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THE WHITE HOUSE
WASHINGTON

November 29, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

FRANK G. ZARB

FROM:

JAMES E. CONNOR JEC

SUBJECT:

OUTER CONTINENTAL SHELF
LEASING POLICY

The President reviewed your memorandum of November 21 on the above subject and approved the following decision:

\$500 million loan fund.

Your attention is called to a notation directed to Jim Cannon on this subject, memorandum attached.

Please follow-up with appropriate action.

cc: Dick Cheney

THE WHITE HOUSE

WASHINGTON

November 29, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

JIM CANNON

FROM:

JIM CONNOR JEC

SUBJECT:

OUTER CONTINENTAL SHELF
LEASING POLICY

The President reviewed your memorandum of November 26 concerning Frank Zarb's Memorandum on Impacted Aid for Areas affected by energy developments and OCS Leasing Policy and made the following notation:

"This sounds right although I marked \$500."

cc: Dick Cheney

Frank Zarb - with copy of Jim Cannon memo

THE WHITE HOUSE
WASHINGTON

November 28, 1975

MR PRESIDENT:

Staffing of the attached memorandum
resulted in the following:

Phil Buchen & Brent Scowcroft -
no objection

Bill Seidman, Max Friedersdorf,
Jack Marsh and Jim Cannon -
- Agree with \$500 million loan fund -

Jim Cannon offered additional
comments at TAB E.

Jim Connor

*This sounds
right after 2
months \$500*



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

NOV 21 1975

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB *FZ*
THRU: ROGERS C. B. MORTON
SUBJECT: OUTER CONTINENTAL SHELF LEASING POLICY

BACKGROUND

Chairman Murphy of the Subcommittee on Oceanography of the House Committee on Merchant Marine and Fisheries has asked for the Administration's position on several OCS leasing issues -- especially impact aid.

The House is now considering two bills which have passed the Senate concerning the OCS:

- S. 586 (the "Hollings Bill") deals primarily with Commerce's coastal zone management program. It provides for impact assistance to coastal States and extends the coastal zone consistency requirement to Federal leases (not simply Federal "permits and licenses" as currently provided). The consistency provision requires Federal actions in the coastal zone to be consistent with the relevant State-approved management program. Chairman Murphy's Subcommittee completed markup on this bill September 29. It was passed by a vote of 73-15 in the Senate.

- S. 521 (the "Jackson Bill") which deals primarily with leasing management provisions, but also contains the same impact aid provisions as those of the Hollings Bill. The House Select Committee on the OCS (also chaired by Congressman Murphy) has a similar bill, H.R. 6218, under consideration which they hope to complete work on by early December. In passing S. 521 (by a vote of 67-19), the Senate adopted much of S. 586 including the impact assistance provisions, as an amendment to S. 521.

The common impact aid provisions of the two bills would authorize the Department of Commerce to dispense:

- \$200 million per year for three years for grants and loans to coastal States based on proven or projected adverse impacts on their coastal zone from energy related developments.
- \$100 million per year in formula grants to coastal States which are adjacent to OCS production or which take OCS production ashore for three years, then \$.08/barrel up to an annual limit of \$43 million per State indefinitely.

The total effect of the impact aid provisions could be about \$1.7 billion over the next ten years.

ANALYSIS

Our analysis shows that the need for impact assistance will vary by State and is needed most in those areas where unique population changes would occur, such as in Alaska.

At this time, our best legislative liaison information indicates that:

- You will probably get for signature in the next few months -- either in one bill or two -- OCS impact aid authorization, modified coastal zone management initiatives and changes in current OCS leasing procedures.
- Some changes to the impact aid provisions can perhaps lessen their budget impact -- but the reduction will not be substantial.

- Relatively few changes can probably be induced with respect to the coastal zone management and OCS leasing management provisions.

