The original documents are located in Box C31, folder "Presidential Handwriting, 11/12/1975 (2)" of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

November 12, 1975

Max
OK meeting

MEMORANDUM FOR THE PRESIDENT

FROM: MAX FRIEDERSDORF M.F.

SUBJECT: Energy Bill

The energy conference concluded late this afternoon with the provisions accepted as outlined by Paul Rogers and recommended by Frank Zarb.

However, according to Zarb's man in the conference, John Hill, Dingell consciously made a change in the agreement that adversely affects the President's authorization to send up recommendations for adjustments in the inflation rate percentage.

If this is accurate, we technically do not have a bill that contains the exact agreement discussed by Zarb and Paul Rogers.

Bud Brown believes and I concur that this would be a minor point to base a veto on. Brown said that he and Senator Fannin are sending a letter to the White House tonight requesting a meeting with the President to receive guidance for floor consideration next week of the energy bill conference report.

Brown said that he and Fannin and the other Republican conferees will probably not sign the conference report and will probably all recommend a veto. They believe the action today improved the bill but not enough for them to accept.

Brown indicated he will support the President on whatever his decision is in regard to the bill but some of the other conferees feel like they have been left hanging because of Zarb's recommendations to sign the bill and the President's signal to the conferees today.

John Tower also will likely make a very strong plea for the bill to be vetoed.

I recommend that the President, Frank Zarb and the other staff meet with the Republican conferees as soon as possible.

GOP LEADERSHIP MEETING

Thursday, November 13, 1975

7:30 P.M.

THE PRESIDENT HAS SEEN....

Jim

Will hold here for time being.

Trudy

THE WHITE HOUSE

WASHINGTON

DICK

ON THE ATTACHED MEMO, THE PRESIDENT APPROVED A MEETING WITH FRANK ZARB AND THE REP. ENERGY CONFEREES AS SOON AS POSSIBLE.

MAX WOULD LIKE TO HAVE THE MEETING AT 11:15 TODAY. IF SO WE WOULD MOVE THE EUROPEAN PREPARATION TIME TO 4:00.

APPROVE________ DISAPPROVE________

Received in outbox 11/14 Meeting held 11/13

THE PRESIDENT HAS SEEN....

I. Acceptable

A. Coal Conversion

1. Provisions - Extends authority under ESECA to require oil-burning power plants to convert to coal through June of 1977. Enforcement of authority is extended through 1984.

   "Major fuel burning installations" may also be subject to prohibition orders.

2. Comment - Extension of ESECA authority desired, but subjecting "major fuel burning installations" to same reliability requirements as power plants is undesirable.

B. Strategic Reserves

1. Provisions - Provides for early and long-term (7 years) storage requirements subject to Congressional review. Reserves will contain volumes of not less than three months of imports nor more than 1 billion barrels. $3.3 billion is authorized for Early Storage Reserve and planning and construction only of National Strategic Reserve.

2. Comment - Generally acceptable but FEA would prefer no Congressional review of implementation plan.

C. Standby Authorities

1. Provisions - Within 180 days after enactment President must transmit one or more energy conservation plans and may submit additional plans at any time thereafter. Plans must be approved by both Houses and implementation of rationing plans only is subject to the Congressional review procedure of 15-day single House disapproval. Duration of any plan is 9 months.

2. Comment - Acceptable although longer duration of plan preferred.

D. International Energy Program

1. Provisions - Sets out procedures for developing and carrying out U.S. obligations under the IEP. Severe supply interruption to any or all signatory nations could trigger domestic conservation and/or international oil allocation.

2. Comment - Generally acceptable.

II. Marginal

A. Appliances

1. Provisions - Requires energy efficiency labels on selected classes of products. If labeling does not result in industry meeting "targets" for improved energy efficiency, FEA must set a standard at the maximum level which is economically and technologically feasible, but at no time providing for less than a 20% overall improvement (1980 over 1972) for all covered products.
2. Objections -

   a. Mandatory standards would be imposed if industry's progress toward 20% goal was not sufficient

   b. Citizens suits are limited to the labeling requirements, but frivolous litigation is encouraged because the legislation provides for payment of attorney's fees for people bringing suit.

B. Maximum Efficient Rate

1. Provisions - Grants President discretionary authority to require production from designated fields at MER (setting of MER is mandatory on federal lands) or at TEPR during severe supply interruption. Compensation is provided for damage due to TEPR.
2. Interior does not have the competence or capability to do this.

