOMEBODY WITH A GUN,
8 AND HE SAYS DON'T SHOOT THAT MAN OVER THERE. WHETHER THE
9 POLICEMAN HAS GOT THE AUTHORITY TO SAY DON'T SHOOT THAT MAN
10 OVER THERE, IF HE SHOOTS THE MAN OVER THERE, THE CHARGE IS
11 HOMICIDE AND NOT DISOBEYING THE ORDER OF A POLICEMAN. IS THAT
12 RIGHT?

13 MR. TABACKMAN: IT IS, YOUR HONOR.

14 THE COURT: AND WOULDN'T WHAT THE OFFICER SAID THEN
15 AND WHAT THE INDIVIDUAL DID AFTER THE OFFICER TOLD HIM NOT TO
16 SHOOT BE RELEVANT ON STATE OF MIND?

17 MR. TABACKMAN: THE ISSUE, YOUR HONOR --

18 THE COURT: ANSWER MY QUESTION.

19 MR. TABACKMAN: YES, IT WOULD BE, YOUR HONOR.

20 THE COURT: WHETHER OR NOT THE OFFICER HAD THE
21 AUTHORITY TO ISSUE THE ORDER OR NOT.

22 MR. TABACKMAN: YES.

23 THE COURT: ALL RIGHT. NOW, MAKE YOUR DISTINGUISHING
24 ARGUMENT.

25 MR. TABACKMAN: THE DISTINGUISHING ARGUMENT, YOUR

1 HONOR, IS CALLING THIS A CEASE AND DESIST ORDER.

2 THE COURT: I DON'T CARE WHAT THEY CALLED IT. WHAT
3 DIFFERENCE DOES IT MAKE? HE IS NOT BEING CHARGED WITH IT.

4 MR. TABACKMAN: IF THE JURY SEES A DOCUMENT ON
5 GOVERNMENT LETTERHEAD CALLED A CEASE AND DESIST ORDER,
6 ORDERING HIM TO STOP WORK, THE JURY MAY INFER FROM THAT
7 INAPPROPRIATELY THAT HE WAS IN FACT LAWFULLY ORDERED TO STOP
8 DOING SOMETHING.

9 THE COURT: IF YOU WISH ME TO GIVE AN APPROPRIATE
10 CAUTIONARY INSTRUCTION THAT IT IS NOT A VIOLATION OF CRIMINAL
11 LAW FOR ANYONE TO DISOBEY OR DISREGARD THIS ORDER, IT IS NOT A
12 VIOLATION OF CRIMINAL LAW, I WILL GIVE THAT CAUTIONARY
13 INSTRUCTION.

14 UNTIL SUCH TIME AS THE EVIDENCE IS INTRODUCED, IT IS
15 NOT AN ISSUE IN THE CASE. IF THE GOVERNMENT SEEKS TO
16 INTRODUCE EVIDENCE WITH REGARD TO THIS, THIS SO-CALLED CEASE
17 AND DESIST ORDER, I WILL GIVE A CAUTIONARY INSTRUCTION WITH
18 REGARD TO IT THAT HE IS NOT CHARGED WITH A CRIMINAL VIOLATION
19 THAT ARISES OUT OF THIS, THAT THE JURY MAY CONSIDER IT ONLY AS
20 TO WHETHER HE WAS ON NOTICE, AND IT HAS TO DO ONLY WITH HIS
21 STATE OF MIND.

22 CERTAINLY, IF THE PERSON THAT ISSUED THIS OR ANYBODY
23 ELSE IN THE CORPS OF ENGINEERS IS ON THE STAND, YOU CAN
24 QUESTION THEM AS TO THEIR LEGAL AUTHORITY, AND YOU CAN MAKE
25 THEM LOOK FOOLISH IF IN FACT UNDER THE STATUTES THEY DON'T

1 HAVE THE AUTHORITY TO ISSUE IT. OKAY?

2 MR. TABACKMAN: THE REASON WE RAISE IT NOW, YOUR
3 HONOR, IS THAT WE WOULD ASK THAT THE GOVERNMENT BE PRECLUDED
4 FROM REFERRING TO IT AS A CEASE AND DESIST ORDER IN THE
5 OPENING STATEMENT.

6 THE COURT: ISN'T THAT WHAT IT SAID IT WAS? SUPPOSE
7 THE EVIDENCE IS THAT THE MAN ON THE STREET SAID LOOK AT THAT
8 GIRAFFE OVER THERE, AND IT WAS REALLY AN ELEPHANT. IF IT'S
9 RELEVANT TO SOMEBODY'S STATE OF MIND, IT'S RELEVANT AS TO
10 WHETHER IT WAS REALLY A GIRAFFE OR AN ELEPHANT, ISN'T IT? IT
11 DOESN'T MATTER WHAT THE OTHER INDIVIDUAL CALLED IT, DOES IT?

12 MR. TABACKMAN: EXCEPT THAT, AS WE STATED, YOUR
13 HONOR, I THINK THAT THE JURY, GIVEN THE CONTEXT THAT IT WAS
14 SOME FORM OF FORMAL ORDER ISSUED BY AN INSPECTOR, MAY WELL --

15 THE COURT: THEY MIGHT, BUT I WILL GIVE A CAUTIONARY
16 INSTRUCTION THAT WILL PRECLUDE THAT, SIR, AND THAT TAKES CARE
17 OF IT.

18 ALL RIGHT. MOTION UNDER RULE 403 GRANTED IN PART AND
19 DENIED IN PART, GRANTED IN SUBSTANCE BY MY GRANTING A
20 CAUTIONARY INSTRUCTION.

21 AND IT'S GOING TO START NOW, MISS BARRETT. IF YOU
22 BRING THIS UP, I WANT YOU TO SAY TO THE JURY -- IF YOU ARE
23 GOING TO RAISE THIS IN YOUR OPENING ARGUMENT, YOU TELL THE
24 JURY THAT IT'S NOT A VIOLATION OF LAW, CRIMINAL LAW, AND THE
25 MAN IS NOT ON TRIAL HERE FOR DISOBEYING ORDERS FROM THE CORPS

1 OF ENGINEERS.

2 MS. BARRETT: YOUR HONOR, JUST FOR CLARIFICATION, IF
3 I -- ACTUALLY WHAT WE ARE TALKING ABOUT IS A LETTER ON CORPS
4 OF ENGINEERS STATIONERY THAT SAYS DO SO AND SO, YOU KNOW, WE
5 INSPECTED, WE FOUND IT, CEASE AND DESIST. IT DOESN'T SAY
6 ORDER AT THE TOP.

7 THE COURT: I DON'T CARE. IT SOUNDS LIKE AN ORDER
8 WHEN SOMEBODY WITH GOVERNMENT CREDENTIALS SAYS CEASE AND
9 DESIST, AND I WANT YOU TO TELL THE JURY -- IF YOU PLAN TO
10 RAISE THIS IN YOUR OPENING STATEMENT, I WANT YOU TO TELL THE
11 JURY THAT THE JURY'S JOB IS NOT TO CONSIDER WHETHER OR NOT HE
12 VIOLATED ORDERS FROM A GOVERNMENT AGENCY. THE ONLY QUESTION
13 IS WHETHER OR NOT PERMITS WERE REQUIRED FOR WHAT WAS DONE.

14 MS. BARRETT: ALL RIGHT.

15 THE COURT: ALL RIGHT. AND THAT WILL TAKE CARE OF
16 IT. I DON'T CARE WHETHER YOU CALL IT A CEASE AND DESIST ORDER
17 OR A VALENTINE'S DAY CARD. IT DOESN'T MAKE ANY DIFFERENCE. IF
18 IN THE COMMUNICATION IT SAYS DON'T DO THIS ANYMORE, THAT
19 CERTAINLY IS RELEVANT TO STATE OF MIND, ISN'T IT, MR.
20 TABACKMAN?

21 MR. TABACKMAN: YES, YOUR HONOR.

22 THE COURT: ALL RIGHT. WELL, THERE YOU HAVE IT, AND
23 I THINK A CAUTIONARY INSTRUCTION -- I AM NOT GOING TO RULE
24 THESE THINGS OUT ALTOGETHER BECAUSE OF THE FACT THAT THEY
25 OBVIOUSLY ARE RELEVANT TO THE STATE OF MIND OF ONE WHO

1 RECEIVES THEM, WHETHER OR NOT YOU DISPUTE LATER ON THROUGH
2 SOME HYPERTECHNICAL CONSTRUCTION OF STATUTES THAT IT SHOULD
3 HAVE BEEN LABELED CEASE AND DESIST, OR NOTIFICATION, OR
4 WHATEVER LABEL YOU WANT TO THE PUT ON IT, SO LONG AS THE JURY
5 CLEARLY UNDERSTANDS THAT IT IS NOT A VIOLATION OF CRIMINAL LAW
6 TO IGNORE THAT ORDER.

7 OKAY?

8 MR. TABACKMAN: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT.

10 MR. TABACKMAN: IF I MAY, WHAT WE ARE SEEKING TO
11 PRECLUDE IS THIS DOCUMENT THAT REQUIRES MR. ELLEN TO CEASE AND
12 DESIST --

13 THE COURT: THERE IS NO WAY YOU ARE GOING TO
14 PRECLUDE THAT DOCUMENT. IT'S HIGHLY RELEVANT UNDER RULE 403
15 ANALYSIS. I WILL ACCEPT WHAT YOU SAY AT FACE VALUE. I WILL
16 ACCEPT THAT THE CORPS OF ENGINEERS DID NOT HAVE THE AUTHORITY
17 TO ISSUE SOMETHING CALLED A CEASE AND DESIST ORDER. I'LL
18 ACCEPT THAT.

19 MR. TABACKMAN: NOR DID THEY HAVE THE AUTHORITY, YOUR
20 HONOR, TO TELL HIM TO CEASE AND DESIST.

21 THE COURT: IT SURE HAD THE AUTHORITY --

22 MR. TABACKMAN: WHAT IT HAD THE AUTHORITY TO TELL HIM
23 WAS -- WELL, I DON'T WANT TO INTERRUPT. UNDER THE STATUTE
24 THEY HAD THE AUTHORITY TO SAY THESE ARE WETLANDS AND YOU
25 CANNOT FILL THEM.

1 THE COURT: THAT WHAT IS WHAT HE SAID, ISN'T IT?

2 MR. TABACKMAN: BUT TO CALL IT A CEASE AND DESIST
3 ORDER.

4 THE COURT: FORGET IT. THE JURY DOESN'T KNOW A
5 CEASE AND DESIST ORDER FROM YOUR MOTHER-IN-LAW'S BRIEFCASE,
6 NUMBER ONE. THEY DON'T HAVE ANY IDEA WHAT ITS LEGAL EFFECT
7 IS.

8 NUMBER TWO, IF YOU ARE STANDING AT THE CORNER AND
9 YOU TELL A MAN WHO IS GOING INTO THE A BANK WITH A GUN AND A
10 MASK DON'T ROB THAT BANK, THAT IS AGAINST THE LAW. IT DOESN'T
11 MATTER WHETHER YOU HAD THE AUTHORITY TO TELL HIM IT'S A
12 VIOLATION OF THE LAW OR NOT. CERTAINLY, THE FACT THAT
13 SOMEBODY STOOD OUTSIDE AND TOLD HIM THAT IT'S A VIOLATION OF
14 THE LAW TO ROB A BANK IS RELEVANT TO WHETHER HE HAD MENS REA,
15 ISN'T IT?

16 MR. TABACKMAN: IT IS, YOUR HONOR. THERE IS NO
17 QUESTION ABOUT THAT.

18 THE COURT: OKAY. JUST AS RELEVANT AS IF YOU WOULD
19 HAVE SAID CEASE AND DESIST FROM ROBBING THAT BANK, ISN'T IT?

20 MR. TABACKMAN: OUR POINT IS A NARROW ONE, YOUR
21 HONOR, THAT TO REFER TO IT AS AN ORDER, THE JURY DOES
22 UNDERSTAND THE NOTION OF ORDERS.

23 THE COURT: WELL, FORGET ABOUT IT.

24 MR. TABACKMAN: AND THEREFORE IT MAY APPEAR AND IT
25 MIGHT SOUND TO THE JURY AS IF MR. ELLEN VIOLATED SOME LAWFUL

DIRECTIVE, AND IT WASN'T A LAWFUL DIRECTIVE THAT HE WAS GIVEN.

THE COURT: I THINK YOU ARE SELLING THE JURY SHORT. I THINK THEY ARE SMART ENOUGH TO FOLLOW MY CAUTIONARY INSTRUCTION WITH REGARD TO THAT.

ALL RIGHT. ANYTHING ELSE?

(NO RESPONSE.)

THE COURT: ALL RIGHT. COURT STANDS IN RECESS PENDING BRINGING IN THE PANEL. THEY ARE BEING ORIENTED NOW. SO, AS SOON AS ORIENTATION IS OVER, WE WILL GET STARTED.

(AFTER VOIR DIRE OF JURY PANEL)

THE COURT: ALL RIGHT. BRING IN THE JURY.
BE SEATED, PLEASE.

(JURY IN)

(CONFERENCE AT THE BENCH)

THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, ONE OF THE JURORS HAS NOT RETURNED FROM LUNCH. HE HAS BEEN REMOVED AND THE APPROPRIATE MEASURES WILL BE TAKEN AGAINST HIM. YOU ARE DUTY BOUND TO BE HERE AND TO BE HERE ON TIME.

RON, REMIND ME TO NOTIFY THE APPROPRIATE AUTHORITIES IN CONNECTION WITH THIS FOR CONTEMPT OF COURT.

ALL RIGHT. ARE YOU READY TO PROCEED?

MS. BARRETT: YES, YOUR HONOR.

THE COURT: NOW, BEFORE YOU HEAR THE OPENING STATEMENTS OF COUNSEL, LADIES AND GENTLEMEN, I DO HAVE SOME

**Clemency for Bill Ellen
Drawing the Line on Appropriate
Punishment for Environmental Crimes**

The Bill Ellen case affords the President the opportunity to establish the fundamental principle that justice and reason place some limitations upon the extent to which environmentally benign acts will be punished as "environmental crimes." The failure to draw the line in this case will encourage further excesses among extremists whose thirst for ever longer prison sentences for perceived offenses against the environment seems insatiable.

- Ellen did not harm the environment by anyone's definition. To the contrary, his creation of new wildlife habitat and wetlands that were nonexistent before was an enhancement similar to "compensating wetlands" projects encouraged by the Corps of Engineers or the construction of wildlife refuges by the Fish and Wildlife Service. His "crime" was that he committed this good work without prior government authorization. When the same act is both environmentally commendable and punishable by federal imprisonment, the criminal law has gone awry.
- In its October 19, 1992 report to Congressman Schumer, the Environmental Crimes Project severely criticized Ellen's prosecution as too lax: "as noted earlier, Ellen received only six months for his conviction in comparison with the three year sentence of John Pozsgai. Prosecutors had seen limited support (or outright opposition) from ECS [Environmental Crimes Section] or divisional authorities in the prosecution of cases like Tudor Farms . . ." (Page 25.)

Indeed, federal prosecutors are under increasing pressure to prosecute more such cases, and to justify in Congressional hearings instances in which they have declined prosecution. Indeed, prosecutors themselves now face possible investigation and charges of malfeasance for refusing to prosecute inappropriate cases.

- On November 18, twelve members of a grand jury in Denver, Colorado signed a letter addressed to President-elect Clinton demanding appointment of a special prosecutor to investigate U.S. Attorney Mike Norton, who refused to indict several individuals in connection with the Rocky Flats environmental crimes investigation.
- Congressman Dingell in recent hearings asserts that he "suspects the Administration secretly, and perhaps illegally, has instituted new criminal prosecution

standards that have had, and will continue to have, broad impact on the environment and the regulated community."

- Meanwhile, Congressman Wolpe in public hearings chastised Justice Department prosecutors, accusing them of reluctance to prosecute fellow government employees of the Department of Energy in connection with the Rocky Flats investigation.

Conclusion:

Justice demands proportionality between the act committed and the punishment imposed. By refusing to send Bill Ellen to jail, the President can draw a bright line defining the appropriate balance between environmental infractions and just punishment.

AKIN, GUMP, HAUER & FELD, L.L.P.

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November 19, 1992

BY HAND DELIVERY

The Honorable C. Boyden Gray, Esq.
Counsel to the President
New Executive Office Building
17th and G Streets
Washington, D.C.

Dear Boyden:

I very much appreciated your remarks at the Federalist Society luncheon today. Per my brief discussion with Jeff, enclosed are some materials which will, I hope, be of assistance to you in discussing the Bill Ellen case with the President. Having thoroughly investigated the matter myself, I am committed to doing whatever is possible to avoid Bill's incarceration in a federal prison on November 30th.

The enclosed talking points were prepared by Ben Sharp, Bill's counsel at trial. The most troubling aspect of the case in my view is the disproportionate relationship between the acts committed and the sentence required by the Sentencing Guidelines. At worst it can be said that Bill Ellen dumped a couple of truckloads of topsoil on an area which was subsequently defined as a wetland under the 1989 manual, and that one bulldozer driver used a blade rather than a rake for some clearing operations in the sanctuary pond area. Even assuming these acts occurred and that they were unlawful, they hardly seem to merit this harsh punishment for Bill and his family.

A groundswell of support is building for Bill Ellen. MacNeil Lehrer is filming at Bill's home today, and the networks have all called. Several print stories are also in the making. More than 3,000 letters and petitions supporting Bill's release have been gathered, and his supporters plan to present them to the White House in the next few days.

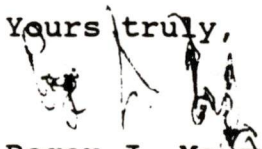
Having taken part in establishing the Environmental Crimes Section, I feel a sense of vicarious responsibility that this

Honorable C. Boyden Gray
November 19, 1992
Page 2

program went so far awry in prosecuting Bill Ellen. These marginal wetlands were enhanced by his efforts. The notion that a fine human being should go to federal prison for building a duck pond on private property is simply unjust. Only the President can help.

I would be happy to obtain for you any information or materials that may be helpful in your analysis of the matter. November 30 is coming quickly, and I hate to think about Bill's children (four and two years old) spending Christmas without him.

Yours truly,



Roger J. Marzulla

RJM/knp

Enclosures

THE CASE FOR EXECUTIVE CLEMENCY

FOR

WILLIAM B. ELLEN

Bill Ellen is about to begin serving a six month term in a federal correctional facility for felony violations of the Clean Water Act in connection with work done at Tudor Farms in Cambridge, Maryland. Tudor Farms is a private hunting preserve and wildlife refuge owned by Paul Tudor Jones, a very successful New York commodities trader. Bill Ellen is a self-employed marine consultant from Mathews, Virginia hired by Jones to assist in the purchase and development of Tudor Farms.

The over 3200 acres of land assembled as Tudor Farms were purchased in parcels from more than 10 owners. Under the prior ownership, the land was put to different uses. Portions were farmed, trapped, large areas had been cut over for timber, and the land housed two gun clubs. Under Jones' ownership, there has not been and will not be any commercial development of the property. The original plan of Jones and Ellen has, in fact, been accomplished now that the project is completed. Substantial portions of the property have been set aside as habitat for migratory waterfowl and these portions are treated as a sanctuary for wildlife where no hunting will occur. Public access is available for educational purposes and for academic and environmental studies. Controlled hunting occurs on small portions of the property, but only hunting of pen-reared birds. The principal conduct for which Ellen was convicted involved filling of wetlands incidental to the excavation of approximately 10 duck ponds. These were dug in wooded areas and planted with subquatic and emergent wetland vegetation to create waterfowl habitat. Ellen's supervisory role on the project entailed visits once or twice a week over an 18-month period.

Bill Ellen is a civil engineer whose prior experience involved primarily the planning and permitting of marine projects such as docks, boat ramps, bulk heads and channel widenings. He has worked on over 1,000 projects during his career. None has been subject to state or federal criminal enforcement, nor has Ellen been subject to any other criminal enforcement matter. Two of the over 1,000 projects were subject to civil environmental enforcement, but Ellen has affidavits from the owners of the projects attesting to the fact that he was neither the cause of nor involved in the conduct that was found to be a violation. As part of the record on sentencing, he has received numerous letters from

government officials, business executives, clients, and private citizens attesting to his environmental sensitivity and his consistent guidance to them to avoid wetlands and unnecessary environmental impacts in their construction activities.

Bill Ellen saw combat duty in Vietnam as a marine infantryman. He then went through college on the GI Bill. With his wife Bonnie, he operates a charitable foundation called Wild Care. Wild Care is licensed by the federal government and the State of Virginia as a wildlife rehabilitation facility. The Ellens work with volunteers and area veterinarians to care for, nurture and rehabilitate all manner of wildlife which are then released to the wild.

It is very clear that Bill Ellen got trapped in the confusion and debate within the government about what constitutes a wetland. The wetlands at Tudor Farms were marginal in value. The filling activity that was the basis for most of the prosecutions' case involved the technique used to clear trees, which involved some incidental movement of soil. The wetlands involved were, with rare exception, wooded areas and areas that were only seasonally wet. Substantial portions of the property, if wetlands under any criteria, would not have been considered jurisdictional or regulated wetlands until March 1989 when the government adopted a wetlands delineations manual that has since been rescinded because it is brought too many areas within the scope of the Clean Water Act.

The internal government debate and public controversy over which standards or delineation manuals should be used for regulatory purposes sharply underscores the fundamental issues involved in Ellen's prosecution. For reasons that have never been explained, the government chose to prove by use of the 1989 Wetlands Delineation Manual, that Bill Ellen filled wetlands in 1987 and 1988. It was extremely detrimental and unfair to apply such standards. Although the courts have not accepted that this constituted a constitutional deprivation, there can be little dispute that it stacked the deck against Bill Ellen on the most critical issue in the case -- were the areas involved really wetlands. The fundamental unfairness of relying on the 1989 Manual has been underscored by the fact that Congress has prohibited its use for any future wetlands enforcement cases because of its serious technical deficiencies. The Executive Branch has also repudiated the 1989 Manual as resulting in over-regulation of wetlands. Both EPA and the Corps of Engineers have abandoned all use of the 1989 Manual for several years.