There are several significant observations:

- Whether or not there is any action on OCS impact assistance this session will have no effect on the outcome of the California OCS sales this December -- and if the sales go off in the absence of such assistance, the threat to sales in other regions from State opposition on economic impact grounds should be somewhat lessened.
- Both bills contain features that could significantly delay the sales program (see Tab A).
- The Administration's ability to shape the Hollings Bill or the Jackson Bill is limited -- and the bills that are likely to emerge will, on balance, significantly impact the Federal budget and slow down your leasing program.

These conditions suggest the following objectives:

- The best result would be no passage of legislation along the lines of the Hollings and Jackson Bills. However, the Senate has already passed these measures and the House is moving towards completion of its legislation.
- The second best result -- but in view of the time element is highly unlikely -- would be passage of substantially modified bills which would slow your leasing program down some, but not too much, and have some adverse budgetary impact, but not too much.
- The third best result would be passage of either/or both bills, followed by the sustaining of your veto, if analysis shows they would unduly inhibit OCS development.

RECOMMENDATIONS

Jim Lynn, Rog Morton, and I have agreed that the best approach involves the following steps (Option 3(a) in Tab A):

- Indicate the need for substantial revision of the leasing and impact aid provisions in the current Senate bills and point out the Administrative actions taken by the Interior Department that accomplish many of their objectives without significantly delaying the program.
- Propose a completely new Federal Energy Impact Assistance Program and work with Chairman Murphy and Minority Members of the Committee to amend the OCS bills. The new program would appropriate \$500 million for impact assistance and channel the money to States based upon certification of need. The money would be available for direct and guaranteed loans for infrastructure developments, as well as grants for planning purposes. It would be used only when needed and where needed and only if State and local governments cooperate.

Secretary Kleppe agrees with the need for substantial revision in the current bills, but disagrees with the Federal Energy Impact Assistance Program. He suggests instead that separate assistance programs be designed for OCS impacts on coastal States and minerals leasing impacts on inland States, as indicated below:

- Propose impact aid provisions for OCS and inland mineral leasing which are analogous to provisions currently in the House bills, but are more effective in encouraging early energy development, more workable administratively, and less costly. For inland leasing, the State revenue share is increased from 37 1/2 percent to 45 percent, and for OCS leasing an analogous program of similar budget size is introduced. In both cases, the Federal Government would guarantee a portion of the projected flow of revenue payments so that the states and communities could borrow against them. The outlay of the OCS part of this program would build from \$80 million in FY 1977 to about \$300 million after 1980, for an approximate ten year cost of \$2.6 billion. The outlays for the onshore impact aid fund under the mineral leasing act would be 50-60 million dollars greater per year than under present law (about \$600 million more over the next decade), but 100-120 million dollars less per year than the mineral leasing act provision now included in S. 521. (See Tab D for more detailed proposal.)

DECISION

NR3

\$500 million loan fund (Morton, Zarb, Lynn)

Increase State share of royalty revenues (Kleppe)

OCS PROGRAM ISSUES

BACKGROUND:

Chairman Murphy of the Subcommittee on Oceanography of the House Committee on Merchant Marine and Fisheries has asked for the Administration's position on several OCS leasing issues -- especially impact aid.

ADMINISTRATION PROPOSALS TO DATE:

- In January of 1974, President Nixon announced that Interior would lease ten million acres of the OCS for oil and gas exploration and drilling in 1975; up to 1975, only six million acres in total had been leased over the past twenty-two years.
- The leasing goal has been revised to provide for leasing in all new OCS areas by the end of 1978 -- six sales a year, instead of a fixed acreage.
- You said in your January State of the Union message that it is the intent of this Administration to move ahead with exploration, leasing and production on those frontier areas of the OCS where the environmental risks are acceptable.
- Interior has revised the ten million acre goal for 1975 and presently contemplates frontier lease sales off Southern California in December and in the Gulf of Alaska and Atlantic next year. The imminence of these frontier sales has brought attention and criticism of the OCS program to the forefront and has resulted in a number of requests for delay..

REACTIONS:

The major concerns that have been raised are listed below:

- The need for impact aid or revenue sharing has not been met.