C. Purchasing Agency

1. Provisions - President given discretionary authority to act as exclusive purchasing agent of all petroleum products, but this authority may only be used if standby plan outlining its use has been submitted for the 15-day single House disapproval action.

2. Objection - Unnecessary authority

D. Industrial Energy

1. Provisions - FEA would establish program setting targets for overall improvement in energy efficiency for the top 50 companies in each of the 10 major energy consuming industries. Mandatory reporting is required by each company unless FEA determines that information necessary to administer program will be provided voluntarily by the industry's trade association or by the 50 companies. If the trade association is used, FEA will have access to the reports made to the association.

2. Objections - Voluntary program is now statutory. Like many other examples (e.g. Clean Air) such a statutory reporting program can lead to Congress establishing mandatory standards in the future.

E. State Conservation Programs

1. Provisions - Provides block grants for any state's implementation of a conservation program which will achieve a 5% reduction in energy use.

2. Comment - 5% target interferes with state's independence.

III. Objectionable Provisions

A. Pricing

1. Provisions - A domestic composite price of $7.55 per barrel is established. This composite price includes stripper well and Alaskan oil. The composite price is subject to an upward adjustment of 10% annually made up of (1) the GNP deflater and (2) an incentive adjustment of not more than 3% which may be added to the deflator upon a Presidential finding that such addition would provide incentive for development of high cost oil.

2. Objections -

   a. The crude oil price begins too low and is adjusted too slowly. The average prices that would result from this plan over the next three years are significantly lower than either the 39-month decontrol plan submitted to Congress in July or current controls.

   b. President has very little flexibility under this proposal because he either has to make judicially-reviewable findings or has to go to Congress on almost any change he wants to make and take a chance on single House disapproval of such change.

B. General Accounting Office Audit

1. Provisions - Broad authority is granted to the GAO to conduct verification examinations of books and records of the whole spectrum of the energy industry.

2. Objections - Although this provision was somewhat modified to meet the objections of the Securities and Exchange Commission and the certified public accountants, it still remains an extremely broad grant of authority to GAO to conduct verification examinations of the books and records of anyone submitting information on energy to the Federal Power Commission, the Federal Energy Administration, and the Department of Interior which includes all levels of the energy industry including the neighborhood service station.

C. Coal Loan Guarantees

1. Provisions - Authorizes $750 million in loan guarantees to small coal producers for production of low-sulfur and other coal resources.

2. Objections - Inefficient operators would be unduly subsidized for production of coal which could be adequately stimulated by regular market mechanisms because it is, by virtue of its low-sulfur content, an item in great demand.

D. Mandatory Automobile Standards

1. Provisions - Mandatory automobile standards are set, including a 1985 standard of 27.5 miles per gallon. Violators of the standard are subject to a penalty of $50 per car for each mile that their fleet misses the standard.

2. Objections - It is impossible to determine the technological and economic feasibility of standards for 1985 because such date is so far in the future. Further, the civil penalties are so high that a manufacturer, such as Ford Motor Company, could have their whole net income (at 1974 levels) wiped out if it missed the standard by a mere 1 mile per gallon.

E. Joint Ventures on OCS Lands

1. Provisions - Statutorily establishes current regulatory program prohibiting major oil companies from joint ventures on OCS lands.

2. Objections - Imposes rigid statutory requirements on what has been done by regulation thereby eliminating flexibility of Department of Interior to later change the regulation to reflect changed circumstances (e.g. another Alaska-type find where large amounts of capital are immediately needed for joint development).

F. Expansion of FEA Authorities

1. Provisions - Various parts of the bill substantially extend FEA's authorities over various aspects of the oil industry, including refinery yield control authority - controls on inventories held by refineries and others - prohibitions upon so-called "hoarding" - prohibitions and limitations on refiners passing through cost increases and manner in which these price increases may be spread among the products made by the refinery.

2. Objections - These provisions, and others in the bill, will have the effect of creating a gigantic, monolithic agency in FEA which will have comprehensive control over all aspects of the oil industry even though such controls are not needed during a non-emergency period.

G. Automobile Research and Development

1. Provisions -$175 million is provided to develop a laboratory prototype auto under the auspices of DOT and ERDA.

2. Objections - This amount is far in excess of the amount currently being spent by the government in an area which many feel should be limited to private funding and private action.

H. Exemptions from the Entitlements Program

1. Provisions - Creates a special exemption for small refiners from the Entitlements Program for their first 50,000 barrels per day.

2. Objections - This would further complicate an already ridiculously complex system, and would undermine the program because all except the largest companies would be totally exempted. If a program like this is necessary, and it appears that it is so because of the two-tier pricing system, then everyone in the refining business should be included.