Having been convicted, application of the Sentencing Guidelines applicable to environmental offenses further doomed Bill Ellen. The guidelines do not permit the judge to impose any penalty other than prison. In Ellen's case, the judge said on the record that his hands were tied. He later testified before the U.S. Sentencing Commission that the guideline involved needed revision and urged the Commission to act. The Probation Officer for Ellen also said in his report that the guideline was flawed. The guideline dictates a sentence for discharge of a pollutant without a permit. It then operates to cumulatively punish the defendant by enhancing the penalty if the offense involved the discharge of a pollutant or if it involved conduct without a permit. The result of this double counting is that every wetland violator must go to prison. There is no possible mitigation of the sentence.

In trial and in subsequent descriptions of this case, much has been made of the claim that Ellen was repeatedly warned not to fill wetlands and that the project received two cease and desist letters from the Corps of Engineers. Ellen's detractors thereby claim he was willfully defiant of regulatory authority. This is not correct: the facts must be reviewed in context in order to understand how the descriptions are misrepresentative.

The first part of the project, the digging of a wildlife sanctuary pond, was planned and constructed under the supervision of the Maryland Department of Natural Resources. The principal DNR representative consulting with Ellen was hired by Jones and lived on the property for two years supervising day-to-day activity. A representative from the Corps of Engineers reviewed this sanctuary portion of the property in February 1988 and explained to Ellen how the planned construction could be accomplished without the need of a permit from the Corps of Engineers. At the conclusion of this meeting, Ellen was given a cease and desist letter. Ellen thought he fully complied with the letter by the purchasing expensive earth moving equipment and hiring a specialist in wetland excavation. The violation at this site, as proven at trial, involved independent contractors clearing land who, on several occasions, used shear blades on their bulldozers (for which the Corps required a wetlands permit) rather than a raked blade (which the Corps claimed did not require a permit). There was evidence that Ellen required contractors to install and use raked blades. In addition, the previously existing road surrounding the pond area became somewhat wider through repair, maintenance, and buildup and compression caused by heavy earth moving equipment.

Three other areas in which violations were charged were as much as a mile away from the sanctuary area. Ellen received no warning or notice from the Corps of Engineers or anyone else with respect to these areas.

The second cease and desist letter was issued over one year after the first. Upon receipt, Ellen immediately set a meeting with the Corps enforcement representative. The representative from the Corps of Engineers came to that meeting with an expert from the Soil Conservation Service (SCS) of the Department of Agriculture. The meeting occurred at the Management Complex, the site of another charged violation. The SCS expert had made a wetland determination at that site one month earlier and represented to Ellen that no wetlands would be filled by the planned construction. He sent his written conclusions to Dorchester County regulators who issued building and sewer permits to Ellen based on the determination. Ellen relied on the Soil Conservation Service wetland delineation in beginning construction, and was very reluctant to incur construction penalties by stopping all work at that location now that the Corps of Engineers was apparently overruling the SCS. On this day, March 3, Ellen stopped all activities throughout the site with the exception of work at the Management Complex. Ellen told the Corps representative on March 3 that he could not stop work at the Management Complex without incurring significant construction penalties. All work, however, was stopped on Sunday, March 5. There was no evidence that any filling activity or construction work occurred between the Corps' visit on March 3 and March 5 when all activity was stopped. Nor was there any work done thereafter during the time Ellen was involved with the project.

In this case, and generally, cease and desist letters from the Corps of Engineers are broad admonitions not to fill wetlands without a permit. They do not provide site-specific information or indicate where in a large property wetlands are suspected to be present. It is not reasonable to suggest that a cease and desist letter or a face-to-face discussion about point A would serve as a warning or notice about point B a mile away, when point B did not appear to be a wetland. The cease and desist letters and several other casual warnings simply did not provide Ellen with any meaningful information or put him on notice that he was working in wetlands. He knew there were wetlands of various places in the 3200 acres. He often altered plans to avoid wetlands and believed these efforts of avoidance had been successful. The sad fact is that he did not avoid all areas that the government subsequently declared to be wetlands using the 1989 Manual.

Equally disturbing is the fact that one of the nation's leading wetlands experts has testified that the wetlands filled at Tudor Farms were of low quality and little ecological value. He determined that 3.5 times as much wetlands acreage was created as was filled, that wetlands acreage enhanced to higher value than that filled is on the order of a 13 to 1 ratio, and that the created and enhanced wetlands are of much greater value than those that were filled. The end result is that Ellen is about to begin serving a sentence for his role in a project that advanced the environmental goals of the federal wetlands program.

By JEFFREY H. I

LITTLE ROCK, Ark. The election, Bill Clinton major crisis — a bitter over whether to name his Mickey Kantor to head his During a particularly to president-elect declared: George.

Soon thereafter he did Stephanopoulos, the campaign director and a foe of Mr. Kantor's rise. It isn't certain whether his opposition — he questioned Mr. Kantor's organizational skills and lobbying connections — was decisive, and, in fact, Mr. Stephanopoulos says Mr. Clinton never asked his advice directly. Still Mr. Kantor didn't get the job.

It is clear, however, that he want to talk to George. "I become the contemporary 'clear it with Sidney' — I've famous instructions to was considering who to select in 1944. Sidney was the powerful founder of the Clothing Workers Union.

Such an accolade would be any person. But this one is old, looks even younger than most of his colleagues at Clinton not as George but as reference both to his youth and they have for him. As a man for Mr. Clinton he familiar face to millions of A he soon also will be a Washington, where he is like the new president not just on policy and legislation as well.

"He's as good as anybody, certainly better than anyone finding the nexus between policy, which is a rare talent and Moe, former chief of President Walter Mondale, says Kirk O'Donnell, a former House Speaker Thomas "Tip" will be a tremendous resource president."

Mr. Stephanopoulos has a sense and respect not just of who telephones him at least but also of the senior officers of the team: Chairman Vernon Director Warren Christopher pected to get a White House wide-ranging responsibilities dealing with Congress, where he an aide to Democrats including Leader Richard Gephardt (D.).

To such a role Mr. Stephanopoulos would bring a set of political are far more liberal than the "crat" image carefully cultivated Clinton. Mr. Stephanopoulos, a

Congress Staff Despite Inform

By DAVID WESSEL

AND JACKIE CALMES

WASHINGTON — Don't believe you're told, Mr. President. After meeting with the leaders of Congress, Bill Clinton week that Congress has already staff. He seemed to back away campaign suggestion that Congress staff by 25% if he does the White House.

But the Office of Personnel tallies show that the branch's staff count was nearly a last year. A preliminary tally Congress and its various arms 38,509 full-time and part-time work the end of October. That's almost the same as a year earlier and up from five years ago.

Over the weekend, Senate Leader George Mitchell said "Meet the Press," that "in the age, the number of employee legislative branch of government declined by about 4%." To support his office yesterday produced a finding that the average employee legislative branch in fiscal 1991 ended Sept. 30, 1991) was 38,200, down from an average of 40,100 in fiscal 1986.

But the snapshots taken by the

EPA's Most Wanted

Bill Ellen, a marine engineer from Matthews, Virginia, is about to go to prison for violating the federal government's wetlands policy. The irony is that Mr. Ellen is as green as they come. He runs a nonprofit wildlife rescue center and used to be a state environmental engineer who himself regulated wetlands. If someone like Bill Ellen can run afoul of the Byzantine rules that now govern the nation's swamps, bogs and marshes and wind up in a federal pen, then no one is safe from an overzealous government enforcement campaign that treats all things wet as equal.

Mr. Ellen's Kafkaesque ordeal began innocently enough in 1987, when he was hired by Paul Tudor Jones II, a New York futures trader, to supervise the conversion of part of his Maryland estate into a 103-acre wildlife sanctuary. The sanctuary was to include a series of duck ponds and grassland to attract migrating waterfowl along with a gatehouse and sheds for the use of a property manager.

Mr. Ellen, who had worked for four years regulating wetlands and coastal development for the Virginia Marine Resources Commission, was careful to work with officials from the Soil Conservation Service and the Army Corps of Engineers and secured 38 permits for the work.

Then in early 1989, the federal government, eager to implement President Bush's pledge of "no net loss" of wetlands, issued a new manual redefining them. Federal control was extended over 100 million additional acres of land, most of it private. Among the areas newly classified as wetlands were: glorified potholes where water may collect for only a week each year, man-made agricultural ditches, pine forests and 40% of drought-stricken California. In Dorchester County, where Mr. Ellen was working, the amount of land designated as wetlands expanded from 84,000 to 259,000 acres, or 70% of the county's area.

Armed with this new, expansive wetlands definition in February 1989, the same Corps of Engineers official that Mr. Ellen had been working with ordered all work on the project stopped. Mr. Ellen was flabbergasted. "I was converting land into ponds for waterfowl," he says. "The land was so dry a dust-suppressant had to be used when bulldozers built the ponds."

Nonetheless, Mr. Ellen stopped work on the property pending an appeal, except for the small area containing the gatehouse and sheds. Because the Soil Conservation Service had previously deemed the area as non-wetlands, he allowed two loads of dirt to be dumped there over the next 48 hours. "It was a mistake," Mr. Ellen admits, noting he faced construction penalties if certain work wasn't completed. The feds took a different view and charged him and Mr. Jones, the land's owner, with willfully filling in wetlands.

A year later, Mr. Jones pleaded guilty to one misdemeanor violation. He chose to avoid a costly trial that could have meant jail and the loss of his trading license. Instead, he paid a \$1 million fine and agreed to donate another \$1 million to a wildlife refuge. Legally, that left Mr. Ellen in the lurch when he went to trial in December 1990. Though wetlands experts had concluded that Mr. Ellen had actually added 45 acres of wetlands to the property he worked on, the government claimed the duck ponds he had built could cause harm, because ducks and geese would defecate in the water. The offending duck ponds so concerned the government that they used dynamite to create a 400-yard channel connecting them to salt water.

But the jury took more note of Mr. Jones's previous guilty plea, and it convicted Mr. Ellen based on the expanded definition of a wetland in the government's 1989 manual. In fact,

since the manual wasn't effective until March 20, 1989, Mr. Ellen was convicted of violating a regulatory standard that didn't exist at the time of his actions.

Since then, the 1989 manual has been discredited. Bernard Goode, who headed the Corps of Engineers' regulatory office until 1989, publicly attacked "wetlands worship" and warned that because of the government's reliance on the 1989 manual "the regulated sector was on the verge of anarchy." Rep. John LaFalce, a New York Democrat who chairs the House Small Business Committee, wrote President Bush to warn him of "the regulatory travesty currently masquerading as federal wetlands policy." In August 1991, Congress passed a law effectively banning the Corps from using the 1989 manual. The EPA also no longer uses the manual, which is now being rewritten.

None of this helped the hapless Mr. Ellen. After his conviction, the prosecution asked for a sentence of from 27 to 33 months in prison. Instead, U.S. District Judge Frederic Smalkin handed down the lowest possible sentence: six months in prison and four months of home detention. U.S. Attor-



Bill Ellen

ney Breckenridge Wilcox unsuccessfully appealed, asking for a longer sentence. He declared it important that "those who commit criminal environmental insults will come to learn and appreciate the inside of a federal correctional facility."

Though Judge Smalkin was lenient, Mr. Ellen is still scheduled to enter prison at the end of this month, leaving behind his wife and their two sons. He may have to abandon Wildcare, the nonprofit wildlife rescue service he has operated since 1985.

At a time when drug dealers and other criminals often escape with no jail time, this Vietnam combat veteran can't understand why he must go to prison over a bureaucrat's interpretation of an ambiguous congressional law.

Nor will Mr. Ellen be the first to do time in jail for running afoul of the Wetlands Police. In 1990, John Pozsgai, a Hungarian immigrant who fled communism, began a three-year prison term for putting topsoil on a lot he bought that had been filled with 7,000 old tires. In 1990, Ocie Mills and his son Carey completed 21-month prison terms for dumping sand on a lot with the state of Florida's permission. The feds arrested them for filling in wetlands.

Since Mr. Ellen's conviction, fanatical enforcement of wetlands regs has been reined in. President Bush and EPA Director Bill Reilly both recognized the process had gotten out of hand. "We went a little too far in the direction of the Corps and the EPA, and we had to pull back," President Bush confessed earlier this year. But no one knows if Bill Clinton's appointees will yank the regulatory machinery into overdrive again. Al Gore's likely oversight of environmental policy is no cause for optimism.

President Bush should commute Mr. Ellen's sentence this month before he goes to prison, or pardon him. In doing so, Mr. Bush would send a signal that he never intended for wetlands policy to create a police state in America.

Must Use Line-Item Veto

By TONY SNOW

If Bill Clinton wants to define himself as "a new kind of Democrat" he will need to throw off the old politics of tax-and-spend-and-regulate. He cannot do that without a line-item veto.

The president-elect finessed the issue at a meeting this weekend with Democratic congressional leaders. Mr. Clinton termed "intriguing" House Speaker Thomas Foley's offer of "enhanced rescission" authority in lieu of the line-item veto. "Inadequate" would be a better adjective: Enhanced rescission authority would let a president veto spending items, but it also would let Congress restore the pork with a simple majority. This use would make pork-barrel spending virtually veto-proof.

Meanwhile, Senate Majority Leader George Mitchell made it clear that he looks upon even this modest change with skepticism. "The central concern of the American people is not with the procedure utilized in the Congress," he intoned. "It is with turning this economy around, creating jobs, getting the kind of action that I believe the president-elect's program will provide." In short, he doesn't want people to watch Congress create budgets.

And no wonder: For 18 years, Congress has enjoyed virtual sovereignty over the federal budget. Today's byzantine system, with its maze of subcommittees, committees, and divided jurisdictions, enables members of Congress to spend and tax without fear of discovery by the public or recrimination from the president. A president can punish fiscal crimes only by making the politically difficult choice of rejecting important appropriations because Congress has loaded them up with unpalatable pork.

President Bush faced such a dilemma recently. Congress had disfigured an urban aid bill designed to establish nationwide urban enterprise zones and weed-and-seed programs. When Congress had finished with the measure, enterprise zones accounted for only about 10% of the spending in the bill. Other goodies constituted the rest.

Furthermore, what began as a modest tax bill metastasized into a barrage of tax increases on individuals, families and businesses, coupled with 50 special tax deals. Congress also heaped new mandates on the small businesses that create two out of every three new jobs in the U.S. The president vetoed the bill, and had to abandon his dream of creating the first extensive enterprise zone program.

Americans shouldn't have to endure such nonsense, and they wouldn't if the president possessed a line-item veto. U.S. presidents effectively exercised item veto power from 1789 until 1974, and the power successfully restrained spending.

Today's deficit nightmares began when Congress erased the president's impoundment authority as part of the Watergate-era "reforms" of 1974. Congress went on a spending spree as soon as the president lost the power to say no. The federal deficit expanded from 0.4% of gross domestic product in 1974 to 3.5% in 1975. In 1987 dollars, the deficit leaped from \$14.2 billion to \$111.9 billion.

To put matters in sharper perspective, the deficit in the 25 years before the 1974 budget act averaged roughly 0.7% of GDP. It has averaged 3.7% since.

President-elect Clinton already has promised to restore the line-item veto.

Nearly \$11 billion of his proposed \$145 billion in spending cuts would come through exercises of the item veto. But two things stand in his way.

One is his rumored plan to formulate a fast-spending "stimulus package." This will serve as a congressional stimulus package as well, setting off a can-you-top-this competition to shove new "investment" and "innovation" into the federal budget — and pay for it through "savings" supplied by higher taxes on the "rich." In other words, Congress will seek breathing-taking spending increases, accompanied by higher taxes on working Americans.

The second barrier is Congress. Mr. Clinton will not change congressional hearts with a stirring speech or two. He must acknowledge the fundamental conflict between the branches, and demand a level playing field for the president. Kinder, gentler won't do, as we in the Bush administration learned. Bill Clinton will have to crack heads in his own party. If he doesn't, powerful members of Congress surely will crack his.

A fight would be worth it — for the new president, for Congress and for the American people. The line-item veto could make budget politics honest by letting a president shine a bright light on such items as subsidies for Belgian endive cultivation, mink reproduction research, a study on the behavior of killer bees (which the vice president-elect supports), or poultry development centers in Arkansas. The threat of exposure could encourage thoughtful de-

Yesterday attorneys for Jewish residents of New York class action federal civil against the city and its police. The citizens charged that some 80 Jewish residents Crown Heights community during a three-day anti-S last summer. Among the estate of Yankel Rosenbaum, a young Australian came to New York to study was murdered in the first The suit charges that the act to protect innocent citizens. It names New York Dinkins and his former sioner, Lee Brown.

In an era of frivolous New York residents' case is a Nationally, the Simi Valley quittal of the policeman King case have raised the citizens of one ethnic group trial from a jury domin ethnic group. In fact, the action suit and the even get at this question in a they involve not only the city and its bureaucracy the question of racial do

To understand the Crown it helps to look back New York history. In New now a minority group. M is black, was elected with strong support from community. Mr. Dinkins won without white — an is — support.

'Get the Jew' The riots came in it after a Hasidic driver killed a seven-year-old Crown Heights street, to roam the black-an hood. The same night t mob of young blacks, baum, a visitor to the Jew." He was Lemrick Nelson Jr., gang, was charged with

At the time, mem community in Crown H the mayor was not layi to protect them. The stemming black rage, one conciliatory walk borhood. Three days called out enough police. The entire episode by a stunning a unwillingness on the unwilling authorities to co

The Rosenbaum himself. The prosecu Nelson appeared to scene of the stabbing a frightened Nelson v his pocket: a few more Yankel Rosenbaum i as the man who ha Nelson himself subs the local precinct he, the blood on the to be consistent with

By NORBE

FRANKFURT — many's central bank international limit: sharp U.S. critics: collapse of the Exch Bundesbank-watchi ord. From abroad being blamed for dr pean economy. A budget pressures a creases are provok inflation and hence of the bank.

A new money Bundesbank is to b If a higher target is announced, an international fina inflationary, inter ties could continu ing a sizable weak The Bundesba the money suppl should be set h reasons.

The accelerated resulted in cap residential const for 12.7% of Germ in the past five y higher than the 11.5% for the per the mid-1980s. Th expanding at a r same time is bec Immigration. In Germany. For lation has been

THE WHITE HOUSE
WASHINGTON

November 19, 1992

NOTE FOR BOYDEN GRAY

FROM: ROBERT B. ZOELLICK *RBZ*
RE: Attached Note from Henson Moore re: Call with
Governor Fordice

I received the attached message today from Henson Moore about his conversation with Governor Fordice about a job training organization that receives DOL funds. Please note the message refers to "a nest of thieves (graft and corruption)."

When Secretary Martin called me on another matter, I asked her about the Governor's complaint. She said she was familiar with the issue, and she agreed to call the Governor back (probably on November 20). She said she would include her Solicitor to help explain the situation.

I also returned a call that Governor Fordice made to Secretary Baker. I told the Governor that I expected Secretary Martin would call him tomorrow.

I don't know whether any further action is necessary, but given the reference to wrongdoing, I have attached the Fordice-Moore message for your review.

RBZ:

Henson Moore called with the following: Governor Kirk Fordice, Mississippi, has had a three-month brewing problem with Department of Labor that he feels VERY strongly about.

Claims the state of Mississippi discovered a nest of thieves (graft and corruption) in the local job training organization that receives funding from Labor. Governor Fordice does NOT want this group to get it again and Labor overruled him -- they feel this group should keep it.

Fordice called Henson and Henson called Labor to ask them to look at it and work it closely. Fordice called Henson back yesterday and said he hadn't heard anything from the Labor Department. Henson was unable to reach Secretary Martin, however spoke to her Chief of Staff, John Shaw, who advised Henson that Lynn Martin has it on her desk for decision with a recommendation from the department to rule against the Governor and that Lynn is going to call the Governor to let him know.

Henson feels strongly that The White House should see it and head off the potential problem. Henson is skeptical of Labor's position, not known for pro business or pro conservative. His sense is to believe Fordice.

FYI, Governor Fordice was Mississippi campaign manager -- bringing in more than any other state, according to Henson. He is now calling in his chips.

Governor Fordice is planning to call Mr. Baker on this subject, possibly some time today.

Henson Moore
x 2432
10:45 am
11/19

Department of Economics
Stanford University
Stanford, California

November 10, 1992

To: ROBERT ZOELLICK, c/o LINDA
202-456-1121

From: John B. Taylor
Professor of Economics
Stanford University
Fax Numbers 415-856-6822 (H)
415-725-5702 (O)
Telephones 415-856-3778 (H)
415-723-9677 (O)

11/10
To → Mike Boskin
Dave Demarest =
11/12 repeated verbally
to RBZ at 9:50 AM
Could you two pls give me
your advice on doing this?
(perhaps on the edge yourself
meeting) Thanks RBZ

Dear Bob,

I would like to recommend that the President send a note of thanks to the 110 economists who participated in signing the statement published by the campaign in USA Today in September. The statement drew attention to several important aspects of Governor Clinton's economic program and the potential effects on the economy. The statement was also used in TV ads.

Attached is a possible draft. Several of the economists did much more than sign the statement, and some of the letters could reflect this. But most important, in my view, is to send a short note of acknowledgement.

I can send you a list of names and addresses, if you want to pursue this.

Please let me know if you have any questions.

I know that you and your staff are very busy, and perhaps there is already an effort along these lines underway. But I thought it was important to make this suggestion.

I hope all is well with you, and I hope to see you soon again.

John

NUMBER OF PAGES (INCLUDING THIS PAGE): 2

DRAFT NOTE FROM THE PRESIDENT
TO ECONOMISTS WHO SIGNED STATEMENT
PUBLISHED IN USA TODAY ON SEPTEMBER 21

Dear ,

Now that the demanding period of the Presidential campaign is over, I want express my deep appreciation for your help on economic matters. In particular, the economic policy statement that you and others signed helped greatly to bring attention to important economic issues.

Your expertise and your willingness to express your views in this statement has provided an important service to our country. For this you have my lasting gratitude.

THE WHITE HOUSE
WASHINGTON

November 13, 1992

Memorandum for Secretary Sullivan

Re: Food Labeling Regulations

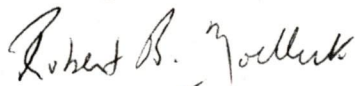
I shared your November 13 memo with Secretary Baker. We were not clear about the meaning of the following sentence in your discussion of the format alternatives (p. 1, para. 3): "I would be unable to adopt either of them."

We are also unclear about the meaning of the phrase (p. 1, para. 5), "I also am not prepared to adopt any definition for 'light' for high fat foods that are not reduced 50% in fat."