- Impact assistance should also include those likely to occur in the western coal and oil shale lands
- Government should have more information before leasing and development decisions are made
- Decisions on exploration and on development should be separate and independent, with ample time for review and possibly with the government doing exploration
- State and local participation process inadequate
- Environmental impacts not adequately evaluated
- Liability for damage from spills not covered
- In particular, States have been critical of the OCS lease management plan claiming that they are not provided adequate data for planning; there is insufficient time for review, comment, and negotiation; and there is no current mechanism to stop development regardless of potential consequences.

In addition, a number of legal issues have been raised in an effort to stop the sales.

INTERIOR'S ADMINISTRATIVE RESPONSES TO CRITICISM OF LEASE PROGRAM

- Need for more information before leasing - proposed new regulations requiring all lessees and permittees to give Interior all information produced from OCS.
- State review of development decisions - promulgated regulations giving States 60 days to comment to Interior on development plans filed with Interior after exploration is complete, but no veto authority.
- Inadequacy of development information - proposed regulations requiring lessees to provide information to States about offshore and onshore facilities related to planned development.
- State and local participation process - created new OCS policy advisory board with Federal, State, and public representation.
- Environmental impact evaluation - continuing environmental baseline and monitoring studies for all new area sales.
- Leasing procedures enriching oil companies at Federal expense - promulgated regulations prohibiting joint bidding among two or more major companies.

- Liability for spill damages - Administration bill introduced, but no hearings have been held.
- Major concern not yet addressed - impact aid/revenue sharing - both OCS and western coal and oil shale lands

CONGRESSIONAL ACTION:

- Over the summer, the Senate has passed -- and sent to the House -- two bills (see Tab B for a discussion of major amendments needed to these bills).
 - ° S. 586 (the "Hollings Bill") deals primarily with Commerce's coastal zone management program. It provides for impact assistance to coastal States and extends the coastal zone consistency requirement to Federal leases (not simply Federal "permits and licenses" as currently provided). The consistency provision requires Federal actions in the coastal zone to be consistent with the relevant State-approved management program. Chairman Murphy's Subcommittee completed markup on this bill September 29. It was passed by a vote of 73-15 in the Senate.
 - ° S. 521 (the "Jackson Bill") which deals primarily with leasing management provisions, but also contains the same impact aid provisions as those of the Hollings Bill. The House Select Committee on the OCS (also chaired by Congressman Murphy) has a similar bill, H.R. 6218, under consideration which they hope to complete work on by early December. In passing S. 521 (by a vote of 67-19), the Senate adopted much of S. 586 including the impact assistance provisions, as an amendment to S. 521.
- By extending the coastal zone consistency requirement to Federal leases, the Hollings Bill would probably have the effect of slowing down OCS development in certain areas to allow time for development of State plans and possible litigation concerning development of such plans and consistency of Federal leases with them; in addition, it would slow down lease sales by requiring consistency at a stage when the activities required to be consistent are not definable.
- By requiring annual reapproval of the leasing program with an Environmental Impact Statement specifying unreasonable detail in the leasing program, requiring regulations to assure consistency with State coastal zone plans, requiring six-month review of development plans, and requiring

extensive Federal mapping and information programs, the Jackson Bill's leasing management provisions would probably have the effect of slowing down the OCS leasing program. However, the Jackson Bill also includes potentially useful increased flexibility in leasing arrangements. Other features which may perhaps be desirable are authorities to lease whole structures rather than just 5,760 acre blocks, to extend the primary term of leases to 10 years, and to permanently disapprove development on a lease for extraordinary environmental reasons. S. 521 would require much more significant modification than S. 586 to make it acceptable to the Administration.