I. Energy Impact Statements by Federal Agencies

1. Provisions - Various regulatory agencies are required to consider energy consequences of their actions and to issue energy impact statements with respect to their major actions.

2. Objections - The Conferees unfortunately removed EPA from these requirements. The activities of EPA probably impact on energy consumption as much as those of any other Federal agency. EPA should definitely be included in any program of this sort.

Options Available on Oil Pricing

If the decision is made to veto the conference agreement, the following options are available:

1. Option No. 1. Prior to November 15 submit a decontrol plan of 39 or 40 months duration. This decontrol plan would not come into effect or be subject to Congressional disapproval unless further legislative action was taken to extend the Act beyond the 15th of November.

   Upon vetoing the conference report the President could request enactment of simple legislation extending controls for a period of 40 months and taking effect retroactively to November 15. Such an extension could contain an amendment to Sec. 4(g) of the Emergency Petroleum Allocation Act, which amendment would provide that any decontrol plan submitted by the President between October 31 and November 15 would take effect without being subjected to Congressional disapproval under the regular 4(g)(2) mechanism--in other words "grandfather" in the decontrol plan submitted on November 14. (Sample bill attached)

2. Option No. 2. Upon vetoing the bill the President could promise to sign a simple extension of the Act for a two or three year period. Current controls, which FEA figures show are superior to the conference agreement pricing provision, would thus be continued.

3. Option No. 3. Veto the bill and promise to sign a simple extension with provisions for decontrol similar to the 39 month Presidential decontrol plan. The disadvantage of this approach as compared to Option No. 1 is that it will expose to amendment the specifics of the decontrol plan, whereas No. 1 would not subject the decontrol plan itself to Congressional scrutiny.

THE PRESIDENT HAS SEEN....

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

November 13, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: MEETING WITH REPUBLICAN MEMBERS OF CONGRESS ON ENERGY LEGISLATION

I have attached a brief summary of the provisions contained in the Conference Committee energy bill tentatively approved last night.

I would recommend that you indicate your desire to hear their views on the bill after I have covered the pro's and con's of the various provisions of the bill. John Hill will be available to discuss all of the details of the bill if necessary.

Attachment

CONFERENCE ENERGY BILL

The energy bill tentatively agreed to by the House and Senate Conferees is a complex bill that requires careful evaluation from a variety of perspectives, including:

- the President's energy program;
- the legislation that went into the conference committee;
- the fact that this is the Congress' first attempt to ever legislate national energy programs; and
- its substantative ability to begin reducing the nation's independence on foreign oil.

ELEMENTS OF THE PRESIDENT'S PROGRAM INCLUDED IN THE CONFERENCE BILL

The bill contains five of the provisions that were an integral part of the President's energy program:

- Strategic Reserves

  The provisions are remarkably close to the President's program, and do eliminate much of the restrictive and overly specific language of the Senate version. Although not tied directly to production from NPR's, NPR legislation now in conference will be connected to Strategic Reserve program if approved.

- Standby Emergency Authorities

  Provides most of the standby energy authorities requested by the President. Burdensome and complicated Congressional review procedures were eliminated from bill.

- International Authorities

  Contains the authorities requested by the President to allow the United States to participate in the International Energy Program.

- Coal Conversion

  Language is identical to that requested by the President.

- Appliance Labeling

  Establishes the basic mandatory labelling program included in the President's energy program. FTC jurisdiction of the program included in House version was successfully eliminated in Conference.

Although the conference bill includes a mandatory automobile efficiency program, the bill is identical in its requirements to the President's voluntary agreement with the automakers through 1980. There is a major problem with the targets established for 1985, but there is a provision in the bill to allow the target to be changed upon recommendation of the Secretary of Transportation. Requirement in Senate bill to have government build a production prototype automobile was successfully eliminated.

The bill also "codifies" the current FEA/Commerce voluntary industrial conservation program. Senate provisions (S.622) to have FEA set and enforce mandatory conservation standards for industry and other consumers were successfully eliminated in Conference Committee, as were mandatory reporting requirements.

COMPARISON WITH LEGISLATION THAT WENT INTO CONFERENCE COMMITTEE

A number of major improvements were made by the Conference when compared to the five pieces of legislation that they were working with. In addition to the improvements mentioned above, the Conference also:

- rejected the mandatory gasoline shortage of S.622;

- rejected the objectionable provisions of House and Senate bills relating to Federal lands leasing policy;

- eliminated H.R. 7014's removal of the President's authority to set tariffs under Section 232 of the Trade Expansion Act; and

- rejected a permanent extension of the Emergency Petroleum Allocation Act that would have rolled back new oil to $7.50 and old oil to $4.25 (a composite of $5.55) and allowed no increases. (See pricing discussion below).