Secretary Baker asked me to ascertain whether these statements are your way of saying that you would refuse to implement the President's decisions in the event they are different from your recommendations and, if not, would you care to rephrase them. He would like to know your answer before we proceed with the paper and the meeting you requested.

I also note that your memo refers to various questions of legal interpretation. As your staff knows from the various interagency meetings, we have relied on the Justice Department to resolve differences of legal interpretation.

I would appreciate it if you could let me know promptly your answer to Secretary Baker's question. Thank you.


Robert B. Zoellick

690-7595

NOTE: Sent via FAX 11/16 8:15 AM by CDJ. Also by mail, per Shirley w/Secy Sullivan; she wanted the original.

Tried to send 11/13 7 pm; all had departed the office until Mon 11/16.

THE WHITE HOUSE

WASHINGTON

November 13, 1992

OMB GENERAL COUNSEL MR. DAMUS

For your information. I believe
we should continue to proceed
as you and I discussed.

R. Zoellick

Attachment



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

November 13, 1992

MEMORANDUM FOR ROBERT B. ZOELLICK

Re: Food Labeling Regulations

My staff has reported to me on the meeting held Thursday to discuss the draft options memorandum for the President. By extracting issues from the broad legal, factual and public health policy context in which I am obligated to consider them, the memo provides an inadequate basis for decisionmaking. Thus, if these issues are presented to the President, a meeting will be necessary.

My principal concern, however, is that the memorandum fails to include what I regard to be the practical options for resolving this matter. I would like to make a few points that you should consider as you move this matter forward and then address these options.

On the format issue, I made a decision based on my statutory mandate, extensive research, and a large administrative record. Neither of the alternative formats presented in the options memo adequately achieves the statutory and public health goals for which I am responsible. I would be unable to adopt either of them.

On restaurants, I have adopted the most flexible approach possible to ease compliance by restaurants with the requirements of NLEA. Under no circumstance can I say that menus are not labeling. It is imperative for the welfare of consumers and the restaurant industry that I adopt the "reasonable basis" compliance standard, which we developed in response to public comments and input from the restaurant industry. The compliance guidelines suggested by USDA have no statutory basis and would effectively legalize even glaring violations of law.

I have carefully considered USDA's definition of "light in sodium." With respect to the products FDA regulates, the "light in sodium" descriptor is appropriate only for products that are low in fat and calories. USDA should be free to define the term as Secretary Madigan see fit for USDA-regulated products. For reasons we have discussed, I also am not prepared to adopt any definition for "light" for high fat foods that are not reduced 50% in fat.

NOV 15 1992 09:05 FROM: DEB LEE
The Deputy Chief of Staff - Page 2

I am surprised to learn that the draft options memo includes for presentation to the President two issues on which HHS and USDA do not disagree. On absolute amount declarations, there are specific statutory constraints, and we are being as flexible as the law allows. The 25 percent threshold for comparative claims assures nutritionally significant (and readily achievable) differences in products claimed to be "less" and "reduced" and is generally supported by industry. I feel these issues should not be raised in this memo.

Finally, we must not lose sight of the fact that we are at the end of a rulemaking process in which my decisions have been guided by a detailed statute and an elaborate rulemaking record. In my judgment, it is unwise -- and unfair to the President -- to ask him to resolve specific issues at this stage of the proceeding. This risks, among other things, having the President select options that are not legally defensible on the basis of the available record.

We thus are left with two basic options, neither of which was included in the draft options memorandum:

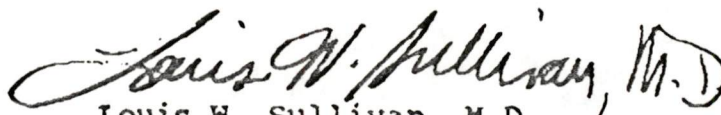
- Option One: Instruct me not to issue my final rules. In this case, the rules I proposed last year and that became final this week by operation of the statute will remain in place with respect to FDA-regulated products. Necessary improvements would have to be made by the next Administration, with the food industry remaining in a state of enormous uncertainty until then, and the Administration vulnerable to legal challenge for "unreasonable delay" of these statutorily mandated and now overdue regulations.
- Option Two: Clear my final rules and authorize Secretary Madigan to proceed as he sees fit. This would mean a substantial achievement for the Bush Administration and consumers, even if USDA does not issue final rules or the HHS and USDA rules are not identical.

NOV 15 1992 03:03 FROM DE SEC HHS TO 34361603 P.04

The Deputy Chief of Staff - Page 3

In light of my statutory responsibility and deadline, and the importance of food labeling reform to our Healthy People 2000 initiative, I feel strongly about the need to move forward with my regulations. If cleared to do so, I would proceed as expeditiously as possible, consistent with protecting the procedural integrity of the rulemaking. If some other course is contemplated, I must take the matter up personally with the President.

I appreciate your cooperation in working toward a prompt resolution of this matter.


Louis W. Sullivan, M.D.



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

November 13, 1992

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The Deputy Chief of Staff - Page 3

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I appreciate your cooperation in working toward a prompt resolution of this matter.


Louis W. Sullivan, M.D.

THE WHITE HOUSE
WASHINGTON

Date: 11-11-92

TO: BOB ZOELLICK

FROM: GARY R. BLUMENTHAL *GB*
Special Assistant to the President
for Agricultural Trade & Food Assistance
Room 231, OEOB, x6630

PD Attached is a mock-up of the nutrition label you had suggested in one of our meetings. The second version is another USDA alternative.

Also, Secretary Madigan would like to respond to a recent Washington Post editorial on the food labelling issue. Attached is a draft letter that he would like to send. Do you have any thoughts on its content, or the advisability of his sending it?

① See Bob Darnas, who has done a draft options memo. He's incorporated ~~your~~ ^{the} 1st alternative, but he may want your printout (but cut off the fax marking). Then let USDA have one option (either its original ~~or~~ some other alternative)

② Re the Letter to Editor, I believe this has to be his choice. I have no problems with it.

RBE

Nutrition Facts

Serving Size 1 cup (253 g)
Servings Per Container 1

Amount Per Serving

Calories 260 Calories from Fat 75

Daily Value*

Total Fat (1g=9 calories)	8.5g	53-93g
Saturated Fat	3.5g	18-31g
Cholesterol	35mg	300mg
Sodium	1010mg	2400mg
Total Carbohydrate (1g=4 calories)	22g	240-420g
Complex Carbohydrate	8g	
Sugars	4g	
Dietary Fiber	9g	18-32g
Protein (1g=4 calories)	25g	40-70g

Vitamin A 20% • Vitamin C 2% • Calcium 8% • Iron 45%

*Ranges are based on daily intake of 1,600 to 2,800 calories. Advisable calorie, fat, carbohydrate, fiber, and protein intake should vary based on age, sex, height, weight, metabolism, and activity level. Typical intakes for women are 1,600-2,200 calories, for men 2,000 -3,000 calories. children (ages 4-12) 1,800-2,500 calories.

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DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

November 10, 1992

Letters to the Editor
The Washington Post
1150 15th Street, N.W.
Washington, D.C. 20071

Dear Sir or Madam:

I read with interest your recent editorial, "More Thought for Food" regarding food labeling regulations to be issued by the Department of Agriculture (USDA) and the Food and Drug Administration (FDA). Regardless of the outcome of the regulations, your editorial clearly suggests that The Washington Post does not understand the fundamental issues in this debate. I would like to call certain facts to your attention.

I was the Republican co-sponsor of the Nutrition Labeling and Education Act (NLEA) and pushed for its passage because I strongly believed that accurate and complete nutrition information should be made available to consumers. Since the focus of that law was limited to products regulated by the FDA, such as dairy products and fruits and vegetables, I used my discretionary authority when I became Secretary of Agriculture to propose that similar and consistent rules be applied to the meat and poultry products regulated by USDA.

Your editorial suggests that the USDA rules obscure information and dietary advice about fat. I would point out that the USDA proposed label requires that each food label list: the amount of total fat, the amount of saturated fat, the amount of cholesterol, and calories from fat. In addition, the USDA label lists the number of calories per gram of fat as well as the number of calories per gram of carbohydrate and protein, further help to consumers in planning a healthy diet. Finally, the USDA label provides dietary advice based on the USDA/HHS Dietary Guidelines for Americans which advises individuals to limit their fat intake to 30% of calories or less and to limit their intake of saturated fat to less than 10% of calories.

From my perspective, the debate over the best food label should be driven by the requirement in NLEA that nutrition information be conveyed "in a manner which enables the public to readily observe and comprehend such information." The USDA label highlights essential information--the actual nutrient content of the product--and provides nutritional guidance that consumers can use to plan their diet. It is designed to be read and understood by a hurried shopper in a crowded supermarket.

Finally, I would note that a 15 page bill has been turned into 4,000 pages of regulation, far beyond what was envisioned when NLEA was passed. For example, the rules regulate nutritional claims made on restaurant menus. This may be a desirable and even feasible step for large restaurant chains. However, we should not discourage the local Chinese carryout or the "Mom and Pop" diner from trying to improve the nutrient value of their menu items.

Sincerely,

Edward Madigan
Secretary

more responses reached outside Germany. Berlin and spilled over onto Nov. 9, itself the double-edged anniversary of 1938's violence and 1989's euphoria: anti-racism demonstrators marched in numbers in Dresden, Leipzig, Munich and other cities.

But Munich also underlined how such symbolism can seem hollow and half-hearted. Bavaria's conser-

...failing to make it heard because anarchists had cut off his microphone—that's too vivid a symbol for anybody's comfort. Many Germans responded to that scene yesterday with a spontaneous, and heartening, wave of outrage. But it's clearer than ever that the Kohl government's further reaction must be not only symbolic but, finally, substantive.

Without the Khmer Rouge

FROM THE beginning, there were great risks in trying to bring the Khmer Rouge, Cambodia's agents of death, into a United Nations peace agreement. Surely, it was argued, they would cheat and use the framework only to gain respectability and spoil the prospects of others. Still, the counterargument had its claims: Bringing them in would not transform the Khmer Rouge but would put them under international observation and pressure to play fair. The better part of a year has now gone by. The Khmer Rouge have cheated, refusing to yield arms and access to U.N. peace-keepers or to move to elections. But though they have a galling presence in Phnom Penh, they are almost everywhere newly discredited for flouting the U.N. Nor have they spoiled the hope the great majority of Cambodians seem still to repose in the U.N. plan.

Plainly, however, the plan needs fixing. Its emphasis on a U.N.-managed transition to elections is sound. But the elections cannot possibly include the Khmer Rouge. By their defiance they have excluded themselves from a political role. They cannot be permitted to prevent others from going down the political road. Fortunately, this seems to be taking

root among the principal sponsors of the U.N. plan. The Security Council is about to review the bidding in Cambodia and should make the necessary timely adjustments.

Two further considerations beckon. China, long the principal patron (for anti-Vietnam reasons) of the Khmer Rouge, has trimmed some of its support for them. But Thai generals have become the avaricious business partners of Khmer Rouge guerrillas trading in gems, hardwoods and drugs to finance their ugly movement. The United States has a soft spot for the Thais; through thick and thin they have been friends. But these deals can't be condoned.

With elections in Cambodia, the U.N.'s mandate expires. But the need for a forceful U.N. role—to help deal with a Khmer Rouge military campaign—does not expire. Estimates differ about the military capacity of the Khmer Rouge. But they are surely strong enough to force the incoming president to a difficult political stretch to mobilize continuing support for Cambodia. He will have to remind Americans of the political requirement to serve stability in this strategic Asian corner and of the moral requirement to help a victim country come back to life.

More Thought for Food

SO IT COULD come to this: A broccoli-eschewing president soon to settle in meat-eating Texas gets to decide the meaning of "lite." This and other suspicious adjectives that frequently appear on food labels used to belong to the manufacturers. Now they're the property of regulators housed in two government agencies. The trouble is, no one can agree on official definitions. The Food and Drug Administration has one idea and some explicit instructions from Congress. The Agriculture Department, hoping to keep Congress off its back, has another. Must the White House decide?

This detail-rich dispute is about more than mere words. It's about how best to present nutrition information to consumers and the kinds of dietary messages the government should send. It's a disagreement that now engages two Cabinet secretaries, Edward Madigan of Agriculture and Louis Sullivan of Health and Human Services. The longer these two dig in their heels, the longer it will be before the

grocery manufacturers produce a uniform food label that speaks the truth.

Two years ago, Congress instructed the FDA to clarify labels and to prohibit specious health claims made on them. The Agriculture Department, which regulates all supermarket items containing meat and poultry, voluntarily joined the labeling reform effort. The spirit of cooperation faded quickly, however. Fat and sodium became the source of some contention. The FDA argues for a prescriptive label that would help Americans plan a healthful diet; the USDA urges simple descriptions without dietary judgments.

The rulemaking clock just struck midnight, which means the proposed regulations crafted by the FDA before the reams of comments and compromising recisions and revisions should become law. But the administration is sure to buy time to resolve this interagency fight. The meat-promoting USDA once pledged to follow the FDA's lead on food labels. Its response lately seems to be: fat chance.

Halloween's (

In the revisionist s:
Nov. 5 letter "Hallowe
Origin," I hereby rect
Van Weddingen's vers
hain as "Night on
Mountain."

Samhain (pronounce
is not a name of a god
Gaelic for "November
hain Eve means no
fiendish than the la
October. In any case
had no "god of dea

The Mi

Jessica Mathews tried
picture of a corrupt and
Congress in her Nov. 2 o
"Pork-Barrel Research"
gp160, a promising HIV
have a different view,
intimately involved in vie
therapy for many years.

Mrs. Mathews stated, "
of a therapeutic vaccine i
exciting new idea, not
However, Louis Pasteur su
approach to disease treat
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She also talked about
legislators" but omitted
sion of extensive testimo
Congress on this issue du
several years as well as th
briefings Hill staffers hav
ed in on the subject.

Clearly, the lobbying ef
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Not the Singer's Son

Regarding The Post's
about a Perot rally [Nov.

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song. The song was writte
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time by the name of Willie
DE

THE WHITE HOUSE

WASHINGTON

November 12, 1992

Tom, (Scully)

I've attached Governor Engler's revised and somewhat abridged list. Could you please share with your colleagues as part of your "task force"?

Thanks.

Bob Zoellick

Attachment as noted.



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR

JOHN ENGLEN
GOVERNOR

November 11, 1982

Mr. Robert Zoellick
Deputy Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. Zoellick:

As we discussed, enclosed is a list of requests that Michigan currently has pending before decision makers in various federal departments and agencies. Thank you for your offer to help on these critical issues.

This list is not as all-embracing as the draft list that was submitted to you earlier this week. Instead, I have identified the most important issues on which we need your help to obtain immediate federal approval.

The emphasis of my request is on job creation and job retraining efforts that will help rebuild Michigan for future generations and on issues that might have a significantly adverse effect on the state's budget if decisions are delayed.

We are continuing to review other requests that may be pending in Washington, and may provide you with additional critical issues as they are identified in the coming days.

Once again, many thanks for your help.

Sincerely,



John Englen
Governor

Enclosure



Michigan's Federal Action Agenda

U.S. Department of Commerce:

Bureau of Census adjustment. We are waiting for the Bureau of Census to make a decision regarding Michigan's census numbers. We have urged them to consider using the 1990 head count numbers as the base for this decade. A letter from Governor Engler was sent to Dr. Barbara Bryant and testimony has been provided to Senator John Glenn and to Senate Governmental Affairs. Contact: Dr. Barbara Bryant, Bureau of Census. State of Michigan, LeAnne Redick, Director, Governor's Washington, D.C. Office, (202) 624-5840.

U.S. Department of Defense:

Department of Defense Accounting Center: We are waiting for the Department of Defense to make a decision regarding whether Michigan will be named as one state to house a DOD financial center. If successful, this means more than 7,000 jobs and renovation of the J.L. Hudson's Building in Detroit. Contact: Secretary Dick Cheney. Michigan Department of Commerce. Arthur Ellis, Director, (517) 373-7230.

Wurtsmith Air Force Base Conversion: Federal approval of environmental and personal property issues that the Governor has already discussed with Secretary Cheney. Contact: Secretary Dick Cheney. Michigan Department of Commerce, James M. Storey, Wurtsmith Base Conversion Authority, (517) 739-8900 or (517) 373-9851.

U.S. Department of Education:

National Workplace Literacy Program, CFDA No. 840198. MDOE is waiting for a decision on a \$685,748 grant application, submitted on July 10, 1992, to pilot two regional work-based learning skill centers that will provide educational services to employees at eighteen small to medium sized businesses. Contact: Betsy Brand, Assistant Secretary, Office of Vocational and Adult Education, (202) 205-5451. Michigan Department of Education, Ron Gillum, Director, Adult Extended Learning Services, (517) 373-8425.

National Literacy Act of 1991 (P.L. 102-73). MDOE is waiting for a decision on a \$184,029 grant application, submitted on September 30, 1992, for the Michigan Institute for Adult Learning and Literacy, on the campus of Central Michigan University, to implement systems and networks designed to advance and enhance exemplary adult literacy theory and practice. Contact: Betsy Brand, Assistant Secretary, Office of Vocational and Adult Education, (202) 205-5451. Michigan Department of Education, Ron Gillum, Director, Adult Extended Learning Services, (517) 373-8425.

Homeless Adult Literacy Program (CFDA No. 84.192). MDOE is waiting for a decision on a \$464,757 grant application, submitted June 5, 1992, for the continuation of funding for twelve current Homeless Adult Literacy Programs, and the addition of one new site. Contact: Howard F. Hjelm, Director, Division of National Programs,

(202) 205-9650. Michigan Department of Education, Ron Gillum, Director, Adult Extended Learning Services, (517) 373-8425.

U.S. Department of Health and Human Services:

Wayne County Indigent Medical Care: HHS/Health Care Financing Administration (HCFA) is to advise this month of its decision on a state plan amendment to the Medicaid plan. The proposal was sent in August 1992. This is with regard to the "voluntary contributions" plan involving Wayne County "donating" funds to the state, which earn Federal match and are "returned" via the Medicaid outpatient hospital indigent volume adjustor. The care provided under this mechanism was formerly the Patient Care Management System (PCMS). Contact: William Toby, Administrator, HCFA. Michigan Department of Social Services, Vernon Smith, Director of Medical Services Administration, (517) 335-5001.

HHS Approval for ASSIST: State procurement activity is almost complete. Final Federal approval is the last necessary step that will allow implementation of the Unisys contract. DSS would like to proceed with ASSIST by December 1992. The final state step is State Administrative Board approval which will occur on November 17, 1992.

Federal approval is needed for the implementation advance planning document (IAPD), the total and Fiscal Year budget, and the Unisys contract. The IAPD, budget, and Unisys contract will be ready to submit to HHS and USDA in mid-November.

Funding for ASSIST from January 1992 to date also needs to be approved. HHS suspended approval for funding because of delays in procurement and has not yet resumed approval. Contact: Joann Barnhart, Assistant Secretary for Children and Families. Michigan Department of Social Services, Norm Charles, Director of Information Services Administration, (517) 373-2000.

U.S. Department of Labor:

General Motors WARN Notices: There are over 21,000 workers in the JOBS bank (Job Opportunity Bank Security Program) nationwide. The fund is a safety net that allows workers to be on a guaranteed income while not working. The fund is running out of money and as a result, GM plants in Pontiac, Flint, Willow Run and elsewhere have issued WARN (Worker Adjustment and Retraining Notification) to our department for the pending layoffs. It is anticipated 12,000 workers in Michigan will be removed from the JOBS bank as of January 11, 1993. The dislocated workers will be entitled to unemployment compensation and supplemental unemployment benefits. We are also awaiting the closing of the Willow Run, Flint V-8 Engine and Saginaw Grey Iron facilities--announced closure dates are between 1993 and 1995. The department is preparing an application for \$50 million of Secretary's National Reserve funds. The application will be for workers affected by the current GM downsizing. Contact person: Secretary Martin and John Schall. Michigan Department of Labor, James Viventi, Chief Deputy Director, (517) 373-7246.

ITPA Secretary's Reserve Grant: On October 27, 1992, we submitted a request for \$280,000 in Secretary Reserve funds to assist 160 workers unemployed as a result of the Alloy Tech plant closing. The plant officially closed in early October 1992. The funds would be used to provide employment and training services to the dislocated workers. Contact person: Barbara Carroll. Michigan Department of Labor, James Viventi, Chief Deputy

Director, (517) 373-7246.

Non-Traditional Employment for Women: On November 10, 1992, we will be submitting an application for \$250,000 to the Women's Bureau. The grant will be used to support non-traditional employment projects for women in the Upper Peninsula and Detroit metropolitan areas. Only six grants will be awarded nationally. Contact person: Elsie Vartanian. Michigan Department of Labor, James Viventi, Chief Deputy Director, (517) 373-7246.

U.S. Department of Transportation:

Federal Aviation Administration-Block Grant Program:

Under the FAA Re-authorization Bill, states can apply to administer their block grant under the Federal Airport Improvement Program. Only four new states will be selected in addition to the three already conducting the program. Michigan will be applying to become one of these states, which would entitle us to administer over \$10 million in Federal Airport Improvement Program funds. These block grants provide a state with considerable flexibility in airport funding, as well as the resources to improve airports. Contact: Mr. Billingsley and Mr. Phillips, Chicago Regional Office. Michigan Department of Transportation, Patrick Nowak, Director, (517) 373-2114.

Federal Highway Administration: (Contact: Mr. Tom Larson, Administrator (202) 366-0650. Michigan Department of Transportation, Patrick Nowak, Director, (517) 373-2114.)

A. September 21, 1992, M-DOT requested \$20.44 million of 14R discretionary funds for the reconstruction of the I-94/Merriman Middlebelt Interchanges; Request pending, no information to date. Michigan Department of Transportation

B. May 18, 1992, Requested Federal bridge replacement funds for three bridges: Veterans Memorial Bridge, Bay City, \$9.7 million; Fort Street over Rouge River, Detroit, \$14.2 million; US 41 over Portage Lake, Houghton, \$8.2 million; Request pending, no information to date. Michigan Department of Transportation

C. June 22, 1992 Submitted request for Public Land Funds-Lake Michigan Road, Benzie County, \$345,000; Indian Village Road, Gogebic County, \$840,000; Request pending, no information to date. Michigan Department of Transportation

D. October 19, 1992 IVHS Project Proposals Submitted to FHWA. Michigan Department of Transportation

The IVHS program of the Michigan Department of Transportation consists of utilization of a wide range of advanced technologies and ideas to improve mobility and transportation efficiency, enhance safety, maximize use of existing transportation facilities, and reduce adverse environmental effects. The operational field tests serve as the transition between research and development and full-scale deployment of IVHS technologies. Three proposals have been submitted.