- The similar impact aid provisions of the two bills would authorize the Department of Commerce to dispense
 - o \$200 million per year for three years for grants and loans to coastal States based on proven or projected adverse impacts on their coastal zone from energy related developments.
 - o \$100 million per year in formula grants to coastal States which are adjacent to OCS production or which take OCS production ashore for three years, then \$.08/barrel up to an annual limit of \$43 million per State indefinitely.
- An amendment by Congressman duPont was adopted in the House Oceanographic Subcommittee (with Republican support) which provides for 10 percent of OCS revenues going to States based upon such criteria as proportion of oil coming ashore, wells drilled, OCS-employed persons in the State, etc. Most of the revenues would be distributed to Gulf of Mexico States and California.
- The outlay effect of the Hollings/Jackson approach to impact assistance, the duPont approach, and what is probably actually needed (in \$ billion) are illustrated below:

	<u>1976</u>	<u>'77</u>	<u>'78</u>	<u>'79</u>	<u>'80</u>	<u>'81</u>	<u>'82</u>	<u>'83</u>	<u>'84</u>	<u>Total</u>
Hollings/ Jackson	.2	.2	.2	.1	.2	.2	.2	.2	.2	1.6
duPont	0	.7	.8	.6	.7	.7	.7	.7	.7	5.6
Maximum needed	0	0	.05	.05	.1	.1	.1	.1	.1	.6

ANALYSIS:

We have analyzed the impact aid issue and our major findings are discussed below:

- Impacts of OCS development may give rise to \$200-\$600 million in increased public facility construction over the next 12 years, nationwide; in the long-run State and local tax bases will rise enough to finance these needs and more, but for a few years they may lag behind, and in some localities they may never catch up.
- A formula based revenue sharing program cannot be designed which will meet the needs of impacted areas without paying large amounts to unimpacted areas.
- An impact aid program would be difficult to design now so that it would assist only those in need, especially under great uncertainties about the location and size of future discoveries and specific plans for producing them. Only an approach in which the determination of net adverse impact is made after it occurs and compensated for by partial loan forgiveness, could reduce these uncertainties.
- The need for Federal assistance will vary with the willingness of oil companies and States to assist local governments; pressure for revenue sharing or impact aid will arise from reasons other than OCS-related dislocations (such as decline of State revenues from onshore oil production in Louisiana).
- Existing Federal programs of assistance to States, which now account for about 20 percent of State and local expenditures, could probably supply the needed aid if a policy were adopted of tilting funding to OCS affected areas.
- If additional Federal aid is needed at all, it will probably be only in Alaska where unique population changes would occur and possibly along the Atlantic coast, especially if rural sites are chosen. Most development in the Gulf and Pacific coasts will be supported by existing infrastructure or will be absorbed in metropolitan areas.

- State and local tax revenues can be derived from usual sources: real and personal property onshore, incomes of businesses and residents of the State jurisdiction, and sales taxes on transactions within the State jurisdiction; in the absence of Federal enabling legislation, the States probably cannot levy a form of through-put tax on oil or gas passing through the state.

Although the claim is made from members of Congress and State representatives that failure to provide impact assistance will jeopardize the leasing schedule, Administration lawyers closest to the scene do not believe that the legal impediments being raised will be removed in any significant degree by an Administration decision to authorize support of such assistance, since there will always be numerous plaintiffs raising all conceivable road blocks in the courts.

- Our best legislative liaison information indicates that
 - ° You will probably get for signature within a few months -- either in one bill or two -- OCS impact aid authorization, modified coastal zone management initiatives and changes in current OCS leasing procedures.
 - ° Some changes can perhaps be induced on impact aid assistance to lessen the impact on the Budget -- but the reduction will not be substantial.
 - ° Relatively few changes can probably be induced with respect to the coastal zone management and OCS leasing management provisions.

From the background facts, significant conclusions emerge.

- Whether or not there is any action on OCS impact assistance this session will have no effect on the outcome of the California OCS sales this December -- and if the sales go off in the absence of such assistance, the threat to sales in other regions from State opposition on economic impact grounds should be somewhat lessened.
- Both bills contain features that could significantly impact the Federal Budget and slow down the OCS sales program.

The conclusions dictate the following objectives:

- The best result would be no passage of legislation along the lines of the Hollings and Jackson Bills. However, the Senate has already passed these measures and the House is moving towards completion of its legislation.
- The second best result -- but in view of the time element highly unlikely -- would be passage of substantially modified bills which would slow your leasing program down some, but not too much, and have some adverse budgetary impact, but not too much.
- The third best result would be passage of either/ or both bills, followed by the sustaining of your veto.