Although the bill does continue the Emergency Petroleum Allocation Act for a period of 40 months the Conferees agreed to major changes that would allow FEA to radically simplify the allocation and price control program and to strong language in the Conference Manager's report instructing FEA to dismantle the allocation program and as much of its price controls as practicable soon as possible. This is viewed as a major concession in that the Congress has been unwilling, to date, to let FEA reduce the scope of its regulatory program.

PRICING

The pricing provision adopted by the Conferees is the most troublesome action of the Committee. Although it represents considerable improvement over the pricing provision that went to the Conference, it is not as good as that contained in the President's 39 month program proposed in July.

The program establishes an initial composite price of $7.66 (compared to the current average of $7.95 if the fee were removed) and allows the composite price to move up at 10% per year under certain conditions and a greater percentage under others. The pricing provision is described in Attachment 1.

Compared to current controls with the fee removed, the provision will lead to higher imports in the near term, but lower imports than current controls beyond 24 months:

IMPORTS (MMB/D)

	Now	12 mos.	24 mos.	36 mos.	40 mos.
Current Controls	6.2	7.75	8.24	7.24	7.29
Conferency Energy Bill	6.2	7.98	8.48	7.14	7.20

Compared to current controls, the average price of domestic oil is as follows:

PRICE ($/BBL.)

	Now	12 mos.	24 mos.	36 mos.	40 mos.
Current Controls	7.95	8.69	9.63	11.20	11.40
Conference Energy Bill	7.66	8.43	9.27	11.00	11.39

If new oil were held at $5.25, the implied new oil cap related to the beginning composite of $7.66 is $11.28 (the maximum allowed within scope of the bills before the committee).

Although the pricing provision is marginal, it does set a course towards decontrol. The major losses occur on the demand side: consumption will be significantly higher from the provision than from the 39 month program. On the supply side, however, the provision is roughly equal to current controls for the first 18 months, and then better thereafter. The bill does provide adequate incentives to explore for new oil, but less revenues to do so than the 39 month program.

OTHER PROBLEM AREAS

The bill contains a number of objectionable provisions that the Administration could not get changed, including:

- GAO audits

  The bill authorizes the Comptroller General to conduct verification audits on its own or at the request of any Congressional Committee with respect to the books and records of persons who are required to submit energy information or data to FEA, FPC and the Department of Interior or of all integrated oil companies. The provision is restricted, however, by further authorization and appropriation requirements for GAO to receive resources to carry out these provisions.

- Coal Loan Program

  A loan program of $750 million is authorized for small coal producers. Restrictions on the loan program, however, are similar to those contained in the Energy Independence Authority.

The pricing policy adopted by the Conference has the following features:

- A domestic composite crude oil price control of \$7.66 per barrel (as adjusted upward below) is established which remains in effect for 40 months.

- The composite price control may be adjusted upward each month by the GNP deflator plus a maximum of 3 percentage points per year to provide a production incentive, but the total upward adjustment may not exceed 10 percent per year (compounded monthly) unless further authority to modify the adjustment is obtained.

- The President would stipulate, in an appropriate manner, to the removal of the \$2 crude oil fee if agreement is reached on an oil pricing policy.

- On April 15, 1977, the President may propose to the Congress a separate price ceiling for Alaskan oil and that up to 2 million barrels per day of new Alaskan production be excluded from the computation of the composite price control. The proposal will take effect if not disapproved by either House of the Congress. If either House of the Congress disapproves, a new proposal subject to Congressional review may be resubmitted at any time.

- Every three months, the President may propose to the Congress that the production incentive adjustment be modified without regard to the 10 percent adjustment limitation or that the percentage adjustment limitation be modified. The proposal will take effect if not disapproved by either House of the Congress. If disapproved, the production incentive adjustment and the percentage adjustment limitation will remain at their previous levels.

- On February 15, 1977, the President must propose to the Congress that the percentage adjustment limitation and the production incentive adjustment either be continued at their current levels or modified. These proposals will take effect unless disapproved by either House of the Congress. If a proposal to continue or modify the percentage adjustment limitation is disapproved, the adjustment limitation will remain at its current level. If a proposal to continue or modify the production incentive adjustment is disapproved, no production incentive adjustment may be added to the GNP deflator unless a new proposal to add a production incentive adjustment is submitted under the 3 month rule and not disapproved by either House of the Congress.