1. CELL-PROBE: to evaluate a unique and first of its kind technology which conducts traffic surveillance and other mayday functions utilizing conventional cellular

phones in cars. The total estimated cost of the project is \$4.8 million and is proposed to be conducted in joint collaboration with the University of Michigan, Ameritech, GTE, and several other partners.

2. **ICON (Integrated Commercial Vehicle Operations Network):** the proposal will involve advanced technologies to route areas of commercial vehicle operations, and to improve advanced truck enforcement systems utilizing weigh-in-motion and advanced plug-in portable truck and other surveillance networks. The estimated cost is \$1.725 million.

3. **TALLY-HO (Traveller Advisory Last Minute Listing for Heuristic Operations):** the project consists of an advanced IVHS technology application for a traveller information system using a state-wide network of kiosks at visitor centers, freeway rest stations and other suitable locations along the trunkline system. Estimated cost \$639,000 and is proposed to be conducted in cooperation with several private industry partners.

Federal Transit Administration: (Contact: Secretary Andrew Card. Michigan Department of Transportation, Patrick Nowak, Director, (517) 373-2114.)

An application was submitted June 26, 1992, requesting \$29.6 million in federal dollars to construct/renovate bus and/or rail facilities, purchase buses for six urban and 31 non-urban transit agencies in Michigan. The facilities are as follows:

Intermodal facilities: Southeast Michigan (rail/bus passenger), Isabella County (bus/road maintenance)

Bus facilities: Detroit, Lapeer, Livingston County, Muskegon

Buses: Bay City 7, Detroit 28, Flint 10 Michigan Department of Transportation

The Department has prepared a grant application for the Director's signature requesting \$350,000 from FTA to support the TransLink project. This public/private endeavor linking people with jobs is a demonstration project designed to meet the labor mobility needs of private sector employers with jobs and qualified low-mobility, chronically-unemployed and other transportation disadvantaged primarily in the Greater Detroit Area. It is an 18-month project providing vans and a job brokerage using a state coordinating committee and a local labor mobility resource group. Michigan Department of Transportation

**MICHIGAN DEPARTMENT OF MANAGEMENT
AND BUDGET
DIRECTORS OFFICE
320 SOUTH WALNUT
LANSING, MI 48913**

TIME: 11:30 A.M. PM/AM

DATE: 11/12, 1992

TO: Robert Zoellick, Deputy Chief of Staff

FAX NUMBER: (202) 456-1121

FROM: Governor Engler, State of Michigan

PHONE NUMBER: (517) 373-0810

FAX NUMBER: (517) 373-7268

NUMBER OF PAGE(S) INCLUDING TITLE PAGE 6

COMMENTS: _____

IF YOU DO NOT RECIEVE THE NUMBER OF INDICATED PAGES
PLEASE CALL: 517 #373-1004

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR ROBERT B. ZOELLICK
ASSISTANT TO THE PRESIDENT AND
DEPUTY CHIEF OF STAFF

FROM: TIMOTHY J. MCBRIDE *Timothy J. McBride*
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

SUBJECT: 1993 Pay Adjustment

Issue:

A decision is required in order to grant the annual government-wide cost of living pay increase to certain Executive Office of the President (EOP) employees whose entitlement is by management discretion.

Background:

Pursuant to Section 5303 of Title 5, United States Code (U.S.C.), the upcoming Government-wide pay adjustment effective on January 3, 1993, will provide a 3.7 percent increase for most (but not all) EOP employees on the General Schedule (GS) and a 3.2 percent for those on the Executive Schedule (EX). The minimum Senior Level (SL) pay will increase by 3.7 percent and the maximum SL pay will increase by 3.2 percent (Within the EOP, only the National Security Council has SL employees). Pay for members of the Senior Executive Service (SES) will be established by the President.

The pay raise is not automatic for certain categories of federal employees that have been appointed to positions that are exempted by statute or other authority from the categories specified above. (In most instances these positions are referred to as Administratively Determined (AD).) For these employees the granting of the pay adjustment is at the discretion of agency management.

Within the EOP, the number of exempt employees by agency is as follows: the White House Office (all), Office of the Vice President (all), Office of Policy Development (all), Office of Administration (10), National Security Council (10), Council on Environmental Quality (9), Office of Management and Budget (4), United States Trade Representative (13), Council of Economic Advisers (17) and National Space Council (4).

Historically, the Office of Administration, Personnel Management Division provides listings to the EOP agencies which have employees for whom a pay adjustment is optional. Each agency is requested to provide individual approvals for each pay adjustment they wish to implement. Given the circumstance of this pay increase coming at the latter part of the presidential transition, it is important to have consistent EOP-wide policy guidance with regard to approving the increase for exempt employees. Listed below are some of the pros and cons surrounding this issue.

Potential Problems if a Comparable Increase is Withheld:

To the best of our knowledge exempt employees have never been denied a comparable adjustment except when the pay adjustment was denied, postponed or reduced on a government-wide basis.

The authority to approve the pay increase for exempt employees rests with each EOP agency head. Without a coordinated policy among all EOP agencies, some EOP exempt employees may receive the pay increase, while their peers in other organizations would not.

There are 117 White House Office employees who have their salaries set according to the GS schedule, even though they are appointed under the same exempt authority in 3 U.S.C. 105 as the rest of the staff. If the pay adjustment is not approved for these employees, their salaries will no longer match the GS schedule. as a result, all of them will have to be converted to AD positions. Although it is somewhat of a myth, most of these employees regard their GS status as separating themselves from the so-called political staff. Converting them to AD positions will result in widespread dissatisfaction among the White House staff.

Historically, some employees holding AD or otherwise exempt positions in the EOP agencies remain during a change in administrations. By not granting comparable pay adjustments these employees could be perceived as "political appointees" and put their continued tenure in jeopardy. Presidential Appointees and Schedule C employees in the departments and agencies will receive the pay increase automatically because they are paid at the EX or GS rates.

Potential Problems if a Comparable Increase is Granted:

By granting the pay raise, the media could attempt to portray the action as one last attempt to gouge the taxpayer prior to leaving office.

Agency budgets for personnel and benefits will be impacted, but in many instances the additional cost would be for 17 days or less. Further, there will be an increase in the cost of the lump sum payment for unused annual leave held by those employees who depart the Federal Service after January 3, 1993.

Recommendation: That you approve a cost of living increase for everyone.

Approve

RB

Disapprove

Date:

12/29/92

Comments:

THE WHITE HOUSE
WASHINGTON

December 29, 1992

TO: Bob Zoellick

FROM: Timothy J. McBride *Timothy McBride*

RE: Pay Adjustments

We have checked with OMB (Janet Hale),
and they concur with our recommendation.

For those employees serving in AD positions
(essentially all political appointees) the
cost is estimated at \$38,076 for the period of
January 3-20, and on an annualized basis the
cost for FY 1993 is \$590,940, if all affected
employees remained through September 30.
However, since the majority of affected
employees will depart January 20, the cost is
significantly less.

Additionally, the 1993 White House Office
budget anticipated the cost of the COLA.

THE WHITE HOUSE
WASHINGTON

12/24

Tim,

- ① Could we get an OMB view on this
too, ASAP?
- ② What's the total annualized cost?
Rk

LBZ

Tim, Z asked that I get this to you
today, though he does not expect
an answer today. Cozetta 12/24 11:20a

THE WHITE HOUSE

WASHINGTON

December 3, 1992

Note for Secretary Madigan

From: R. Zoellick *ZB*

Subject: USDA Marketing Orders for Oranges and
Lemons

I have attached the memorandum from Boyden Gray that we discussed. As you can see, the conclusion is a recommendation that this marketing order program be terminated for the year, as it was last year in response to the President's regulatory moratorium.

Please let me know if you need further guidance.

Thanks.

FAX to 720-5437

Total of two pages.

Sent 12/3 10:28 A

Confirmed receipt

THE WHITE HOUSE

WASHINGTON

December 3, 1992

Note for Secretary Madigan

From: R. Zoellick 287

Subject: USDA Marketing Orders for Oranges and
Lemons

I have attached the memorandum from Boyden Gray that we discussed. As you can see, the conclusion is a recommendation that this marketing order program be terminated for the year, as it was last year in response to the President's regulatory moratorium.

Please let me know if you need further guidance.

Thanks.

THE WHITE HOUSE

WASHINGTON

December 2, 1992

MEMORANDUM FOR ROBERT B. ZOELLICK

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

SUBJECT: USDA Marketing Orders for Oranges and Lemons

You asked me to look into the status of USDA's marketing orders for navel oranges and lemons and to seek the views of the interested agencies about whether those marketing orders should be terminated for the year. As explained below, this program imposes substantial unnecessary costs on consumers and is flatly inconsistent with the President's regulatory moratorium. The Justice Department, CEA, and my office all strongly recommend that the program be terminated for the year, as it was last year in response to the President's regulatory moratorium.

Under this program, USDA issues a proposed rule at the beginning of every growing season that proposes week-by-week restrictions on the quantity of lemons and navel oranges that may be sold fresh domestically. Then, every week during the growing season, USDA typically issues a final rule that sets a limit on the amount of these fruits that can be sold during that week. But the Department does have discretion to terminate the program and announce that no quantity restrictions will be in force. Last January, near the end of the growing season, USDA terminated the program to comport with the regulatory moratorium that the President announced in his State of the Union Address.

This year, the Agency has again proposed week-by-week restrictions for the upcoming growing season, and has already issued final rules for the first two weeks of the season. The issue is whether they should now terminate the program for this year and not finalize any more weekly rules that would restrict the quantity of fruit that may be sold.

By restricting output, the program artificially increases the price of fresh fruit and forces producers either to throw away the "excess" fruit or divert it to less valuable uses (such as juice). The Anti-trust Division at the Justice Department estimates that the cost to consumers of the program is about \$100 million a year (\$66 million for lemons and \$32 million for oranges).

Proponents of the program claim that it leads to a more orderly marketing of fruit throughout the growing season, but experience from last year (and other prior years) has not shown any ill effects from terminating the program. The Department of Justice, CEA, and my office all strongly recommend that the program be terminated for the year.

OCT 9th: FYI, I GAVE THIS WHOLE THING TO KAREN GROOMES WHO PUT IT IN THE MIX FOR NEXT OHIO TRIP -- I SPOKE TO TOM NEEDLES AND RELAYED STATUS OF RBZ: REQUEST -- AND TOLD HIM WE WOULD LET THEM KNOW WHEN WE HEARD RESULTS. LRT

Governor Voinovich called 10/5 6:00 pm, tried to talk to JAB and was bumped to us.... (he's happy, I listened and took notes as follows):

Wants to know if there is ANY way we can include a POTUS stop to this location on Friday. Failing that, any way we can incorporate any of the following before Election Day.....

Governor Voinovich
(614) 644-0813

Tom Needles DC State office 202/624-5844

POTUS is coming to Ohio on Friday and will announce a grant that Ohio State University will receive -- that's good news.

10/12 Monday
Wants to mention:

1) It sure would be great if he could on Friday or before the election, announce that Health Care Financing Administration (HCFA) has approved our program. (See attached fax. I called Tom Scully, he isn't even sure they have submitted this proposal formally and said new regs are coming out this week. Tom is Point of Contact on this). They were one of the first states in the nation approved; he is trying to drive home to the citizens of Ohio that we got great cooperation out of this President and the White House -- when we really needed it, he came through.

2) Wants Jim Baker to know: There is an outfit in Marysville, Ohio (BMY) from which Kuwait is seriously considering purchasing two thousand five ton trucks -- again, that would be great news before the election -- issue is jobs, jobs and jobs..... BMY is going to be laying off a heck of a lot of people in the next few weeks --

3) Last but not least, legislation just passed creates an Aviation Park in Dayton, Ohio, home of Wilbur and Orville Wright and home of Wright Patterson AFB -- this legislation is extremely important to the Dayton community, they have been working their tails off to get this Aviation Park for years -- don't want it vetoed, and would like him to sign it, absolute ten strike if he could announce this and visit Wright Patterson, 35,000 people in base, and that many jobs again related to the base -- biggest Ohio employer -- moved systems division out of Andrews AFB and combined it with Wright Patterson and makes Wright Patterson the most sophisticated facility in the world -- big deal for Ohio and for Dayton -- great if he could come in to WP AFB and pat them on the back for Desert Storm and for the fantastic Materials Center in place there now -- they had only logistics in Dayton, and in Andrews had systems and now they combined and Dayton has both -- Dayton will be most outstanding military/research facility in the world.... authorized a million and a half technology to the private sector -- \$100,000 non-defense related use of their science incentive --

POTUS could fly right into Wright Patt, could sign this bill -- creating a park -- Dayton Park Bill -- Aviation Trail, National Park Service...

HR 2321

LRT

THE WHITE HOUSE

WASHINGTON

October 1, 1992

MEMORANDUM FOR BOB ZOELICK

FROM: EDE HOLIDAY

SUBJECT: ~~_____~~

In the next week I think it would be beneficial to hold an event for the Administration's PAS officials to help resonate our message during the last weeks of the campaign. Al DelliBovi, the Deputy Secretary of HUD and the head of the PAS organization, would be willing to provide the forum. He believes it would create enormous enthusiasm among our PAS officials prior to the election.

What I have in mind is a program of short briefings from campaign and Administration officials that would provide a strong, focused message for our PAS officials. I would, of course, work out the details in conjunction with the Counsel's office.

Should we proceed with this event?

Yes ☒ No ☐ Let's Discuss ☐

Would you be available as a program briefer if your schedule permits?

Yes ☐ No ☐ Let's Discuss ☒

cc: Boyden Gray
Connie Horner

10/5
Ede,
OK to proceed, but:
① Don't eat up the time of people like Teeter, Mary M.
② Perhaps Jim C. can help
③ I could consider some brief involvement, but if depends on other demands we can discuss
RBE



OFFICE OF THE VICE PRESIDENT
WASHINGTON

October 21, 1992

NOTE TO BOB ZOELLICK

FROM: BILL KRISTOL *WK*

The Vice President is considering saying something like this first thing tomorrow -- referring to the Democrats' comments on John Tower to legitimate the idea that "character" is relevant to high public office. I enclose a rough draft of possible remarks, and a draft fact sheet. I've discussed with Bob Teeter -- any thoughts or guidance?

10/21

Bill,

I'd suggesting emphasizing the pattern (trust) idea further.
For ex, I'd set up the statement that way (as opposed to starting with the Tower test). Then I'd say we know the Dems would usually agree, citing comments in the primaries about BC by his opponent. Then say Let's look how they handled the issue w. Sen Tower. In other words, the lead isn't Tower Test. Its disturbing pattern -- policy flip flops, edge the truth, & personal behavior. Use their Tower statement, to show they're covering up for BC -- what's wrong for America.

BBZ

The Tower test

Every new President faces a big, first test with Congress. One of President Bush's first tests was the fight to confirm John Tower as Secretary of Defense.

In 1989, a narrow majority of the Senate, in effect, told the new President he could not place John Tower at the helm of our national defense because his character flaws would set a bad example for our soldiers.

Throughout the Tower confirmation process, a number of Democratic senators flatly declared that questions about his character rendered him unfit for high national office.

In fact, it was Sen. Tim Wirth who established the "Tower test" for high national office. This is the same Sen. Wirth who now travels the country with Bill Clinton defending his fitness as commander-in-chief.

"Everybody has a right to behave the way that they want in their own private lives. There is no question about that. But there are also times when what you do as an individual sets an example," said Sen. Wirth.

"We all have that responsibility here as members of this body," he said. "If you are the head of a large organization, you have very specific responsibilities and I do not think John Tower meets that test. This...I find very troubling."

"While I believe that an individual has the right to conduct his personal life as he sees fit, the Office of the Secretary of

Defense demands a higher standard of discretion and judgment," Sen. Wirth concluded.

So the bottom line here is this: If questions about John Tower's character -- questions about womanizing and abuse of alcohol -- made him unfit to serve as Secretary of Defense, how can Bill Clinton be judged fit to serve as commander-in-chief?

Indeed, how can many of these same Democrats seek to virtually forbid any discussion of Bill Clinton's character?

Remember, it was the Democrats in the Senate who established the "Tower test" for high national office. They said that character questions were sufficient to vote against Tower.

Would Bill Clinton survive this kind of Senate confirmation process?

Listen to what other senators had to say in 1989, and ask yourself if these words don't echo in questions voters are asking about Bill Clinton today.

Your own senator from Ohio, John Glenn, led the charge, declaring that too many questions about John Tower's character had been raised.

"The military is very strict on their policies with what they call fraternization," he said. "In days past, that was called womanizing. That's a difficult subject to discuss... When those lines of impropriety are crossed with regards to fraternization, they are dealt with harshly... It's an issue that receives very special consideration in the military now."

"At each step of the way, I have had more doubt cast on the ability of the nominee to truly set the example," Sen. Glenn

concluded. "We do not permit people in military command assignments if there is any doubt...I just feel that we cannot hold our Secretary of Defense to lesser standards than we demand of our people in the military."

Sen. Sam Nunn, chairman of the Armed Services Committee, also said questions were raised. "Sen. Tower falls short of the standards which must be demanded of those who would bear the awesome responsibilities of this position," he said.

"The committee found examples of indiscreet conduct toward women by Sen. Tower which call into question his judgment and his ability to set an appropriate example for the men and women in uniform," Sen. Nunn concluded.

Sen. Joseph Lieberman also said questions were raised: "The evidence does leave me with too many doubts about whether Sen. Tower has the self-discipline and consistently sound judgment that we have a right to expect in our Secretary of Defense."

Sen. Barbara Mikulski said there was a "pattern of behavior that runs through Sen. Tower's activities and raises grave doubts about this nominee's judgment and leadership."

And Sen. Bob Graham said he found a "pattern of questionable judgment."

There were other Democratic senators as well who said too many questions were raised -- thus establishing the "Tower test" for high national office -- but I think the point is made.

I would argue that, based on the "Tower test", Bill Clinton could not be confirmed by the United States Senate for a senior Cabinet position -- much less as commander-in-chief.

There are simply too many questions about his character, truthfulness, integrity and honor. Too many questions have been raised, as my Democratic friends in the Senate might say.

This speaks to the character of the Presidency, something American voters believe is quite important whether the national media believes it or not.

With Bill Clinton, there is a clear pattern of shaded deceptions, half truths and, perhaps, outright lies. And his answers have raised even more questions about a pattern of behavior.

But, soon, it is the voters who must decide. Would Bill Clinton pass the "Tower test"? Does Bill Clinton have the character to be President of the United States?

During the second presidential debate, Bill Clinton said, "I want to change the character of the Presidency."

I'm not sure the American people are ready for that change.

#

October 21, 1992

DOES BILL CLINTON PASS THE DEMOCRAT'S "TOWER TEST"?

The Democrats in the Senate established the "John Tower character test" for high national office when they argued successfully that character questions were sufficient to vote against former Senator John Tower for Secretary of Defense.

Democratic Senator after Democratic Senator rose in the Senate in March of 1989 to say that the unproven allegations about John Tower's character and private life made him unfit for high national office.

Would Bill Clinton survive a Senate confirmation process if he were appointed to a Cabinet position? The reader might simply replace John Tower's name with Bill Clinton's -- and Secretary of Defense with the Presidency. Is there an eerie echo to the current debate over Governor Clinton's character?

But Bill Clinton is not being considered for a Cabinet post. He is being considered for President.

And now many in the media and in the Democratic party argue that questions about character and personal behavior are irrelevant. In fact, Bill Clinton said in the second debate:

"I'm not interested in his character. I want to change the character of the Presidency."

Does America want to change the character of the Presidency? Should our standards today be something less than they have been in the past?

Here are just a few excerpts from the Congressional Record of what the Democratic Senators either said or wrote when they created the Tower test for character and fitness for high national office. What would they say about Bill Clinton today?

Sen. Tim Wirth

"Everybody has a right to behave the way that they want in their own private lives. There is no question about that. But there are also times when what you do as an individual

sets an example. We all have that responsibility here as members of this body. If you are the head of a large organization, you have very specific responsibilities and *I do not think John Tower meets that test.* This...I find very troubling." (S2105 emphasis added)

...

"Perception and appearance are important and Mr. President the perception and the appearance are lousy." (S2105)

...

"While I believe that an individual has the right to conduct his personal life as he sees fit, the Office of the Secretary of Defense demands a higher standard of discretion and judgment." (S2106)

Sen. Sam Nunn

"In three cases -- use of alcohol, behavior toward women and conflict of interest -- Sen. Tower falls short of the standards which must be demanded of those who would bear the awesome responsibilities of this position."

...

"[T]he committee found examples of indiscreet conduct toward women by Sen. Tower which call into question his judgment and his ability to set an appropriate example for the men and women in uniform." (S2107)

Sen. John Glenn

"There is one other area. Military is very strict on their policies with what they call fraternization. In days past, that was called womanizing. That is a difficult subject to discuss..."

...

"In the military, there are strict rules of fraternization and how you treat women in the military? It is with respect and dignity..."

"When those lines of impropriety are crossed with regard to fraternization, they are

dealt with harshly... It is an issue that receives very special consideration in the military now."

...

"After having started out being in favor of voting for (John Tower), at each step of the way, I have had more doubt cast on the ability of the nominee to truly set the example..."

"We do not permit people in military command assignments if there is any doubt... I just feel that we cannot hold our Secretary of Defense to lesser standards than we demand of our people in the military." (S1981)

Sen. Mikulski

"What there is, however, is a pattern of behavior that runs through Senator Tower's activities and raises grave doubts about this nominee's judgment and leadership..."

"The Senator's personal life also merits concern. All of us politicians have had our personal lives and our families held up to public scrutiny. That exposure is sometimes painful and often unfair but the public must be able to judge our dependability, work habits, and ethical standards..."

"Then in the matter of women: with women playing an increasingly important role in our armed services, we need a Secretary of Defense who clearly respects women as professionals and who will personally uphold the basic standards of today's workplace and the standards we are trying to establish in the military..."