In view of these objectives, options could be judged primarily from the viewpoint of tactical maneuvers on the Hill.

OPTIONS:

- Option 1 -- Oppose passage of both bills in their entirety -- state that it is inappropriate to negotiate while "under threat" of holding up OCS sales; perhaps agree to "tilt" existing programs such as highway, rural development, HUD planning grants, or other funds, to give OCS-related activities highest priority; or perhaps establish an interagency task force to come up with impact aid recommendations, either for all Federally caused impacts or for energy related Federally caused impacts.

Pros

- If successful, would lead to best result legislatively.
- Would provide limited Presidential leadership in the OCS issue.
- Would avoid any "responsibility" or link to the bill and would be easier to sustain a veto if bill is amended in unpopular ways.

Cons

- If a bill is enacted, this approach would likely make it most difficult to sustain a veto because no clear alternative is offered and if a veto is not sustained you would be stuck with a very bad law.

- Would transfer proposals for legislative action into an election year.

Option 2 -- Agree to negotiate with the House Committees over their versions of the Hollings and Jackson Bills on a line-by-line basis in an attempt to remove provisions which would slow down your leasing program or have too great a budget impact -- but with no commitment as to whether or not you will sign the ultimate outcome.

Pros

- Would be best received by the House Committees.
- Would inevitably have some success in removing undesirable provisions and may result in less objectionable law if a veto is overridden.
- Would posture you as being cooperative with the Congress.
- Would help defeat other legislation that would delay OCS development even more.

Cons

- Will most likely result in an unacceptable bill, particularly as a precedent for onshore impact aid bills.
- Makes it harder to veto a bill to the extent that it is not as objectionable as it would be without negotiated improvements.
- Will be almost as difficult to sustain a veto as under Option 1.

Option 3 -- Indicate the need for the House bills to be a rather wholesale revision of the Senate Bills calling for the following:

- some changes in existing laws in coastal zone management provisions (but not very many)
- some changes, in OCS leasing management provisions (but not very many)
- sensitivity to the need for impact aid, but with changes in the basic approach offered by the committee

If Congress appears to accept most of your proposals, then the Administration would work closely with the Congress to write them into law. If, on the other hand, the Congress appears willing to take only a few proposals here and there and desires to go its own way, the Administration could either stay away from the legislative process or work to eliminate the worst provisions, but indicate doubt about signing the final bill.

There are a number of alternative approaches to the impact aid decision. If a decision is made to adopt Option 3, there are two basic suboptions for impact aid.

Sub-option (a) - New OCS impact aid proposal which would involve a one-time appropriation of \$500 million for Federal energy impact assistance. Under this proposal, a State governor would submit a declaration describing the type of impacts that will occur and the Federal government would appropriate money (based upon a set of factors) to the State for the purpose of direct or guaranteed loans for infrastructure development and grants for planning purposes. More details are provided in Tab C.

Assistance would be available only under the following principles:

- Where needed
- When needed and for only as long as needed
- If State and locality cooperates in development
- For appropriate purposes
- In appropriate amounts (avoid overbuilding)
- Cost of assistance should be borne by project revenues to the maximum extent feasible
- Program should be administratively simple with as much decision-making responsibility allocated to States and localities as possible.

The proposed impact assistance program, described in Tab C, would earmark a portion of OCS and possible mineral revenues to States based upon certain criteria to assure that more funds flow to areas in greater need, and unused funds would be repaid to the Treasury after a period of time. Significantly, the Jackson-Hollings bill will not achieve most of these objectives.

Pros

- By posturing you as willing to give some in the coastal zone and OCS leasing management areas and considerably more in the impact assistance area, would provide best basis for sustaining veto or delaying passage of any bill until next year.
- Has relatively low risk of committing you to a bill that would be counterproductive.
- Would provide a program that a significant body of opinion would regard as "sound".
- Might conceivably receive support of the National Governors Conference.