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

November 13, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: MAX L. FRIEDERSDORF M.F.

SUBJECT: Meeting with Republican Congressional Leadership - Republican Members of the Energy Bill Conference

Attached is a list of those participating in this evening's 7:30 p.m. meeting in the Cabinet Room.

Unfortunately, several of the leaders who probably would argue in favor of a signing will not be present. This includes Hugh Scott, Carl Curtis and John Anderson.

PARTICIPANTS

The President

SENATE

Bob Griffin
Paul Fannin
Cliff Hansen
Dewey Bartlett
Jim McClure
Ted Stevens
Lowell Weicker
Glenn Beall
Howard Baker
John Tower
Bob Stafford

HOUSE

Bud Brown
Jim Broyhill
Bob Michel
Sam Devine
Jack Edwards
Barber Conable
Lou Frey
Herm Schneebeli

STAFF

Jack Marsh
Dick Cheney
Max Friedersdorf
Brent Scowcroft
Alan Greenspan
Ron Nessen
Jim Cannon
Jim Lynn
Bill Seidman
Frank Zarb
Vern Loen
Bill Kendall
Pat O'Donnell
Charles Leppert
Tom Loeffler
John Hill
Eric Zausner
Bob Wolthuis

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

November 13, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: MAX FRIEDERSDORF M.F.

SUBJECT: Energy Bill

At the suggestion of Jack Marsh I have phoned John Rhodes in Hawaii and Hugh Scott in Bermuda to advise them of the President's Leadership Meeting tonight on the Energy Bill and solicit their views.

Senator Scott said to tell the President that he very strongly recommends that the bill be signed.

He said that he believes that those who are very vocal against the bill at this time could not themselves ultimately be counted upon to help sustain a veto because of the pressures that would build.

Senator Scott said he believes that the public is fed-up with the long energy battle and wants a resolution of the issue.

He said the Republicans opposed to the bill were like the last ditch Republicans who opposed Social Security and the party has paid the penalty ever since.

Scott said he seriously doubts if a veto could be sustained in the Senate and he strongly urges the President sign the bill.

John Rhodes

Bud Brown had already gotten to John Rhodes and given him a strong argument in favor of a veto.

John told me that his gut horseback instinct was to recommend a veto and he doubts if anyone could ascertain at this time whether a veto could be sustained.

He said he thought if the Administration came down hard on the bill from the start and really worked there was a good chance it could be sustained.

Rhodes criticized the fact that the bill contains a rollback and he attacked the "composite" pricing feature as ridiculous.

However, John said that he wanted to meet with Frank Zarb just as soon as he returned from Hawaii and have a briefing on the details before making final judgement on his recommendation for action to the President.

THE PRESIDENT HAS SEEN

ASSESSMENT OF CONGRESSMEN INVOLVED IN FINAL AGREEMENT

1. John Dingell -- kept his word that he would deliver an oil price bill that we could live with; at considerable risk to himself, reopened pricing provision to dot the final "i" of his agreement with the Administration.

2. Paul Rogers -- played major role in final days of getting Conferees together; persuaded many Democrats to vote for compromise, even though they disliked it; without him, compromise would not have been reached.

3. Republicans

   - Most voted for compromise; only Weicker and Bartlett voted against it on Senate side; all voted for it on House side.

   - Do not like bill one damn bit. Those who voted for agreement did so under rubric of having to vote for anything that "would improve bill." Many feel that "the Administration sold them down the river."

     (a) Fannin -- is a loyal trooper; doesn't like it, but will support it if President does.

     (b) Brown -- same as Fannin.

     (c) Broyhill -- doesn't like it; miffed that Administration didn't work out compromise with Republicans; made statement to the effect that "Zarb is out of town, but somehow the Democrats know how to get hold of him."

     (d) Tower -- not on conference, but is going bananas.

     (e) Bartlett -- although calmer than Tower, has some views of pricing provision.

   - All in all, Republicans do not like provision, are suffering from "not invented here" syndrome, feel that we came down too far from September 1st when we vetoed a bill that they consider "better" than what we have now.

   - None will sign the conference report or vote for energy bill.

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

November 13, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: MAX FRIEDERSDORF M.F.

SUBJECT: Republican Leadership Meeting

Bill Seidman recommends, and I concur, that the leadership meeting tonight include a status report on New York City.

The Hill is awash with rumors about a possible Administration switch on the issue.

Seidman and myself have received inquiries from Republican leaders about our position.

Tonight's meeting would be a good opportunity to review the situation with the leaders.