"The Secretary of Defense sets the tone of the armed services. A Secretary could seriously undermine the fine work now being done by many military commanders because of his own behavior, particularly if he so clearly demonstrates disrespect for women.

"The phrase 'conduct unbecoming an officer' is an important concept in the U.S. military tradition. It has been applied over the past 200 years in order to maintain a standard of behavior that inspires respect not only of the military but of us civilians, too. I believe the Senate should apply the same standard to the man who would be second in command in the United States." (S2129-2130)

Sen. Graham

"The Defense Secretary is a role model. Leadership by example is an essential element of our military tradition and our future military success... When I examined these two criteria -- leadership by example and the vital operational responsibilities -- I found I could not support the nomination of John Tower for Secretary of Defense, because I found a pattern of questionable judgment..." (S2245)

Sen. Leahy

"The next Secretary of Defense must have personal and professional rectitude worthy of an office whose occupant is in the military chain of command. He must have the trust not only of the President and his colleagues in the Cabinet. He must have the trust of the 1,000,000 civilian and over 2,000,000 active military personnel of the Department of Defense. He must have the trust of the American people." (S2449)

Sen. Carl Levin

"The requirement to render a judgment comes not from our being without sin. The requirement to render our best judgment comes from the Constitution of the United States..."

"It does not say that only those of us who are pure, or are saints, must vote..."

"But the Nation is also entitled to someone in whom it has confidence..." (S1966)

...

"This appointment for Secretary of Defense -- the number two person in the chain of command and a person who must lead the Pentagon by example... -- I regret to say falls unacceptably short." (S1968)

Sen. Joseph Lieberman

"In the final analysis, I have too many unresolved doubts about Sen. Tower's fitness..."

"The evidence does leave me with too many doubts about whether Sen. Tower has the self-discipline and consistently sound judgment that we have a right to expect in our Secretary of Defense." (S2343)

Sen. Charles Robb

"Unfortunately, in spite of their efforts and the efforts of most of the Members of this body, matters which should have been kept private have reached the public domain, and this has resulted in what, in my judgment, has been fundamental unfairness to Senator Tower."

"As someone with a special understanding of how rumor and untruth can take on a life of their own, I genuinely regret the pain that Senator Tower and his family have had to endure..."

"Although I regret the ordeal that Senator Tower and his family have had to endure, ... when I ask myself if John Tower is the right person at this particular point in our history to manage the Pentagon ... I regret that I cannot answer that question in the affirmative."
(S2344)

THE WHITE HOUSE

WASHINGTON

October 15, 1992

MEMORANDUM FOR ROBERT ZOELLICK
FROM: JAY LEFKOWITZ *gf*
SUBJECT: AUTO INSURANCE REFORM

10/16
Jay, Thanks.
Be careful with Q2 re
award caps if you bring
on this in the future --
Someone might apply
it to our med mal practice
proposal!
Q32

I looked into the current automobile insurance situation in New Jersey and discovered that they do have a reform, instituted by the Kean administration, that gives motorists some degree of choice between tort and no-fault. The New Jersey law does not provide savings as great as ours, however, because anyone with a serious injury can still bring a suit for pain and suffering.

I asked some insurers to give me an estimate of how much lower premiums would be in New Jersey with our proposal, as opposed to the current law. If the number they come back with this afternoon is substantial (at least 10 - 15 percent) then I think it's still a good idea to announce our proposal tomorrow. Otherwise, we can save it for another state.

If we do announce it in New Jersey, the President should say something like this to make it clear that we are not proposing our plan solely for the benefit of New Jersey.

I certainly don't have to remind the people of New Jersey about the auto insurance mess our country is in. I'm pleased to say, however, that New Jersey, under Tom Kean's leadership, very much in contrast to Arkansas under Bill Clinton, has taken some real steps toward legal reforms that have brought down the cost of auto insurance.

Today, I want to unveil a proposal that will lead to substantial reductions in auto insurance in states that have not introduced any real reforms, and even lead to premium reductions here in New Jersey.

What I propose

If we decide by about 5:00 pm that we will announce this tomorrow, Peter Passell will run a major piece in the Times supporting our proposal.

Attached is a copy of some questions and answers I've prepared to brief reporters on this issue.

Attachment

The President's Auto Insurance Reform Proposal

Questions and Answers

1. What's wrong with the current auto insurance system?

Americans currently spend over \$250 million dollars per day on automobile insurance. Premiums -- now approximately \$1,000 per car in many areas -- grew at almost three times the rate of inflation in the 1980s, forcing many lower-income Americans to drive uninsured.

The root cause for escalating rates is the "pain and suffering" component of tort awards. Nationwide, coverage for pain and suffering awards constitute 15 percent of insurance costs, while litigation costs (which are driven largely by the prospect of pain and suffering awards) account for another 10 percent.

The National Insurance Consumer Organization (NICO), an organization that generally defends the tort system, has described the pain and suffering component of auto tort law as a *"dream for huge reward [which] is, for almost all, only a dream [where] whatever large sums are awarded are heavily taxed by the lawyers."*

The proof is in the numbers. The United Services Automobile Association (USAA) reveals that under the current system, \$16,000 in costs are incurred for the average \$10,000 litigated claim, of which \$9,800 goes for attorneys' fees and expenses, \$4,700 for medical and related costs, and \$300 for administrative processing costs, with \$1,500 remaining as a cash "pain and suffering" residue going to plaintiffs.

Finally, a recent study by the Insurance Research Council showed that people involved in auto accidents obtain more expensive medical treatment if they file a claim against the other driver than if they collect on a no-fault basis.

2. Why haven't previous attempts to reform the auto insurance system succeeded?

Approaches to reforming the tort system have included rate rollbacks, award caps, and weak no-fault systems. In the main, all three have failed.

The problem with rate rollbacks, such as those enacted in California and Nevada, is that they confront the basic difficulty that companies cannot long be forced to engage in losing business ventures. Major insurance companies, already operating at declining profit margins, are leaving the auto insurance business. Rate rollbacks will accelerate that process.

The problem with award caps is that they generally retain all the features of the current system, but essentially reduce consumer choice, and strip innocent, random victims of rights they have been granted under existing law.

Finally, the problem with most current no-fault systems is that they still permit many tort actions for pain and suffering to be brought once a specified threshold level of damages is reached. These thresholds often act as floors, instead of ceilings, for lawsuits, as potential litigants find health care providers and lawyers who conspire to inflate the alleged damages.

Although some high-threshold systems, such as New Jersey's new choice law, are a step in the right direction, they do not offer savings as great as the President's proposal because they do not empower consumers to choose a complete waiver of pain and suffering claims. As a result, New Jersey still faces unnecessarily high cost. In addition, New Jersey has adopted a very cumbersome state bureaucracy to allocate the savings from the waivers it allows of smaller pain and suffering claims -- a device that is both rigid and inaccurate compared to the President's proposal.

3. What is the Federal Government's interest in auto insurance anyway?

The current automobile insurance system is essentially a \$100 billion per year tax on the American people. Moreover, because everyone who drives a car is required to purchase insurance, it functions as a massive regressive tax, which disproportionately burdens low-income motorists, as well as inhibiting the purchase of new automobiles.

4. Why is this law necessary?

If people were allowed to waive their right to sue for "pain and suffering," overall auto insurance rates could drop sharply. Under current law, however, consumers cannot purchase auto insurance that omits coverage for "pain and suffering," because states refuse to honor such contracts.

5. How does the President's proposal work?

All consumers would be allowed to waive their right to sue for non-economic (i.e., pain and suffering) damages. In return, they would be insulated from non-economic damage claims by other motorists.

Those electing to waive the right to sue for non-economic damages would purchase "personal insurance protection" coverage, under which they would collect economic damages without regard to fault from their own insurer instead of suing other motorists. This would largely eliminate litigation costs, and avoid the lengthy payment delays (usually 18 months or more) that are common under the current system.

Those motorists not waiving this right would retain their coverage under the tort liability system. They would purchase coverage from their own insurer to cover all damages (for both economic and non-economic losses) negligently caused by drivers who elect the personal insurance protection plan. The total cost of tort coverage should not increase above current levels, and some insurance sources estimate that it actually will be lower.

All motorists would retain the right to sue for "pain and suffering" caused by intoxicated or criminally negligent drivers.

All motorists would also be able to sue for all economic damages based on fault in excess of their own insurance coverage. All consumers would be allowed to waive their right to sue for non-economic (i.e., pain and suffering) damages. In return, they would be insulated from non-economic damage claims by other motorists.

6. How much money will this proposal save?

This proposal would allow consumers to save 20 to 30 percent on their auto insurance premiums, for a annual nationwide savings of \$20 to \$30 billion.

7. Who benefits most from the President's proposal?

Although the proposal would benefit all motorists, the greatest cost savings would go to consumers in high premium states -- and especially to poor, inner city residents, many of whom now drive illegally without insurance.

According to John Gamboa, a spokesman for the Latino Issues Forum, a Hispanic think tank, "people ... are now classified as criminals because they can't afford insurance," and increasingly large numbers of uninsured Hispanic motorists can face deportation for driving without coverages they cannot afford.

8. Doesn't the President's proposal take rights away from people who don't opt into the new system?

Under the President's proposal, motorists who do not opt into the new system still retain the right to sue for pain and suffering damages; the only difference is that the party against whom they claim these damages is their own insurer. This is exactly what occurs today when someone is injured by an uninsured or underinsured motorist.

The right to sue for pain and suffering is also very costly, and disproportionately burdens those least able to pay for it. Under current law, the average 18 month wait for claims to be resolved leads to delays in payment that substantially disadvantage poor people. Additionally, under the current system, a disproportionate share of the cost of insurance premiums is financed by low-income motorists even though they receive lower awards when they are injured parties compared to wealthier persons.

#

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/15/92 ACTION/CONCURRENCE/COMMENT DUE BY: COB, TODAY, 10/15SUBJECT: FACT SHEET: CONSUMER CHOICE IN AUTO INSURANCE

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	MCBRIDE	☐	☐
BAKER	☐	☒	MOORE	☒	☐
SCOWCROFT	☐	☐	MULLINS	☒	☐
DARMAN	☒	☐	PETERSMEYER	☐	☐
BATES	☐	☐	PORTER	☒	☐
BRADY	☐	☒	PROVOST	☐	☐
BROMLEY	☐	☐	ROSS	☒	☐
CALIO	☒	☐	SMITH	☐	☐
DEMAREST	☒	☐	TUTWILER	☐	☒
FITZWATER	☐	☒	ZOELLICK	☒	☐
GRAY	☒	☐	KAUFMAN	☐	☒
HOLIDAY	☒	☐	LEFKOWITZ	☐	☒
HORNER	☐	☐		☐	☐

REMARKS:

Please forward your comments directly to Jay Lefkowitz, Rm. 234, x7090, no later than COB, TODAY, OCTOBER 15, with a copy to this office. Thank you.

RESPONSE:

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 16, 1992

Consumer Choice In Auto Insurance

FACT SHEET

President Bush announced a proposal today that would allow consumers to save 20 to 30 percent on their auto insurance premiums, for a potential nationwide savings of \$20 to \$30 billion annually. These savings would be achieved by giving consumers the opportunity to waive their right to sue for pain and suffering damages (thereby also insulating themselves against lawsuits for such damages), and to elect insurance coverage payable by their own insurer regardless of fault.

The Problem

The current auto insurance system is a source of consumer outrage. Insurance premiums -- now approximately \$1,000 per car in many areas -- grew at almost three times the rate of inflation in the 1980s, forcing many lower-income Americans to drive uninsured.

The root cause for escalating rates is the "pain and suffering" component of tort awards. Nationwide, coverage for pain and suffering awards constitute 15 percent of insurance costs, while litigation costs (which are driven largely by the prospect of pain and suffering awards) account for another 10 percent.

There are other wasteful costs as well under the current system, such as incentives to inflate medical costs. In particular, a recent study by the Insurance Research Council showed that people involved in auto accidents obtain more expensive medical treatment if they file a claim against the other driver than if they collect from their own insurer regardless of fault.

If fewer people sued for "pain and suffering," overall auto insurance rates could drop sharply. Under current law, however, consumers cannot purchase auto insurance that omits coverage for "pain and suffering."

The Solution

The President stated that on the first day of the next session of Congress, he will submit legislation proposing a Federal statute to permit purchasers of automobile insurance to opt out of "pain and suffering" claims.

The basic parameters of the President's proposal include the following:

- Consumers would be allowed to waive their right to sue for non-economic (i.e., pain and suffering) damages. In return, they would be insulated from non-economic damage claims by other motorists.
- Those electing to waive the right to sue for non-economic damages would purchase "personal insurance protection" coverage, under which they would collect economic damages without regard to fault from their own insurer instead of suing other motorists. This would lower litigation costs, and avoid the lengthy payment delays (usually 18 months or more) that are common under the current system.
- Those motorists not waiving this right would retain their coverage under the tort liability system. They would purchase coverage from their own insurer to cover all damages (for both economic and non-economic losses) negligently caused by drivers who elect the personal insurance protection plan.
- All motorists would retain the right to sue for "pain and suffering" caused by intoxicated or criminally negligent drivers.
- All motorists would also be able to sue for all economic damages based on fault in excess of their own insurance coverage.

The Benefits of the President's Proposal

- Although the proposal would benefit all motorists, the greatest cost savings would go to consumers in high premium states, and especially to poor, inner city residents, many of whom now drive illegally without insurance.
- This proposal presents a sharp contrast to the non-market approaches preferred by the Democrats, such as mandatory rollbacks, surcharges on insurers, and rigid rate regulations, which try to force businesses to engage in losing ventures.
- This proposal also reinforces the President's call for legal reform, and makes clear that consumer empowerment and choice is the key to better insurance.



AMERICAN WATCH ASSOCIATION

1201 Pennsylvania Avenue, N.W. P.O. Box 464 Washington, D.C. 20044 (703) 759-3377 Fax: (703) 759-1639

October 14, 1992

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Information Center, Inc.

Nick/Josh

The Honorable Robert B. Zoellick
Deputy Chief of Staff
West Wing, 1st Floor
The White House
Washington, DC 20500

To you for whatever action
is necessary.
thanks Cozetta 10/15
cc: RBZ

Dear Mr. Zoellick:

On behalf of the American Watch Association and the more than 250,000 employees of the U.S. watch and jewelry industry, I am writing to urge the Bush Administration to sign the 1992 Revenue Act (H.R. 11) and thereby repeal the discriminatory luxury tax on watches and jewelry.

Both the White House and Congress agree that the luxury tax is unfair and ought to be repealed. The reasons for this are discussed in my letter to the President, which I am enclosing for your information.

Thank you for your attention to this matter.

Respectfully yours,


Emilio G. Collado III
Executive Director

Enc.

Nick/Josh
No reply necessary
RBZ 10/16



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Lorus Products
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MDM of America
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Omega Watch Corporation
Perry Ellis
Pulsar Time
Rado Watch Company
Raymond Weil
Ricoh Watches
Rolex Watches U.S.A.
Ronda Watch Corp.
SMH (US) Inc.
SPD Precision
Seiko Corp. of America
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Emilio G. Collado III
Executive Director

Enc.



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October 13, 1992

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Watchmakers of Switzerland
Information Center, Inc.

The President
The White House
Washington, DC 20500

Mr. President:

On behalf of the American Watch Association and the more than 250,000 employees in the United States watch and jewelry industry, I urge you to sign the 1992 Revenue Act (H.R. 11) and repeal the discriminatory luxury tax on watches and jewelry.

Our industry cannot shoulder a second holiday season of depressed sales. While the U.S. economy as a whole has begun to recover from recession, the U.S. watch and jewelry industry has not. Our recession continues and an important obstacle to recovery is the luxury tax on watches and jewelry over \$10,000 in value.

The entire industry -- not just the high end -- has been hurt, because consumers mistakenly believe that all watches and jewelry are subject to the tax. The tax has compounded the already severe effects of the recession on all segments of the watch and jewelry industry. Indeed, one study has estimated that as many as 10,000 jobs were lost in the watch and jewelry industry in 1991, the first year the tax was in effect; and another has estimated that more than 15,000 additional jobs were lost in the first months of 1992 alone.

Meanwhile, the rich are buying their jewelry abroad or forcing retailers to absorb the tax or lose the sale. It is becoming increasingly clear that the tax has imposed an economic and administrative burden on our industry that greatly outweighs the limited revenue it raises.

Your Administration and Congress agree on the need to repeal the luxury tax. Action speaks louder than words. Our industry urges you to sign H.R. 11 and repeal the luxury tax now.

Thank you.

Respectfully yours,

Emilio G. Collado III
Executive Director

REPEAL THE LUXURY EXCISE TAX ON WATCHES AND JEWELRY

Discrimination. The 10% tax on watches and jewelry is inequitable. It arbitrarily targets a handful of products while exempting luxury items such as Persian carpets, designer dresses, luxury homes and first-class travel accommodations.

When Congress repealed an earlier excise tax on jewelry in 1965, the Ways and Means Committee said such taxes were a source of undesirable discrimination. "These selective excise taxes tend to reduce sales and therefore reduce income and jobs in industries that produce the taxed goods...selective excise taxation results in arbitrary and undesirable distortion in allocation of resources and in this manner interferes with the free play of our competitive market."

Economic Distortions. Because all consumer products are not taxed, the excise tax on jewelry has caused consumers to switch to purchases of other items not subject to the tax. Moreover, the tax has resulted in a further decline in U.S. employment in an industry that has lost 7,500 jobs over the last decade.

Lost Sales. Imposition of the excise tax has had a significant impact on jewelry sales during a recession that has already hurt the industry. The tax has both stymied jewelry sales and, because consumers know there is a tax on jewelry, deterred customers from even entering the store. The retail jewelry industry is already suffering from the damage caused by a recession. The excise tax makes a bad situation worse.

Lost Jobs. A July 1991 Joint Economic Committee report states that "while it is unclear whether actual revenue from the luxury taxes on boats, planes and jewels contained in the Omnibus Budget Reconciliation Act of 1990 will meet or exceed the Joint Committee on Taxation's projections, the cost of job loss that results from their imposition negates by a large margin what revenue gain there may be."

Minuscule Revenues. The excise tax on jewelry does not raise substantial revenues, much less make a dent in the Federal deficit. In addition, the tax will create enforcement and collection problems for the government and, especially, small business entrepreneurs.

Burden on Retailers. The burden of collecting, recording and transmitting the excise tax falls squarely on retail jewelry establishments, most of which are small, single-family concerns.

Employees vs. The Rich. The impact of the tax hits the middle-class employees of retail stores that must lay off workers when sales decline. Wealthy customers either ignore the tax or buy their watches and jewelry abroad. The victim of the tax is the middle-class employee, not the rich as Congress intended.

State Taxes. The mere existence of a federal luxury tax has prompted state legislatures, which are anxiously pursuing new revenue sources, to consider a luxury tax on jewelry. In our opinion, the repeal of the Federal law will discredit and discourage the enactment of state luxury taxes.

Repeal the Tax. In the House, Representatives Dick Armey (R-TX) and W.J. (Billy) Tauzin (D-LA) have introduced H.R. 2598, and in the Senate, Senators Robert Dole (R-KS) and Daniel P. Moynihan (D-NY) have introduced S. 1261. Both bills would repeal the excise tax upon enactment. Please support this legislation.

JEWELRY COORDINATING COMMITTEE • 100 India St. • Providence, RI 02903 • (401) 274-3840

ANALYSIS OF THE EFFECT OF THE TEN PERCENT LUXURY TAX ON THE JEWELRY AND WATCH INDUSTRIES

by
Dr. Samuel M. Rosenblatt

< < KEY FINDINGS > >

The ten percent luxury tax on jewelry sales of \$10,000 or more, imposed by The Omnibus Budget Reconciliation Act of 1990, effective with sales after January 1, 1991, has substantially harmed the jewelry and watch industries. It has contributed to a loss of sales revenue for these industries. It has caused substantial job losses to occur in the manufacture and distribution of jewelry and watches, reducing wage and salary incomes for the production workers, warehousemen and retail clerks who produce, distribute and sell these products to the consuming public.

These losses are well in excess of those experienced by the U.S. economy collectively, and by its manufacturing, wholesaling and retailing sectors, separately, during the present recessionary period.

- **Jobs lost.** In 1991, employment in the jewelry and watch industries fell by 9,700 jobs, from 259,900 workers in 1990 to 250,200 workers in 1991. This was a 4 percent drop in employment compared to a less than 1 percent job loss for the U.S. economy as a whole.
- **Sales plummeted.** Unit sales of jewelry and watches above \$10,000 per sale in 1991 among surveyed retailers fell 45 percent compared to 1990 levels while revenue from these sales plummeted a comparable 40 percent.
- **Drop in consumer spending.** The drop in real consumer spending on watches and jewelry reflected in U.S. government data for 1991 accelerated from a decline of 6.2 percent in the first quarter to 11 percent in the all-important Christmas season and fourth quarter.
- **Fall in market share.** Moreover, consumer spending on jewelry and watches as a percentage of all personal consumer expenditures fell 10.4 percent by the fourth quarter of 1991.
- **Net revenue loss.** The luxury tax raised an estimated \$9-18 million in 1991 while estimated tax receipts lost to the Treasury Department from job losses in the industry alone were \$40 million.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

October 15, 1992

John P. Fitzpatrick
Ahlstrom Pyropower Inc.
The Westchester, 532-B
4000 Cathedral Avenue
Washington, D. C. 20016

Dear Mr. Fitzpatrick:

Thank you for your several letters to Robert Zoellick regarding your company's effort to secure a contract with the Russian government. He has asked that I respond to you.

This administration believes very strongly that private sector investments in Russia will have important benefits for Russia as well as the United States. I am please you have been in contact with the Agency for International Development to seek their assistance. Improving Russia's energy supply infrastructure will have positive economic and environmental benefits, so your efforts are particularly important.

Your offer to allow the administration to join you in announcing your plans is sincerely appreciated. As we discussed earlier by telephone, however, we cannot take any action that could be perceived as giving your company an endorsement or recognition that was not provided to other firms seeking business with the Russian government. We must decline your kind offer.

Thank you again for informing us of your work.

Sincerely,


David B. Struhs
Chief of Staff

cc: Robert B. Zoellick

OP
TDP
ExImBank

my " 3,

Christina 647-
2626
Rofenacht

Zell LRT!!
oo

McManus -
RB2

~~6.1.14~~

~~730am~~ ~~Case~~

~~930~~ // 10/15

in J reh.