Cons

- May not be enough to sustain a veto.
- Could get Christmas-treed and commit you to signing an undesirable bill.

There are two variants of this option that were considered and rejected. One variant would be a more expansive proposal covering all Federally-related impacts -- whether energy connected or not, e.g., military base closings and openings, western mineral leasing activities, OCS leasing activities, energy facilities siting activities, education aid. Functionally, the reason for the impact should make no difference -- one impact is as important as another. The 1970 Uniform Relocation Act is based on this principle -- a new proposal could be called the Uniform Federal Impact Assistance Act. While this variant would be attractive to some inland States, it would involve considerable expansion of the OCS impact question, and would take some time to develop any legislation.

Another variant of this option would be limited enabling Federal legislation to allow States to levy a limited through-put tax on landed product for the purpose of building a State fund to be used for impact aid grants or loans. Each State would have to think through the trade-off of greater development accompanying a small tax or no tax at all vs. less development accompanying a higher tax (by discouraging industry from landing oil in the State). This variant -- which indeed could provide the whole amount of impact aid, or simply be a small add-on to a Federal impact aid program -- could provide the opportunity for Congress to enrich States. Moreover, it might complicate the current jurisdictional structure of Interior on the Senate side, Merchant Marine and Fisheries and the OCS Select Committee on the House side by possibly adding Ways and Means, Finance and Judiciary. Finally, this variant would create a possible undesirable precedent of allowing states in a limited way to burden interstate commerce.

Sub-Option (b) - Accept the provisions of the magnitude of those in S. 586/S. 521, but with some major technical changes.

Pros

- Would be politically popular.

Cons

- Would cost as much as \$1.4 billion in next ten years
- Contains formula grants without regard to need
- Precedent

B

Necessary Amendments to S. 521 and S. 586

1. Development Plan Approval

- Requirement for lessee to assess nearby potential oil and gas developments and onshore infrastructure capacity should be deleted.
- Six-month review and comment period for development plans should be shortened to 60 days or the time necessary to carry out the EIS process if required.
- Requirement that plan be modified if lessee fails to provide for protection of coastal zone from "avoidable adverse impacts" should be changed to "economically avoidable".
- Interior should be allowed to permit any reasonable changes in development plans.
- Public hearings should be required only when in the Secretary's judgement they are needed.
- Development plan should not be required to contain information on facilities located on lands over which the Federal Government does not have jurisdiction; such information should be separately available to the States.
- Language in bill barring plan modifications inconsistent with a coastal zone plan or any valid exercise of State authority should be removed.
- All language on MER should be removed.

2. Lease Terms

- The 50% limitation on use of the bonus bid system should be removed.
- Minimum royalties in some leasing alternatives should be reduced to at least 12-1/2 percent.
- Minimum profit shares of 60% in some leasing alternatives should be reduced to 20%
- The "undivided work interest" leasing alternatives should be authorized for use with either profit shares or royalties, at the Secretary's discretion.

3. Baseline Studies

- The Secretary of the Interior, not the Administrator of NOAA, should be directed to conduct environmental baseline and monitoring studies. Commerce does not agree.

4. Coastal Energy Facility Impact Program - Administration of the impact aid program is an unresolved issue.

5. OCS Advisory Boards and State Governors - All references to regional OCS advisory boards should be deleted. (Interior has already established its own.) If any advisory board is mentioned there should be no presumption that the Secretary would either accept or reject its recommendations or those of the Governors involved.

6. Expansion of Environmental and Coastal Zone Requirements - Eliminate sections 18(c) and 28 which complicate the requirements of NEPA - Eliminate extension of consistency requirement to Interior ordered changes in development plan.

7. Data Submission and Release

- Secretary should not be directed to require submission of data or interpretations, but only authorized to do so.

8. Government Exploratory Drilling - Interior should not be "directed" to carry out exploratory drilling.

9. Geologic Mapping - Section 19(c) on geologic mapping should be eliminated.

10. Required Leasing Program

- Requirement for regulations to assure consistency with State coastal zone plans (rather than present requirement to be consistent to maximum extent practicable) should be deleted.
- Requirement for annual EIS should be deleted.

- Level of detail specified for leasing program plan should be reduced.
- Policy of distributing OCS activities for an equitable sharing of risks and benefits among regions should be deleted.

11. OCS Information Program

- Requirement for a major geophysical-geological exploration program by Government for publication should be deleted.
- Right of State tidewater agency to have any information relating to its responsibilities which USDI has should be eliminated.

12. Safety

- Requirement for use of best available technology on all new facilities and whenever practicable on old should be deleted.
- Requirement for EPA and DOT concurrence on safety regulations should be deleted.
- Requirement that new regulations can never allow a reduction in the degree of safety or protection of the environment should be modified.
- Directed Interior safety R&D program should be deleted.
- Safety regulations, enforcement and inspection should be responsibility of DOI only, not a joint responsibility with DOT.

13. Planning Information Furnished to Coastal States

- The bill implies transmission, before exploration is completed, of detailed information which cannot be known until completion; should be deleted.

14. Citizen Suit Provision

- This provision should be deleted or extensively redrafted as, in its current form, it creates the possibility of costly, delaying, and spurious lawsuits.

15. Export Prohibitions

- The inclusion of export prohibitions in the bill does not allow sufficient flexibility and should be revised. As now drafted it could adversely affect our international commitments.

Necessary Amendments to S. 586

1. Expansion of Coastal Zone Requirements - Remove the coastal zone consistency requirement to leases.
2. Coastal Energy Facility Impact Program - Administration of the Impact aid program is an unresolved issue.
3. Mineral Leasing Act Receipts - Increase in State share of Mineral Leasing Act receipts from 37-1/2% to 60% should be deleted.

POSSIBLE ADMINISTRATION IMPACT AID PROPOSAL

1. Aggregate Amount and Source of Funds

Authorize, through the appropriations process, Department borrowing authority from Treasury of \$500 M for a Federal Energy Development Impact Assistance Fund, these funds to remain available until 1990.

2. Program Description

- ° When it is known where development will occur, the State Governor submits to the Secretary* a declaration describing the expected development and indicating a few key data, including:
 - expected increase in direct employment due to the development of Federal energy resources,
 - the current population of the area within a 40 mile radius of the on-shore support base for OCS or within a 40 mile radius of the on-shore plant or mine,
 - the capital costs of infrastructure built in the impacted area in each of the last 20 years,
 - the estimated regional construction costs of public infrastructure,
 - the State and local tax effort.
- ° The Secretary reviews the declaration and applies several rather mechanical tests to the data provided by the Governor to determine an appropriate amount for the impacted area. In general, the guidelines followed by the Secretary will make more money available to the extent that:
 - more, rather than less, exploration/development/production is expected.
 - less, rather than more, population and infrastructure is present.
 - existing infrastructure is already fully utilized.
 - climate is severe--rather than normal--requiring more expensive infrastructure.

*Interior, Commerce, HUD or possibly the FEA Administrator.

- ° State/local tax effort would be equalized and deductions would be made for shares of mineral leasing revenues received in the previous fiscal year.
- ° The Secretary advises the Governor of the dollar amount allocated to finance planning and infrastructure required by the exploration/development/production of Federal energy resources.
- ° The Governor then has authority, up to the limit of the amount allocated, to make or guarantee long term loans for the infrastructure development and grants for planning purposes.
- ° The Federal role will be limited to post-audit monitoring of whether the grants and loans are made for statutory purposes and whether recipients are "cooperating" in the exploration/development/production of Federal energy resources.
- ° There would be a loan forgiveness provision to cover situations of aborted or diminished development where local tax revenues did not materialize as expected to repay all or a portion of the loans.
- ° Funds repaid from the loans would be deposited in the Impact Assistance Fund until 1990, after which time they would be returned to the Treasury.