1255pm

RB2 80?

*Ahlstrom/Russian agreement Re Nuclear Power Plants
Request for POTUS announcement.*

Andrew,

Can you help me with the attached, or suggest someone who can.

Cozetta

Long ago, RBZ sent this to Dennis and Karen, noting we might want to consider it for travel to California of POTUS.

POC for Ahlstrom, Mr. Jack Fitzpatrick (202/337-0255), continued to call me re this matter and somehow I got involved in just how legitimate was his "agreement" with the Russians. It is not a contract; instead an agreement w/lots of "ifs."

I spoke w/Mike Deland's COS David Struhs, and another member of his staff, Patricia Bliss-Guest. I've also talked with DOE Energy International Affairs, Gene DeLaTorre (586-6121) and DOE Peter Muchunas (301/903-4348). Mr. Muchunas had a file on this company, which is Finnish, not American. Ahlstrom does have an office in San Diego, but the bottom line is it is Finnish, and although Mr. Fitzpatrick notes how important it would be for the President to be involved in this, noting the jobs that would be created in California, Ahlstrom could choose to use one of its other sites for the work, instead of the US (Calif).

Mr. Muchunas notes that from his files Ahlstrom is asking for lots of assistance from AID, etc., although noting how much money this contract would involve -- Mr. Muchunas wonders why the company would not have \$1 million available that will enable them to make so much more money??

A lot of this is beyond my understanding but I will lay out the facts as I see them:

Ahlstrom notes it is an agreement, giving an impression of a "done deal"/contract. When you look at the agreement he sent -- Protocol Agreement -- it appears to be a gentlemen's agreement to look at the possibilities.

AID and Energy both have background that Mr. Fitzpatrick has been asking for USG assistance for Ahlstrom; which is interpreted as a request to show favoritism over other companies; which is a no-no.

After all of these conversations, the decision was made that CEQ would respond on behalf of RBZ, and give Ahlstrom - Mr. Fitzpatrick the POC at the Dept of Commerce who could inform him what services were available for ALL US companies who are interested in pursuing contracts with foreign countries -- and what services were not. I have a call into David Struhs to get a copy of his letter for my files.

Yesterday Mr. Fitzpatrick sent yet another fax, noting that he still thinks this would be advantageous to the Bush campaign. When I spoke w/Mr. Fitzpatrick about a week ago, and noted that this letter would be forthcoming, he said ok -- they wanted to offer it to the President, but since he had said no, they would probably have to offer this great announcement to Clinton. One could think that he did -- since it has been a week or so since I heard from him -- and they too were not interested. Now he is coming back to us.

At first it was a request to make this announcement while the President were speaking somewhere in Calif. But then he also notes some sort of Presidential announcement, not necessarily involved with POTUS travel to California.

I want to check with you to make certain I proceed in the correct manner. I need someone of higher authority than myself to reiterate to Mr. Fitzpatrick that our interpretation of his agreement is that it is not a "done deal" - therefore we cannot become involved. Or I need someone to speak to him further, to make certain we stand by our original decision.

Can you handle ____

Should I refer him again to David Struhs, CEQ ____

Should I ignore his calls; he has been answered;
he simply is not accepting that answer ____

Cozetta 10/14 x2533

**TELEFAX MESSAGE**

DATE
FAX NUMBER
ATTENTION
FROM

13 October 1992
456-1121
Linda Tripp
Jack Fitzpatrick

TOTAL NUMBER OF PAGES, INCLUDING COVER PAGE

4

MESSAGE

This will give you a better idea of the scope of our Russian agreement. I still think the Bush campaign could rise this to good advantage.

John Fitzpatrick

PLEASE NOTIFY ME IF YOU DO NOT RECEIVE A CLEAR OR COMPLETE COPY

The Westchester, Suite 530B
4000 Cathedral Avenue
Washington, D.C. 20016

TELEPHONE (202) 337-0255
TELEX 4971251 JAF117
TELEFAX (202) 338-7394



AHLSTROM PYROPOWER

12 October 1992FUND

MEMORANDUM FOR THE FILES

Subject: President Bush's new GROWTH FUND and its relationship to the Ahlstrom Pyropower/Russian PROTOCOL AGREEMENT.

President Bush's speech to the United Nations General Assembly on 21 September 1992 announced the creation of a \$1 billion GROWTH FUND by refocusing existing foreign assistance resources. The program will support over \$2 billion in additional exports and more than 40,000 American jobs, while at the same time assisting in economic growth and restructuring in developing countries.

The PROTOCOL AGREEMENT signed 22 August 1992 by Ahlstrom Pyropower, Inc. of San Diego, California (API) and the Russian Ministry of Fuel and Energy has the same purpose as that proposed by President Bush and it will apply the same "mechanism". However the PROTOCOL will create 100,000 new American jobs, instead of 40,000 and will support \$5 billion in exports instead of the \$2 billion for the GROWTH FUND.

A White House briefing paper has explained the workings of the GROWTH FUND and to them, by way of comparison, I have added the workings of the API/Russian PROTOCOL in parentheses.

PURPOSE

- o To promote economic growth and prosperity at home and abroad.
- At home: Create jobs by supporting the export of U.S. goods and expertise and opening new markets.

(The API PROTOCOL will create approximately 100,000 new jobs and it will support \$5 billion in U.S. exports. It will also make a big contribution towards opening up the huge Russian market.)

- Abroad: Provide U.S. goods and expertise to transform centralized economies to free markets and build the infrastructure necessary for economic growth.

(This is exactly what the API PROTOCOL will be doing, and what greater centralized economy can there be than Russia.)

MECHANISM

- o The fund will make available grants and credits to support U.S. private sector efforts.

(The API PROTOCOL will require grants and credits to be

successful. It will be a U.S. private sector company developing a new private sector joint venture company with the Russians in Russia.)

- o The funds will be provided in combination with private sector and other sources of financing. It is seed money that will serve as a catalyst for much larger private sector flows.

(This is exactly what API is planning to do and it is in the proposal that API has already submitted to AID).

- o Funds can be used for:

- U.S. participation in capital projects, including funding feasibility studies and financing U.S. exports.

(This is exactly the purpose for which the funds have been requested from AID. In addition, API will obtain an equity position in the new Russian private sector joint venture company created).

- Providing U.S. technical expertise in establishing private markets and restructuring centralized economies.

(API will be providing Russian clients with the world's most advanced boiler technology and with the most advanced management skills and techniques).

- Supporting the creation of mutually beneficial joint U.S.-overseas business ventures.

(After the nuclear power plants have been repowered, they will become private sector joint ventures with API and Russian private sector equity participation. This will also apply to the boiler factories, which will be modernized and privatized).

- Supporting the entities, mechanisms, and structures that will stimulate economic growth (e.g., stock markets, banking systems, financial markets, and establishing legal protection for intellectual property rights).

(API is well aware of its responsibilities in stimulating economic growth in Russia in accordance with good U.S.business principles).

- Support for exchanges and training with U.S. business to develop private sector skills and establish commercial relationships.

(API will be establishing large training programs in order to train Russians in all phases of power plant construction and operation).

SOURCE OF FUNDING

- o The Growth Fund will be created from within existing foreign aid resources at no additional cost to the taxpayer.

(API's biggest problem in financing these 15 repowering projects will be financial guarantees that will be acceptable to the commercial banks. Russian sovereign guarantees, by themselves, will not be sufficient. If the U.S. Government would give Russia a back-up guarantee of \$550 million for the first Sosnovy Bor project, the export sales of the incremental 400 MWe of electricity would be sufficient to amortize the total debt very quickly, and the sales of shares in that new private sector company would greatly facilitate financing the second Sosnovy Bor project, and the sales of its shares would greatly facilitate financing the third, etc.

As can be seen from the above, the API/Russian PROTOCOL is not only in line with the President's GROWTH FUND, it will greatly enhance it and expand it, and it will do so in a country where it is extremely important for the United States Government to see full economic recovery. A failure of the West to support Russia now will undoubtedly drive it back into a totalitarian regime and the cold war will be back on. We all know the economic disadvantages of that.

John P. Fitzpatrick
John P. Fitzpatrick



TELEFAX MESSAGE

DATE 5 OCTOBER 1992
FAX NUMBER 456-1121
ATTENTION LINDA AND COSETTA
FROM JACK FITZPATRICK

TOTAL NUMBER OF PAGES, INCLUDING COVER PAGE 3

MESSAGE

Here is a copy of our agreement with the Russians. It is a fait accompli. We just thought the President would like to announce the good news. We're not asking him to favor us over someone else. We just would like his moral support.

Jack

PLEASE NOTIFY ME IF YOU DO NOT RECEIVE A CLEAR OR COMPLETE COPY

The Westchester, Suite 538B
4000 Cathedral Avenue
Washington, D.C. 20016

TELEPHONE (202) 337-0255
TELEX 4971251 JAF117
TELEFAX (202) 338-7394

PROTOCOL AGREEMENT

Copy to Energy
Peter Muchunas
FAX 301-903-4348
→ 903-2406

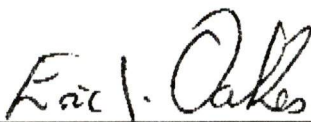
This Agreement is entered into as of this 22 day of August, 1992, by and between Ahlstrom Pyropower, Inc. ("API") and the Ministry of Fuel and Energy of the Russian Federation ("Ministry").

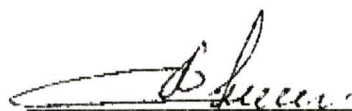
API and the Ministry agree as follows:

1. The Ministry will work [?] with API for the development of circulating fluidized bed technology throughout Russia for major projects, including repowering and/or substitution of the RBMK Nuclear Power Plants.
2. Mutual studies of the feasibility of development of circulating fluidized bed options will be the first objective of this agreement. Funding for these studies will be sought from international and governmental institutions, with the intent of beginning such studies within ninety (90) days.
3. Provided that both parties agree that the introduction of circulating fluidized bed technology is feasible and desirable in Russia, the parties further agree to negotiate, in good faith, such further agreements or contracts to supply and have manufactured all equipment as may be needed to bring this technology to Russia.
4. This Protocol Agreement shall remain in force for a period of one year unless superseded by another agreement or unless extended by mutual agreement of the parties.

AHLSTROM PYROPOWER, INC.

MINISTRY OF FUEL AND ENERGY OF THE
RUSSIAN FEDERATION


Name: Eric J. Oakes
Title: President


Name: Anatoly Diakov
Title: Deputy Minister

ПРОТОКОЛ - НАМЕРЕНИЕ

Настоящее соглашение заключено 21 августа 1992 года между Корпорацией "Альстром Пиропауэр" ("API") и Теплоэлектропроектом ("ТЭП") в поддержку протокола-намерения между API и Министерством Топлива и Энергетики Российской Федерации.

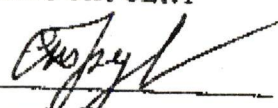
Корпорация "Альстром Пиропауэр" и ТЭП договорились о нижеследующем:

1. ТЭП и API будут работать исключительно совместно по проектированию и поставке проектов с циркулирующим кипящим слоем на всей территории России и в других странах по совместному соглашению, в том числе перевода атомных электростанций с реакторами РБМК на новый вид топлива и/или замещения этих атомных электростанций.
2. Первой целью настоящего соглашения будет взаимные технико-экономические обоснования развертывания вариантов с циркулирующим кипящим слоем. Ассигнования на это и технико-экономические обоснования будут изысканы фирмой "Альстром Пиропауэр" у международных и правительственных организаций с намерением приступить к вышеуказанным исследованиям в течение девяноста (90) дней.
3. Исходя из того, что обе стороны договорились о том, что внедрение технологии с циркулирующим кипящим слоем осуществимо и желательно в России, стороны в дальнейшем согласны честно обсуждать условия дальнейших подобных соглашений или контрактов с целью поставок и организации изготовления всего оборудования, которое может потребоваться для проектирования и поставки электростанций в России с котлами с циркулирующим и кипящим слоем.
4. Настоящий протокол-намерение будет оставаться в силе в течение одного года, до тех пор, пока не будет заменен другим соглашением, или до тех пор, пока он не будет продлен по обоюдному согласию обеих сторон.

КОРПОРАЦИЯ
"АЛЬСТРОМ ПИРОПАУЭР"


Имя: Эрик Дж. Оукс
Должность: Президент

ТЕПЛОЭЛЕКТРОПРОЕКТ


Имя: Сергей Д. Трушин
Должность: Генеральный
Директор

RBZ

I have spoke to David Struhs, COS to Mike Deland re this matter.

AID has heard numerous times from Mr. Fitzpatrick.

He presents in his faxes that he is the only company involved in this endeavor -- not so, according to AID. Hundreds of companies are involved with negotiating deals with Russia for just the same thing.

AID has told him repeatedly that they cannot show favoritism to his company. And as Mr. Struhs points out, neither can the WH or POTUS.

Mr. Struhs proposes that we pass this to Commerce for action. They have an information office that tells American companies how to export their services to foreign countries, and this office tells them what services the federal govt can give them in these endeavors.

If you agree, Mr. Struhs can have a letter drafted for your signature, giving Mr. Fitzpatrick the POC at Commerce to request whatever services might be available to him from USG __

or CEQ could do it under their signature, noting that you had asked them to follow through

Cozetta 9/29

Struhs 3742

Thks 10/2



AHLSTROM PYROPOWER

29 September 1992

TO: Robert Zoelleck
FROM: Jack Fitzpatrick

Dear Mr. Zoelleck,

As I told you in my fax, dated 14 September 1992, Ahlstrom Pyropower is running a serious risk in not publicly announcing its recent power plant agreement with the Russians, and shoring up its plan to get financing for its feasibility study. The risk is that our German competitors are sensing that something has happened and they are pressing hard on the Russian Ministry of Fuel and Energy to meet with them to discuss a proposal that they would like to make. Deputy Minister Diakov told me last week in Madrid that he did not know how long he would be able to hold them off, so he urged me to get the program started, so that he can confirm to the Germans that they are too late and that the nuclear and thermal power plant rehabilitation programs have already been committed to an American Company, Ahlstrom Pyropower of San Diego, California.

Our headquarters in San Diego is pressing me to agree to an immediate press release, but I am holding them off because of the beneficial effect President Bush could get from the announcement, the biggest environmental clean-up in the history of the world and also the tens of thousands of jobs that will be created in California and elsewhere throughout the United States and the billions in exports. That is the type coverage the President needs in California to win.

There is another important point, which I thought I should bring to your attention. There may be a "leak" in your shop or at State or AID, as I received a call this morning from the "Issues" division of Perot's campaign headquarters in Dallas. They said they knew all about our fabulous agreement with the Russians and they believed it should be made public knowledge. They also knew that I had offered to let the White House make the announcement because of the beneficial effect it would have on the elections, particularly in California, as well as President Bush's environmental image. I told them that we did make the agreement and that we were at the moment working out a co-financing arrangement with AID for the feasibility study, but that we believed we were doing so with the full support of the White House. The reply I got was "Oh yea, that's not what we hear". They said they would call again in a couple of days to see whether I felt the same way.

Could you please take another look at this project and let me know your opinion soonest. If you are not interested in identifying with it, fine, but please let me know. Believe me, I was only doing it because I was being a good Pro-Bush Republican and I thought you could derive some benefit out of it.

Sincerely,

John P. Fitzpatrick
John P. Fitzpatrick
Ahlstrom Pyropower Inc.

THE WESTCHESTER, 532-B
4000 CATHEDRAL AVENUE
WASHINGTON, D.C. 20016

PHONE 202-337 0255
TELEX 4971251 JAFIT7



AHLSTROM PYROPOWER

TO: CEQ:Patricia Bliss-Guest. I understand you are working this one, per Susan Cohen. We've received yet another FAX. Also, Mr. Fitzpatrick is in Madrid this week; his colleague Ms Manning has called giving her numbers, in case he/she needs to be reached. office 619/458-3131 home 272-1711

14 September 1992

TO: Robert Zoelleck

Cozetta x 2533 9/21

From: Jack Fitzpatrick

Dear Mr. Zoelleck,

In reference to my fax to you of 9 September, the relationship of Ahlstrom Pyropower with the Russian Ministry of Fuel and Energy is daily growing in friendship and in confidence. The Ministry now has advised us that they believe that we are not only one of their best alternatives but are actually their only really acceptable energy alternative. After a further deep analysis of our conversations in Russia last month, the Ministry has advised us that they have now decided that Ahlstrom Pyropower is Russia's best electric energy partnership possibility. The Ministry's latest evaluation of our proposal convinces them that it offers them the greatest possibilities and they are so convinced that they would like to expand on this relationship. During a meeting next week of the World Energy Council in Madrid, Ahlstrom Pyropower and the Russian Deputy Minister of Fuel and Energy will discuss the possibility and feasibility of expanding our PROTOCOL AGREEMENT into a massive Russo-American energy trade agreement.

The Russians tell us that they are not about to give in to Japanese pressure to force them to return the Kuriles in exchange for Japanese financial support. The Russians question the reliability and integrity of the Japanese and they would much prefer to make strong trade agreements with the U.S. and they now consider their PROTOCOL AGREEMENT with us to be a strong basis for such an expanded agreement.

Under such a massive trade agreement we would be looking at about \$100-\$200 billion over the next ten years, to include all phases of the energy sector. It would involve hundreds of thousands of new jobs in the U.S. and billions of dollars in new exports. This is the type of area trade agreement that the Bush Administration appears to be promoting for American companies throughout the world. We in Ahlstrom Pyropower can make that a reality in the Russian Federation. It is a shame that President Bush was not able to make this promise to the Russians and to the American people in his San Diego address yesterday, but there is still plenty of time.

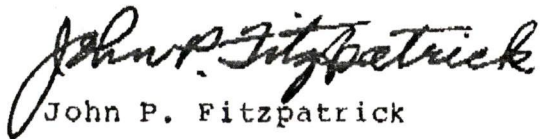
Ahlstrom Pyropower will be striving toward this goal with or without the support of the U.S. Government, but it will be a tremendous faux pas on the part of the Republican Party if it does not capitalize on the tremendous appeal that our proposal offers the world environmentally and to the U.S. economically. Removing the explosive threat of the 11 Chernobyl nuclear power plants will,

in itself, be the greatest environmental clean-up project the world has even known and the quantity of U.S. jobs created by massive exports would be a tremendous contribution to the recovery of the U.S. economy.

My problem at the moment is that Ahlstrom Pyropower has the enviable position of having this monopolistic position with the Russians. Once the German competition learns of our success, they will leave no stone unturned to try to upset this arrangement and take it over for themselves. President Kohl will rally to their support as he has several times in the past. We can not afford to wait much longer. They tried that with us in Poland, where we entered at the request of the Bush Administration, and it failed and we succeeded. We hope that it will also fail in Russia, but one can never be completely confident. Such a loss would be a catastrophe for us and for the United States. If the Bush Administration supports us now in this project we can assure them that we will not fail on our side of the bargain.

I do hope that you will support us to support you.

Very sincerely,


John P. Fitzpatrick

THE WHITE HOUSE

WASHINGTON

September 11, 1992

TO: Susan Cohen (CEQ - 395-5080)

The attached is a letter faxed to Robert B. Zoellick which appears to be an issue that you would be interested in, and would be the appropriate office to handle.

Mr. Fitzpatrick called this AM to verify that we had received his FAX. And that time he told me that he would like to meet with Mr. Zoellick or another appropriate official re this matter,

He feels this could be helpful in the re-election of the President in November.

I leave to your decision as to how this should be handled. Someone meet with Mr. Fitzpatrick? Or someone draft a "thank-you for your interest" letter to be signed by Mr. Zoellick. Please let me know your decision.

Thanks

Cozetta 456-2533



AHLSTROM PYROPOWER

9 September 1992

TO: Robert Zelleck
FROM: John Fitzpatrick

Dear Mr. Zelleck,

I just returned from Moscow, where we signed a PROTOCOL AGREEMENT with the Russian Ministry of Fuel and Energy to carry out the biggest nuclear environmental cleanup program the world has ever seen and the biggest thermal power plant environmental rehabilitation program the world has ever seen. We will introduce our most advanced boiler technology to replace the 11 dangerous Chernobyl nuclear reactors, beginning with the plants near St. Petersburg. Incidentally, there was a coolant leak in one of the Lithuanian Chernobyl-type plants last Saturday, but they were able to get it under control. It is still a reminder that there are 15 disasters there waiting to happen.

This proposal will put tens of thousands of Americans back to work, in the San Diego area, where our headquarters are located, and elsewhere throughout the United States. We estimate the export potential at about \$25 billion. We will know better when we do our feasibility study, which we hope to start almost immediately. This will be a big plum for the Bush Administration to announce in California, where they can use all the help they can get. Jobs! Jobs! Jobs! - coming from the Environmental President.

I am enclosing a shortened version of my REPORT OF VISIT TO RUSSIA, as well as a MEMO on the benefits that will accrue to the United States, and thirdly a copy of a letter I wrote to Ambassador Armitage, requesting his support for this epic-making Agreement.

I am a strong Republican and I think we have to use situations like this to avoid a similar disaster in November. Will you please help us help you?

Sincerely,

John P. Fitzpatrick
John P. Fitzpatrick
Washington Representative



AHLSTROM PYROPOWER

2 September 1992

THIS IS A SHORT RESUME OF MY REPORT OF VISIT TO MOSCOW, 13-23 AUGUST AND THE MEETINGS, WHICH WERE HELD THERE.

I was in Moscow from 13 to 24 August and the President of Ahlstrom Pyropower Corporation was there from 19 to 23 August. During that time I had some meetings, and he and I had some. Here are the results of those meetings:

- On 14 August I met with Sergei Trushin, Director-General of REPROELECTROPROJECT (Thermal Power Projects) (TEP) and with Valentin Filkov, Deputy Director. TEP is the technical Division of the Ministry of Fuel and Energy. They advised me that there were three proposals pending in the Ministry of Fuel and Energy for rehabilitating the Chernobyl-type RBMK nuclear power plants:

1. - Replace the two 1000 MWe reactors with four new 500 MWe reactors. (Several international proposals).
2. - Replace the two 1000 MWe reactors with two new 1000 MWe reactors. (Several international proposals).
3. - Replace the two 1000 MWe reactors with four 450 MWe combined-cycle gas turbines. This proposal is mainly promoted by Siemens, of Germany.

Trushin said our proposal, to replace the nuclear reactors with our circulating fluidized bed boilers, burning indigenous fuels, would be the fourth alternative solution, and the one TEP favors. A very convincing sales job has to be done to convince Deputy Minister Diakov to add us to the list as a fourth alternative.

During the course of the next week we had many meetings with the Ministry of Nuclear Power, the Ministry of Economy, the Podolsk Boiler Works, TEP and with Anatoly Diakov, the Deputy Minister of Fuel and Energy.

On 22 August Mr. Oakes and I met with Deputy Minister Diakov, who, after our ten days of discussions, with which he was fully aware, summed up the final Russian position as follows:

- The Russian Government has determined that there will be no new nuclear power plant construction for many years. Russian nuclear physicists are not acquainted with the most advanced new nuclear technology, hence they will have to re-learn their trade, and that should take 6-7 years. Then they will have to sell their new plants and with the long lead time, a new nuclear power plant won't start operating before the year 2010, at the earliest. That takes care of alternative 1.

- Because of the depleting oilfields, the amount of crude oil available for export to provide the minimum amount of foreign exchange required to operate the federal government, is dwindling

daily. Hence the last gas allocation plan has been cancelled and a new plan is being drawn up, and no gas will be made available for any purpose, which isn't essential. This gas will now be made available for export. The Siemens gas project for St. Petersburg is not considered essential hence it is among those that have been turned down.

- Ahlstrom Pyropower's ability to burn low grade fuels efficiently, economically and ecologically, and since Russia has huge reserves of low-grade fuels such as oil shale, lignite, brown coal and low-grade regular coal, all excellent fuels for Ahlstrom Pyropower's circulating fluidized bed boilers, the Minister has decided that the third CFB alternative is the most attractive and advantageous alternative for Russia, hence he has decided to "adopt" our PYROFLOW technology for all future power plant projects in Russia.

One of the big advantages that our proposal has is that we will not have to halt operation of the nuclear power plants while we are building our substitute source of steam, as will the other two alternatives. We will build our boilers alongside and when they are completed we will shut the steam-valve on the nuclear reactor and open the steam-valve on our boilers and the electricity continues to be generated. The nuclear and combined-cycle solutions would require complete shut-down and Russia can not afford that economically.

The Minister has introduced us to the PODALSK Boiler Factory, which is 25 miles outside Moscow and to the BARNAUL Boiler Factor, which is in Siberia about 2,500 Kilometers East of Moscow. The Minister wants us to negotiate a manufacturing agreement with them, and he will make the Podalsk consortium the boiler manufacturer for all boilers for power plants West of the Urals, and the Barnaul consortium responsible for all boilers for plants East of the Urals, as far East as Vladivostok. We will be sending teams to inspect these plants to see what equipment will be required to give these plants the capability to manufacture our boilers. That equipment will come from the United States.

The Minister's plan is for us to work out a joint venture with TEP and his goal is to have the new company replace 11,000 MWe of nuclear reactors and to rehabilitate 50,000 MWe of thermal power plants, all with our circulating fluidized bed boilers. The initial project will be substituting one of the St. Petersburg nuclear reactors with six of our 230 MWe boilers and with one high-pressure steam turbine. Not only will this construction rehabilitate the power plant, but it will increase its generating capacity to 1400 MWe. The cost of repowering each nuclear plant with our CFB boilers would be \$550 million, and a high percentage of the work would be done in Russia. The cost of Combined Cycle gas plants would be about \$800 million and the nuclear reactor substitution would be in the range of \$2.5 billion. For both of these latter solutions only a small fraction of the actual fabrication and construction work would be carried out in Russia.



AHLSTROM PYROPOWER

6 September 1992

MEMORANDUM FOR THE FILES

Subject: The important PROTOCOL AGREEMENT, signed 22 August 1992, between the Russian Ministry of Fuel and Energy and the Ahlstrom Pyropower Corporation, of San Diego, will have tremendous side effects worldwide and, in particular in Russia and in the United States.

On 22 August in Moscow the Russian Deputy Minister of Fuel and Energy, Anatoly Diakov, and the President of Ahlstrom Pyropower, Inc., Eric J. Oakes, signed an epic making PROTOCOL AGREEMENT "to work together for the development of fluidized bed boiler technology exclusively throughout Russia for all major projects, including repowering and/or substitution of the RBMK nuclear power plants". According to the Minister's plan, this will include 11,000 MWe of nuclear plant repowering and 50,000 MWe of thermal power plant rehabilitation. The total cost of this program will be in the range of \$25 billion. Here are some of the economical and environmental side effects that will result from this Agreement:

1. Once this program is completed there will no longer be a danger of another Chernobyl-type power plant explosion in Russia.
2. It will be the most cost effective environmental cleanup in the history of the world.
3. Coal, oil shale and lignite mines will have to be equipped and expanded to supply the tremendous amounts of indigenous fuels that will be required for this program.
4. Thousands of U.S. jobs will be created in San Diego and elsewhere in the United States to carry out this program and provide the management, equipment and engineering required. Jobs will also be created for:
 - A major expansion of Ahlstrom Pyropower's Engineering, Procurement and Project Management Departments.
 - Several mining studies by U.S. mining companies
 - Huge amounts of advanced technology mining equipment for coal, lignite and oil shale mines.
 - A series of conveyer belts, slurry lines, etc. will be required for fuel transportation. U.S. companies will be required to provide this equipment.
 - Establishment of training programs for Russians in all phases of power plant construction and operation.

Unless the United States Government recognizes the true importance of this program to its economic recovery and unless it is willing to act quickly, there is no doubt that Germany will become aware of the project and will do its utmost to snatch the project away from us. It is most important that we move immediately.

This final meeting became an epic-making one as Anatoly Diakov and Eric J. Oakes signed a PROTOCOL AGREEMENT between the Ministry of Fuel and Energy of the Russian Federation and the Ahlstrom Pyropower Corporation "to work together for the development of circulating fluidized bed boiler technology throughout Russia for all major projects, including repowering and/or substitution of the RBMK nuclear power plants". Immediately afterwards Sergei Trushin and Eric Oakes signed an equally important PROTOCOL AGREEMENT between TEPLOELECTROPROJECT and Ahlstrom Pyropower Corporation to fully support the Agreement between the Ministry and Ahlstrom Pyropower with full exclusivity on both sides.

To get this program started a feasibility study will be required and it is estimated to cost \$1 million. The Minister of Fuel and Energy has requested AID to assist us in co-financing this study. I understand that AID is willing to assist us. At the request of Minister Diakov, we are hoping to get the feasibility study started within 90 days. We would greatly appreciate all of your support.

John P. Fitzpatrick

FLASH!!! ANOTHER CHERNOBYL-TYPE NUCLEAR POWER PLANT STARTED
LEAKING ON SATURDAY, 5 SEPTEMBER, CAUSING CONCERN IN FINLAND
AND SCANDANAVIA, AND EMPHASIZING THE IMPORTANCE OF EARLY
IMPLEMENTATION OF OUR PROTOCOL AGREEMENT!!!!

John P. Fitzpatrick
John P. Fitzpatrick



AHLSTROM PYROPOWER

8 September 1992

The Honorable
Richard Armitage
Special Advisor to the
Deputy Secretary of State
State Department
Washington, D.C.

My dear Mr. Ambassador,

Since November 1991 I have been engaged in a dialogue with the Russian Ministry of Fuel and Energy, with a view towards establishing a meaningful working relationship between the Russian Ministry and the Ahlstrom Pyropower Corporation. I orchestrated, through the U.S. Energy Association and TDP, a visit by Deputy Minister Anatoly Diakov and six of his top assistants to Washington last March for briefings on new energy technologies and a familiarization tour of several operating plants, which are using those technologies. One of the plants on the tour was our Gilberton plant near Allentown, Pennsylvania, which uses our PYROFLOW technology on low grade coal, similar to what Russia has. That plant has the most advanced clean coal-burning technology in the world, and it made a tremendous impression on the Russians.

Concurrently with the collaboration project, I was working on another project for Russia and that was a proposal to substitute the dangerous Chernobyl-type nuclear reactors in those power plants with our most advanced circulating fluidized bed boilers. Deputy Minister Diakov liked the idea very much and he discussed it with the Minister of Nuclear Power and he, too, liked the idea. They both agreed that an early trip to Moscow was warranted to discuss the proposal in detail. Eric J. Oakes, President of Ahlstrom Pyropower, of San Diego, California, and I went to Russia last month and I have prepared a summary report, a copy of which is enclosed to give you an indication of how very successful our meetings were.

On Saturday morning, 22 August, we had our final meeting with Deputy Minister Diakov and he and Eric Oakes signed two epic making PROTOCOL AGREEMENTS, one with the Ministry of Fuel and Energy and one with TEPLOELECTROPROJECT, the technical division of the Ministry "to work together for the development of fluidized bed boiler technology exclusively throughout Russia for all major projects, including repowering and/or substitution of the RBMK nuclear power plants". According to the Minister's desires this program will eventually cover 11,000 MWe of nuclear power plant repowering and 50,000 MWe of thermal power plant rehabilitation. The estimated total cost of this program will be in the range of \$20 to \$25 billion. Of course Ahlstrom Pyropower doesn't have the capacity to cover all the requirements of this program, and it is

the boiler island where our main interest lies. However, there will also be a tremendous market for practically all sectors of the U.S. power plant construction industry. I am also enclosing a copy of my MEMORANDUM FOR THE FILES, dated 6 September, and it lists the many advantages that will accrue to the U.S. in this proposal.

To get this program started a feasibility study will be required for the first nuclear power plant repowering project for Sosnovy Bor, near St. Petersburg, which is estimated to cost \$1 million. Our visit coincided with the visit of an AID study team and Minister Diakov advised us that he had requested that team to support a study on how best to convert the dangerous nuclear power plants to environmentally clean coal-burning plants. We kept the AID team advised of our progress and we gave them copies of the two PROTOCOLS that we signed. We are confident that what we are proposing to do is very much in line with what they were trying to achieve and with what the Deputy Minister was asking them to do. We are all in agreement - that there is a strong environmental need to replace the dangerous Chernobyl-type RBMK reactors in Russia.

I would greatly appreciate it if you could receive me at your earliest convenience and let me show you more details of our proposal. Again, I am confident that you will be impressed with it.

Very sincerely,


John P. Fitzpatrick

*Ahlstrom/Russian agreement Re Nuclear Power Plants
Request for POTUS announcement.*

Andrew,

Can you help me with the attached, or suggest someone who can.

Long ago, RBZ sent this to Dennis and Karen, noting we might want to consider it for travel to California of POTUS.

POC for Ahlstrom, Mr. Jack Fitzpatrick (202/337-0255), continued to call me re this matter and somehow I got involved in just how legitimate was his "agreement" with the Russians. It is not a contract; instead an agreement w/lots of "ifs."

I spoke w/Mike Deland's COS David Struhs, and another member of his staff, Patricia Bliss-Guest. I've also talked with DOE Energy International Affairs, Gene DeLaTorre (586-6121) and DOE Peter Muchunas (301/903-4348). Mr. Muchunas had a file on this company, which is Finnish, not American. Ahlstrom does have an office in San Diego, but the bottom line is it is Finnish, and although Mr. Fitzpatrick notes how important it would be for the President to be involved in this, noting the jobs that would be created in California, Ahlstrom could choose to use one of its other sites for the work, instead of the US (Calif).

Mr. Muchunas notes that from his files Ahlstrom is asking for lots of assistance from AID, etc., although noting how much money this contract would involve -- Mr. Muchunas wonders why the company would not have \$1 million available that will enable them to make so much more money??

A lot of this is beyond my understanding but I will lay out the facts as I see them:

Ahlstrom notes it is an agreement, giving an impression of a "done deal"/contract. When you look at the agreement he sent -- Protocol Agreement -- it appears to be a gentlemen's agreement to look at the possibilities.

AID and Energy both have background that Mr. Fitzpatrick has been asking for USG assistance for Ahlstrom; which is interpreted as a request to show favoritism over other companies; which is a no-no.

After all of these conversations, the decision was made that CEQ would respond on behalf of RBZ, and give Ahlstrom - Mr. Fitzpatrick the POC at the Dept of Commerce who could inform him what services were available for ALL US companies who are interested in pursuing contracts with foreign countries -- and what services were not. I have a call into David Struhs to get a copy of his letter for my files.

Yesterday Mr. Fitzpatrick sent yet another fax, noting that he still thinks this would be advantageous to the Bush campaign. When I spoke w/Mr. Fitzpatrick about a week ago, and noted that this letter would be forthcoming, he said ok -- they wanted to offer it to the President, but since he had said no, they would probably have to offer this great announcement to Clinton. One could think that he did -- since it has been a week or so since I heard from him -- and they too were not interested. Now he is coming back to us.

At first it was a request to make this announcement while the President were speaking somewhere in Calif. But then he also notes some sort of Presidential announcement, not necessarily involved with POTUS travel to California.

I want to check with you to make certain I proceed in the correct manner. I need someone of higher authority than myself to reiterate to Mr. Fitzpatrick that our interpretation of his agreement is that it is not a "done deal" - therefore we cannot become involved. Or I need someone to speak to him further, to make certain we stand by our original decision.

Can you handle ____

Should I refer him again to David Struhs, CEQ ____

Should I ignore his calls; he has been answered;
he simply is not accepting that answer ____

Cozetta 10/14 x2533



TELEFAX MESSAGE

DATE
FAX NUMBER
ATTENTION
FROM

13 October 1992

456-1121

Linda Kriss

Jack Fitzpatrick

TOTAL NUMBER OF PAGES, INCLUDING COVER PAGE

4

MESSAGE

This will give you a better idea of the scope of our Russian agreement. I still think the Bush campaign could rise this to good advantage.

John Fitzpatrick

PLEASE NOTIFY ME IF YOU DO NOT RECEIVE A CLEAR OR COMPLETE COPY

The Westchester, Suite 530B
4000 Cathedral Avenue
Washington, D.C. 20016

TELEPHONE (202) 337-0255
TELEX 4971251 JAF117
TELEFAX (202) 338-7394



AHLSTROM PYROPOWER

12 October 1992 FUND

MEMORANDUM FOR THE FILES

Subject: President Bush's new GROWTH FUND and its relationship to the Ahlstrom Pyropower/Russian PROTOCOL AGREEMENT.

President Bush's speech to the United Nations General Assembly on 21 September 1992 announced the creation of a \$1 billion GROWTH FUND by refocusing existing foreign assistance resources. The program will support over \$2 billion in additional exports and more than 40,000 American jobs, while at the same time assisting in economic growth and restructuring in developing countries.

The PROTOCOL AGREEMENT signed 22 August 1992 by Ahlstrom Pyropower, Inc. of San Diego, California (API) and the Russian Ministry of Fuel and Energy has the same purpose as that proposed by President Bush and it will apply the same "mechanism". However the PROTOCOL will create 100,000 new American jobs, instead of 40,000 and will support \$5 billion in exports instead of the \$2 billion for the GROWTH FUND.

A White House briefing paper has explained the workings of the GROWTH FUND and to them, by way of comparison, I have added the workings of the API/Russian PROTOCOL in parentheses.

PURPOSE

- o To promote economic growth and prosperity at home and abroad.
 - At home: Create jobs by supporting the export of U.S. goods and expertise and opening new markets.

(The API PROTOCOL will create approximately 100,000 new jobs and it will support \$5 billion in U.S. exports. It will also make a big contribution towards opening up the huge Russian market.)

- Abroad: Provide U.S. goods and expertise to transform centralized economies to free markets and build the infrastructure necessary for economic growth.

(This is exactly what the API PROTOCOL will be doing, and what greater centralized economy can there be than Russia.)

MECHANISM

- o The fund will make available grants and credits to support U.S. private sector efforts.

(The API PROTOCOL will require grants and credits to be

successful. It will be a U.S. private sector company developing a new private sector joint venture company with the Russians in Russia.)

- o The funds will be provided in combination with private sector and other sources of financing. It is seed money that will serve as a catalyst for much larger private sector flows.

(This is exactly what API is planning to do and it is in the proposal that API has already submitted to AID).

- o Funds can be used for:

- U.S. participation in capital projects, including funding feasibility studies and financing U.S. exports.

(This is exactly the purpose for which the funds have been requested from AID. In addition, API will obtain an equity position in the new Russian private sector joint venture company created).

- Providing U.S. technical expertise in establishing private markets and restructuring centralized economies.

(API will be providing Russian clients with the world's most advanced boiler technology and with the most advanced management skills and techniques).

- Supporting the creation of mutually beneficial joint U.S.-overseas business ventures.

(After the nuclear power plants have been repowered, they will become private sector joint ventures with API and Russian private sector equity participation. This will also apply to the boiler factories, which will be modernized and privatized).

- Supporting the entities, mechanisms, and structures that will stimulate economic growth (e.g., stock markets, banking systems, financial markets, and establishing legal protection for intellectual property rights).

(API is well aware of its responsibilities in stimulating economic growth in Russia in accordance with good U.S. business principles).

- Support for exchanges and training with U.S. business to develop private sector skills and establish commercial relationships.

(API will be establishing large training programs in order to train Russians in all phases of power plant construction and operation).

SOURCE OF FUNDING

- o The Growth Fund will be created from within existing foreign aid resources at no additional cost to the taxpayer.

(API's biggest problem in financing these 15 repowering projects will be financial guarantees that will be acceptable to the commercial banks. Russian sovereign guarantees, by themselves, will not be sufficient. If the U.S. Government would give Russia a back-up guarantee of \$550 million for the first Sosnovy Bor project, the export sales of the incremental 400 MWe of electricity would be sufficient to amortize the total debt very quickly, and the sales of shares in that new private sector company would greatly facilitate financing the second Sosnovy Bor project, and the sales of its shares would greatly facilitate financing the third, etc.

As can be seen from the above, the API/Russian PROTOCOL is not only in line with the President's GROWTH FUND, it will greatly enhance it and expand it, and it will do so in a country where it is extremely important for the United States Government to see full economic recovery. A failure of the West to support Russia now will undoubtedly drive it back into a totalitarian regime and the cold war will be back on. We all know the economic disadvantages of that.


John P. Fitzpatrick



TELEFAX MESSAGE

DATE 5 OCTOBER 1992
FAX NUMBER 456-1121
ATTENTION LINDA AND COSETTA
FROM JACK FITZPATRICK

TOTAL NUMBER OF PAGES, INCLUDING COVER PAGE 3

MESSAGE

Here is a copy of our agreement
with the Russians. It is a
fait accompli. We just
thought the President
would like to announce
the good news. We're
not asking him to
favor us over someone
else. We just would
like his moral
support.

Jack

PLEASE NOTIFY ME IF YOU DO NOT RECEIVE A CLEAR OR COMPLETE COPY

The Westchester, Suite 538B
4000 Cathedral Avenue
Washington, D.C. 20016

TELEPHONE (202) 337-0255
TELEX 4971251 JAFITZ
TELEFAX (202) 338-7394

PROTOCOL AGREEMENT

Copy to Energy
Peter Muchunas
FAX 301-903-4348
→ 903-2406

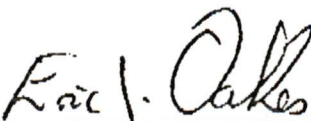
This Agreement is entered into as of this 22 day of August, 1992, by and between Ahlstrom Pyropower, Inc. ("API") and the Ministry of Fuel and Energy of the Russian Federation ("Ministry").

API and the Ministry agree as follows:

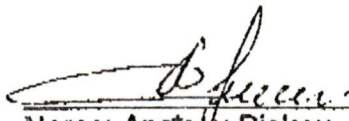
1. The Ministry will work with API for the development of circulating fluidized bed technology throughout Russia for major projects, including repowering and/or substitution of the RBMK Nuclear Power Plants.
2. Mutual studies of the feasibility of development of circulating fluidized bed options will be the first objective of this agreement. Funding for these studies will be sought from international and governmental institutions, with the intent of beginning such studies within ninety (90) days.
3. Provided that both parties agree that the introduction of circulating fluidized bed technology is feasible and desirable in Russia, the parties further agree to negotiate, in good faith, such further agreements or contracts to supply and have manufactured all equipment as may be needed to bring this technology to Russia.
4. This Protocol Agreement shall remain in force for a period of one year unless superseded by another agreement or unless extended by mutual agreement of the parties.

AHLSTROM PYROPOWER, INC.

MINISTRY OF FUEL AND ENERGY OF THE
RUSSIAN FEDERATION



Name: Eric J. Oakes
Title: President



Name: Anatoly Diakov
Title: Deputy Minister

[a]

ПРОТОКОЛ - НАМЕРЕНИЕ

Настоящее соглашение заключено 21 августа 1992 года между Корпорацией "Альстром Пиропауэр" ("API") и Теплоэлектро-проектом ("ТЭП") в поддержку протокола-намерения между API и Министерством Топлива и Энергетики Российской Федерации.

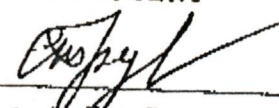
Корпорация "Альстром Пиропауэр" и ТЭП договорились о нижеследующем:

1. ТЭП и API будут работать исключительно совместно по проектированию и поставке проектов с циркулирующим кипящим слоем на всей территории России и в других странах по совместному соглашению, в том числе перевода атомных электростанций с реакторами РБМК на новый вид топлива и/или замещения этих атомных электростанций.
2. Первой целью настоящего соглашения будет взаимные технико-экономические обоснования развертывания вариантов с циркулирующим кипящим слоем. Ассигнования на это и технико-экономические обоснования будут изысканы фирмой "Альстром Пиропауэр" у международных и правительственных организаций с намерением приступить к вышеуказанным исследованиям в течение девяноста (90) дней.
3. Исходя из того, что обе стороны договорились о том, что внедрение технологии с циркулирующим кипящим слоем осуществимо и желательно в России, стороны в дальнейшем согласны честно обсуждать условия дальнейших подобных соглашений или контрактов с целью поставок и организации изготовления всего оборудования, которое может потребоваться для проектирования и поставки электростанций в России с котлами с циркулирующим и кипящим слоем.
4. Настоящий протокол-намерение будет оставаться в силе в течение одного года, до тех пор, пока не будет заменен другим соглашением, или до тех пор, пока он не будет продлен по обоюдному согласию обеих сторон.

КОРПОРАЦИЯ
"АЛЬСТРОМ ПИРОПАУЭР"


Имя: Эрик Дж. Оукс
Должность: Президент

ТЕПЛОЭЛЕКТРОПРОЕКТ


Имя: Сергей С. Трушин
Должность: Генеральный
Директор

RBZ

I have spoke to David Struhs, COS to Mike Deland re this matter.

AID has heard numerous times from Mr. Fitzpatrick.

He presents in his faxes that he is the only company involved in this endeavor -- not so, according to AID. Hundreds of companies are involved with negotiating deals with Russia for just the same thing.

AID has told him repeatedly that they cannot show favoritism to his company. And as Mr. Struhs points out, neither can the WH or POTUS.

Mr. Struhs proposes that we pass this to Commerce for action. They have an information office that tells American companies how to export their services to foreign countries, and this office tells them what services the federal govt can give them in these endeavors.

If you agree, Mr. Struhs can have a letter drafted for your signature, giving Mr. Fitzpatrick the POC at Commerce to request whatever services might be available to him from USG ____

or CEQ could do it under their signature, noting that you had asked them to follow through

1 (JMS) 10/2

Cozetta 9/29

Struhs 3742



AHLSTROM PYROPOWER

29 September 1992

TO: Robert Zoelleck
FROM: Jack Fitzpatrick

Dear Mr. Zoelleck,

As I told you in my fax, dated 14 September 1992, Ahlstrom Pyropower is running a serious risk in not publicly announcing its recent power plant agreement with the Russians, and shoring up its plan to get financing for its feasibility study. The risk is that our German competitors are sensing that something has happened and they are pressing hard on the Russian Ministry of Fuel and Energy to meet with them to discuss a proposal that they would like to make. Deputy Minister Diakov told me last week in Madrid that he did not know how long he would be able to hold them off, so he urged me to get the program started, so that he can confirm to the Germans that they are too late and that the nuclear and thermal power plant rehabilitation programs have already been committed to an American Company, Ahlstrom Pyropower of San Diego, California.

Our headquarters in San Diego is pressing me to agree to an immediate press release, but I am holding them off because of the beneficial effect President Bush could get from the announcement, the biggest environmental clean-up in the history of the world and also the tens of thousands of jobs that will be created in California and elsewhere throughout the United States and the billions in exports. That is the type coverage the President needs in California to win.

There is another important point, which I thought I should bring to your attention. There may be a "leak" in your shop or at State or AID, as I received a call this morning from the "Issues" division of Perot's campaign headquarters in Dallas. They said they knew all about our fabulous agreement with the Russians and they believed it should be made public knowledge. They also knew that I had offered to let the White House make the announcement because of the beneficial effect it would have on the elections, particularly in California, as well as President Bush's environmental image. I told them that we did make the agreement and that we were at the moment working out a co-financing arrangement with AID for the feasibility study, but that we believed we were doing so with the full support of the White House. The reply I got was "Oh yea, that's not what we hear". They said they would call again in a couple of days to see whether I felt the same way.

Could you please take another look at this project and let me know your opinion soonest. If you are not interested in identifying with it, fine, but please let me know. Believe me, I was only doing it because I was being a good Pro-Bush Republican and I thought you could derive some benefit out of it.

Sincerely,

John P. Fitzpatrick
John P. Fitzpatrick
Ahlstrom Pyropower Inc.

THE WESTCHESTER, 532-B
4000 CATHEDRAL AVENUE
WASHINGTON, D.C. 20016

PHONE 202-337 0255
TELEX 4971251 JAFITZ



AHLSTROM PYROPOWER

TO: CEQ:Patricia Bliss-Guest. I understand you are working this one, per Susan Cohen. We've received yet another FAX. Also, Mr. Fitzpatrick is in Madrid this week; his colleague Ms Manning has called giving her numbers, in case he/she needs to be reached. office 619/458-3131
home 272-1711

14 September 1992

TO: Robert Zoelleck

Cozetta x 2533 9/21

From: Jack Fitzpatrick

Dear Mr. Zoelleck,

In reference to my fax to you of 9 September, the relationship of Ahlstrom Pyropower with the Russian Ministry of Fuel and Energy is daily growing in friendship and in confidence. The Ministry now has advised us that they believe that we are not only one of their best alternatives but are actually their only really acceptable energy alternative. After a further deep analysis of our conversations in Russia last month, the Ministry has advised us that they have now decided that Ahlstrom Pyropower is Russia's best electric energy partnership possibility. The Ministry's latest evaluation of our proposal convinces them that it offers them the greatest possibilities and they are so convinced that they would like to expand on this relationship. During a meeting next week of the World Energy Council in Madrid, Ahlstrom Pyropower and the Russian Deputy Minister of Fuel and Energy will discuss the possibility and feasibility of expanding our PROTOCOL AGREEMENT into a massive Russo-American energy trade agreement.

The Russians tell us that they are not about to give in to Japanese pressure to force them to return the Kuriles in exchange for Japanese financial support. The Russians question the reliability and integrity of the Japanese and they would much prefer to make strong trade agreements with the U.S. and they now consider their PROTOCOL AGREEMENT with us to be a strong basis for such an expanded agreement.

Under such a massive trade agreement we would be looking at about \$100-\$200 billion over the next ten years, to include all phases of the energy sector. It would involve hundreds of thousands of new jobs in the U.S. and billions of dollars in new exports. This is the type of area trade agreement that the Bush Administration appears to be promoting for American companies throughout the world. We in Ahlstrom Pyropower can make that a reality in the Russian Federation. It is a shame that President Bush was not able to make this promise to the Russians and to the American people in his San Diego address yesterday, but there is still plenty of time.

Ahlstrom Pyropower will be striving toward this goal with or without the support of the U.S. Government, but it will be a tremendous faux pas on the part of the Republican Party if it does not capitalize on the tremendous appeal that our proposal offers the world environmentally and to the U.S. economically. Removing the explosive threat of the 11 Chernobyl nuclear power plants will,

in itself, be the greatest environmental clean-up project the world has even known and the quantity of U.S. jobs created by massive exports would be a tremendous contribution to the recovery of the U.S. economy.

My problem at the moment is that Ahlstrom Pyropower has the enviable position of having this monopolistic position with the Russians. Once the German competition learns of our success, they will leave no stone unturned to try to upset this arrangement and take it over for themselves. President Kohl will rally to their support as he has several times in the past. We can not afford to wait much longer. They tried that with us in Poland, where we entered at the request of the Bush Administration, and it failed and we succeeded. We hope that it will also fail in Russia, but one can never be completely confident. Such a loss would be a catastrophe for us and for the United States. If the Bush Administration supports us now in this project we can assure them that we will not fail on our side of the bargain.

I do hope that you will support us to support you.

Very sincerely,


John P. Fitzpatrick

THE WHITE HOUSE

WASHINGTON

September 11, 1992

TO: Susan Cohen (CEQ - 395-5080)

The attached is a letter faxed to Robert B. Zoellick which appears to be an issue that you would be interested in, and would be the appropriate office to handle.

Mr. Fitzpatrick called this AM to verify that we had received his FAX. And that time he told me that he would like to meet with Mr. Zoellick or another appropriate official re this matter,

He feels this could be helpful in the re-election of the President in November.

I leave to your decision as to how this should be handled. Someone meet with Mr. Fitzpatrick? Or someone draft a "thank-you for your interest" letter to be signed by Mr. Zoellick. Please let me know your decision.

Thanks

Cozetta 456-2533



AHLSTROM PYROPOWER

9 September 1992

TO: Robert Zelleck
FROM: John Fitzpatrick

Dear Mr. Zelleck,

I just returned from Moscow, where we signed a PROTOCOL AGREEMENT with the Russian Ministry of Fuel and Energy to carry out the biggest nuclear environmental cleanup program the world has ever seen and the biggest thermal power plant environmental rehabilitation program the world has ever seen. We will introduce our most advanced boiler technology to replace the 11 dangerous Chernobyl nuclear reactors, beginning with the plants near St. Petersburg. Incidentally, there was a coolant leak in one of the Lithuanian Chernobyl-type plants last Saturday, but they were able to get it under control. It is still a reminder that there are 15 disasters there waiting to happen.

This proposal will put tens of thousands of Americans back to work, in the San Diego area, where our headquarters are located, and elsewhere throughout the United States. We estimate the export potential at about \$25 billion. We will know better when we do our feasibility study, which we hope to start almost immediately. This will be a big plum for the Bush Administration to announce in California, where they can use all the help they can get. Jobs! Jobs! Jobs! - coming from the Environmental President.

I am enclosing a shortened version of my REPORT OF VISIT TO RUSSIA, as well as a MEMO on the benefits that will accrue to the United States, and thirdly a copy of a letter I wrote to Ambassador Armitage, requesting his support for this epic-making Agreement.

I am a strong Republican and I think we have to use situations like this to avoid a similar disaster in November. Will you please help us help you?

Sincerely,

John P. Fitzpatrick
John P. Fitzpatrick
Washington Representative



AHLSTROM PYROPOWER

2 September 1992

THIS IS A SHORT RESUME OF MY REPORT OF VISIT TO MOSCOW, 13-23 AUGUST AND THE MEETINGS, WHICH WERE HELD THERE.

I was in Moscow from 13 to 24 August and the President of Ahlstrom Pyropower Corporation was there from 19 to 23 August. During that time I had some meetings, and he and I had some. Here are the results of those meetings:

- On 14 August I met with Sergei Trushin, Director-General of REPLOELECTROPROJECT (Thermal Power Projects) (TEP) and with Valentin Filkov, Deputy Director. TEP is the technical Division of the Ministry of Fuel and Energy. They advised me that there were three proposals pending in the Ministry of Fuel and Energy for rehabilitating the Chernobyl-type RBMK nuclear power plants:

1. - Replace the two 1000 MWe reactors with four new 500 MWe reactors. (Several international proposals).
2. - Replace the two 1000 MWe reactors with two new 1000 MWe reactors. (Several international proposals).
3. - Replace the two 1000 MWe reactors with four 450 MWe combined-cycle gas turbines. This proposal is mainly promoted by Siemens, of Germany.

Trushin said our proposal, to replace the nuclear reactors with our circulating fluidized bed boilers, burning indigenous fuels, would be the fourth alternative solution, and the one TEP favors. A very convincing sales job has to be done to convince Deputy Minister Diakov to add us to the list as a fourth alternative.

During the course of the next week we had many meetings with the Ministry of Nuclear Power, the Ministry of Economy, the Podalsk Boiler Works, TEP and with Anatoly Diakov, the Deputy Minister of Fuel and Energy.

On 22 August Mr. Oakes and I met with Deputy Minister Diakov, who, after our ten days of discussions, with which he was fully aware, summed up the final Russian position as follows:

- The Russian Government has determined that there will be no new nuclear power plant construction for many years. Russian nuclear physicists are not acquainted with the most advanced new nuclear technology, hence they will have to re-learn their trade, and that should take 6-7 years. Then they will have to sell their new plants and with the long lead time, a new nuclear power plant won't start operating before the year 2010, at the earliest. That takes care of alternative 1.

- Because of the depleting oilfields, the amount of crude oil available for export to provide the minimum amount of foreign exchange required to operate the federal government, is dwindling

daily. Hence the last gas allocation plan has been cancelled and a new plan is being drawn up, and no gas will be made available for any purpose, which isn't essential. This gas will now be made available for export. The Siemens gas project for St. Petersburg is not considered essential hence it is among those that have been turned down.

- Ahlstrom Pyropower's ability to burn low grade fuels efficiently, economically and ecologically, and since Russia has huge reserves of low-grade fuels such as oil shale, lignite, brown coal and low-grade regular coal, all excellent fuels for Ahlstrom Pyropower's circulating fluidized bed boilers, the Minister has decided that the third CFB alternative is the most attractive and advantageous alternative for Russia, hence he has decided to "adopt" our PYROFLOW technology for all future power plant projects in Russia.

One of the big advantages that our proposal has is that we will not have to halt operation of the nuclear power plants while we are building our substitute source of steam, as will the other two alternatives. We will build our boilers alongside and when they are completed we will shut the steam-valve on the nuclear reactor and open the steam-valve on our boilers and the electricity continues to be generated. The nuclear and combined-cycle solutions would require complete shut-down and Russia can not afford that economically.

The Minister has introduced us to the PODALSK Boiler Factory, which is 25 miles outside Moscow and to the BARNAUL Boiler Factor, which is in Siberia about 2,500 Kilometers East of Moscow. The Minister wants us to negotiate a manufacturing agreement with them, and he will make the Podalsk consortium the boiler manufacturer for all boilers for power plants West of the Urals, and the Barnaul consortium responsible for all boilers for plants East of the Urals, as far East as Vladivostok. We will be sending teams to inspect these plants to see what equipment will be required to give these plants the capability to manufacture our boilers. That equipment will come from the United States.

The Minister's plan is for us to work out a joint venture with TEP and his goal is to have the new company replace 11,000 MWe of nuclear reactors and to rehabilitate 50,000 MWe of thermal power plants, all with our circulating fluidized bed boilers. The initial project will be substituting one of the St. Petersburg nuclear reactors with six of our 230 MWe boilers and with one high-pressure steam turbine. Not only will this construction rehabilitate the power plant, but it will increase its generating capacity to 1400 MWe. The cost of repowering each nuclear plant with our CFB boilers would be \$550 million, and a high percentage of the work would be done in Russia. The cost of Combined Cycle gas plants would be about \$800 million and the nuclear reactor substitution would be in the range of \$2.5 billion. For both of these latter solutions only a small fraction of the actual fabrication and construction work would be carried out in Russia.



AHLSTROM PYROPOWER

6 September 1992

MEMORANDUM FOR THE FILES

Subject: The important PROTOCOL AGREEMENT, signed 22 August 1992, between the Russian Ministry of Fuel and Energy and the Ahlstrom Pyropower Corporation, of San Diego, will have tremendous side effects worldwide and, in particular in Russia and in the United States.

On 22 August in Moscow the Russian Deputy Minister of Fuel and Energy, Anatoly Diakov, and the President of Ahlstrom Pyropower, Inc., Eric J. Oakes, signed an epic making PROTOCOL AGREEMENT "to work together for the development of fluidized bed boiler technology exclusively throughout Russia for all major projects, including repowering and/or substitution of the RBMK nuclear power plants". According to the Minister's plan, this will include 11,000 MWe of nuclear plant repowering and 50,000 MWe of thermal power plant rehabilitation. The total cost of this program will be in the range of \$25 billion. Here are some of the economical and environmental side effects that will result from this Agreement:

1. Once this program is completed there will no longer be a danger of another Chernobyl-type power plant explosion in Russia.
2. It will be the most cost effective environmental cleanup in the history of the world.
3. Coal, oil shale and lignite mines will have to be equipped and expanded to supply the tremendous amounts of indigenous fuels that will be required for this program.
4. Thousands of U.S. jobs will be created in San Diego and elsewhere in the United States to carry out this program and provide the management, equipment and engineering required. Jobs will also be created for:
 - A major expansion of Ahlstrom Pyropower's Engineering, Procurement and Project Management Departments.
 - Several mining studies by U.S. mining companies
 - Huge amounts of advanced technology mining equipment for coal, lignite and oil shale mines.
 - A series of conveyer belts, slurry lines, etc. will be required for fuel transportation. U.S. companies will be required to provide this equipment.
 - Establishment of training programs for Russians in all phases of power plant construction and operation.

Unless the United States Government recognizes the true importance of this program to its economic recovery and unless it is willing to act quickly, there is no doubt that Germany will become aware of the project and will do its utmost to snatch the project away from us. It is most important that we move immediately.

This final meeting became an epic-making one as Anatoly Diakov and Eric J. Oakes signed a PROTOCOL AGREEMENT between the Ministry of Fuel and Energy of the Russian Federation and the Ahlstrom Pyropower Corporation "to work together for the development of circulating fluidized bed boiler technology throughout Russia for all major projects, including repowering and/or substitution of the RBMK nuclear power plants". Immediately afterwards Sergei Trushin and Eric Oakes signed an equally important PROTOCOL AGREEMENT between TEPLOELECTROPROJECT and Ahlstrom Pyropower Corporation to fully support the Agreement between the Ministry and Ahlstrom Pyropower with full exclusivity on both sides.

To get this program started a feasibility study will be required and it is estimated to cost \$1 million. The Minister of Fuel and Energy has requested AID to assist us in co-financing this study. I understand that AID is willing to assist us. At the request of Minister Diakov, we are hoping to get the feasibility study started within 90 days. We would greatly appreciate all of your support.

John P. Fitzpatrick

FLASH!!! ANOTHER CHERNOBYL-TYPE NUCLEAR POWER PLANT STARTED
LEAKING ON SATURDAY, 5 SEPTEMBER, CAUSING CONCERN IN FINLAND
AND SCANDANAVIA, AND EMPHASIZING THE IMPORTANCE OF EARLY
IMPLEMENTATION OF OUR PROTOCOL AGREEMENT!!!!

John P. Fitzpatrick
John P. Fitzpatrick



AHLSTROM PYROPOWER

8 September 1992

The Honorable
Richard Armitage
Special Advisor to the
Deputy Secretary of State
State Department
Washington, D.C.

My dear Mr. Ambassador,

Since November 1991 I have been engaged in a dialogue with the Russian Ministry of Fuel and Energy, with a view towards establishing a meaningful working relationship between the Russian Ministry and the Ahlstrom Pyropower Corporation. I orchestrated, through the U.S. Energy Association and TDP, a visit by Deputy Minister Anatoly Diakov and six of his top assistants to Washington last March for briefings on new energy technologies and a familiarization tour of several operating plants, which are using those technologies. One of the plants on the tour was our Gilberton plant near Allentown, Pennsylvania, which uses our PYROFLOW technology on low grade coal, similar to what Russia has. That plant has the most advanced clean coal-burning technology in the world, and it made a tremendous impression on the Russians.

Concurrently with the collaboration project, I was working on another project for Russia and that was a proposal to substitute the dangerous Chernobyl-type nuclear reactors in those power plants with our most advanced circulating fluidized bed boilers. Deputy Minister Diakov liked the idea very much and he discussed it with the Minister of Nuclear Power and he, too, liked the idea. They both agreed that an early trip to Moscow was warranted to discuss the proposal in detail. Eric J. Oakes, President of Ahlstrom Pyropower, of San Diego, California, and I went to Russia last month and I have prepared a summary report, a copy of which is enclosed to give you an indication of how very successful our meetings were.

On Saturday morning, 22 August, we had our final meeting with Deputy Minister Diakov and he and Eric Oakes signed two epic making PROTOCOL AGREEMENTS, one with the Ministry of Fuel and Energy and one with TEPLOELECTROPROJECT, the technical division of the Ministry "to work together for the development of fluidized bed boiler technology exclusively throughout Russia for all major projects, including repowering and/or substitution of the RBMK nuclear power plants". According to the Minister's desires this program will eventually cover 11,000 MWe of nuclear power plant repowering and 50,000 MWe of thermal power plant rehabilitation. The estimated total cost of this program will be in the range of \$20 to \$25 billion. Of course Ahlstrom Pyropower doesn't have the capacity to cover all the requirements of this program, and it is

the boiler island where our main interest lies. However, there will also be a tremendous market for practically all sectors of the U.S. power plant construction industry. I am also enclosing a copy of my MEMORANDUM FOR THE FILES, dated 6 September, and it lists the many advantages that will accrue to the U.S. in this proposal.

To get this program started a feasibility study will be required for the first nuclear power plant repowering project for Sosnovy Bor, near St. Petersburg, which is estimated to cost \$1 million. Our visit coincided with the visit of an AID study team and Minister Diakov advised us that he had requested that team to support a study on how best to convert the dangerous nuclear power plants to environmentally clean coal-burning plants. We kept the AID team advised of our progress and we gave them copies of the two PROTOCOLS that we signed. We are confident that what we are proposing to do is very much in line with what they were trying to achieve and with what the Deputy Minister was asking them to do. We are all in agreement - that there is a strong environmental need to replace the dangerous Chernobyl-type RBMK reactors in Russia.

I would greatly appreciate it if you could receive me at your earliest convenience and let me show you more details of our proposal. Again, I am confident that you will be impressed with it.

Very sincerely,


John P. Fitzpatrick



AHLSTROM PYROPOWER

25 October 1992

Mr. James Baker
Chief of Staff
The White House
Washington, D.C. 20500

My dear Mr. Baker,

I have been trying for over a month to encourage your staff to accept what I believe could make a meaningful contribution to President Bush's re-election campaign, but I have failed completely. In August I was in Russia and the company I represent, Ahlstrom Pyropower Corporation, signed an Agreement with the Russian Ministry of Energy and Fuel to develop our technology exclusively in all major power plant projects. This will be the biggest energy contract ever signed. It is also the biggest environmental cleanup project ever attempted in the history of the world, as our agreement is also to replace all of the Russian Chernobyl-type power plants with our circulating fluidized bed boilers, burning low-grade fuels. President Bush wants to be "the environmental President" and I am giving him an opportunity to enhance that position. He also wants to provide jobs and this \$25 billion agreement will promote \$5 billion in exports from the U.S. and create 100,000 new jobs in the U.S. It will dwarf the GROWTH FUND that he announced to the General Assembly of the United Nations on September 21. My proposal was sent to your Office of Environmental Quality for reply, and a Mr. Struhs replied that you had to decline my offer as the White House "could not take any action that could be perceived as giving your company an endorsement or recognition that was not provided to other firms". That is wrong. I had told Mr. Struhs previously that I was not asking for an endorsement over other companies. There are no other companies. We have already signed an exclusive agreement and we now have a monopoly on all future boiler construction in Russia. Because this was such a coup, I was merely trying to offer the President an opportunity to take advantage of it and make an announcement in California, where God knows he needs all the help he can get, that he is delighted with the agreement that Ahlstrom Pyropower of San Diego, California made with the Russians, which, he is happy to say, will generate \$5 billion in exports and create 100,000 jobs in the U.S., a large part of which will be in Southern California. Can't you see the benefits he can derive from this?

I am making one last attempt to get this message across to you and I urge you to reconsider Mr. Struhs thoughtless reply. The momentum of the elections appears to be starting to shift in favor of the President, and I sincerely believe that the announcement I am recommending could make a contribution to continuing that trend.

Very sincerely,

John P. Fitzpatrick
John P. Fitzpatrick

cc: Mr. Robert Zaelleck

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