3. Principles Incorporated In This Proposal*

Assistance through this program accords with the following principles:

- available only where and when needed,
- limited to appropriate purposes and amounts,
- administratively simple, relying on State and local decisionmaking responsibilities to maximum feasible extent, rather than Federal involvement in individual claims,
- encourages pass-through of project costs to end user,
- contingent on State and local cooperation.

Comparison of this proposal with the Jackson/Hollings proposal according to these principles is given in the chart below. In general, the Jackson/Hollings proposal meets some of these principles in part and some not at all.

*CEQ suggests that these criteria are too complicated and subjective and suggests that the formula be based principally on new energy facilities to be constructed; associated direct and indirect employment and projected new infrastructure requirements.

PRINCIPLE

ADMINISTRATION PROPOSAL

HOLLINGS/JACKSON PROPOSAL

1. Available where needed

a) Available only where impacts occur.

Loan availability based on direct employment causing impacts. Loans forgiven if actual long term fiscal deficits materialize.

Automatic grants made regardless of need. Loans and grants based on "net adverse impacts."

b) More assistance available where population increase is large relative to existing population.

Formula assures this.

Not taken into account.

c) More assistance available where existing infrastructure is small.

Formula adjusts for this factor.

Not taken into account.

2. Available at time of need and cuts off after need.

Loans available as impacts occur; planning grants before. Both end in 1990.

Automatic grants continue forever. Loans available as impacts occur.

3. Limited to appropriate purposes

Tied to development of Federal energy resources, including inland.

Available for virtually all energy related facilities but in the coastal zone only

4. Limited to appropriate amounts

Avoids over-building by relying on loans.

Automatic grants can replace state & local tax effort. Grants can stimulate over-building.

5. Administratively simple

Relies on State and local decision making. Uses formula.

Involved Federal Govt. in individual claims. Complicated administrative guidelines. Automatic grants reduce need to tax projects as do impact grants.

6. Encourages pass-through of costs to end users.

States and localities will tax projects to pay off loans.

Incentives for cooperation with no penalty for non-cooperation.

7. Contingent on state & local cooperation

Incentives for cooperation. Administrative cut-off if no cooperation.

TAB D

Impact Assistance Programs Recommended by the Department of the Interior

Sharing Revenues from Mineral Leasing

For the inland western States and communities, present payments to the States from the Mineral Leasing Act would be raised from 37-1/2 percent to 45 percent, and the increase specifically earmarked for assistance to communities impacted by energy development. All funds would be freed from the current limitation to roads and schools. Along with these provisions, the Federal Government would guarantee at least a portion of the projected flow of revenue payments so that the States and local communities could borrow against these revenues. Such a mechanism would specifically address the front-end money problem. This proposal is thus a modified version of the amendments authored by Senator Hansen and Congressman Roncalio, a measure already passed by the Senate, in committee in the House, and endorsed by the western Governors.

This approach is reasonable in light of the support in Congress and among western Governors for Senator Hansen's amendment. Decontrol of oil and gas prices and increased royalties from coal production will in themselves significantly increase the amounts paid the States under the existing 37-1/2 percent. For this reason, the increase to 60 percent is not fully justified.

Sharing Revenues from OCS Leasing

An impact fund would be created by allocation of revenues from OCS leasing in amounts of one percent in FY 1977, two percent in FY 1978, three percent in FY 1979, and four percent in FY 1980 and subsequent years. Automatic payments from the impact fund would be made to the coastal States based on the proportion of OCS oil and gas which is produced adjacent to or landed within their boundaries. The Federal Government would guarantee a portion of such payments five years in advance to permit States to secure loans in the financial markets against these revenues.

This program would provide fair treatment to the coastal States relative to the assistance proposed for inland States. It is based on existing and potential production


of oil and gas which is an indicator of potential impacts that does not require elaborate and costly study to determine. It would solve front-end problems that arise before production by guaranteeing a portion of the payments which would ultimately flow to the States, and it relies on State and local determination of priorities regarding impact projects.

The Department of the Interior has been working for some time on the issue treated in the Hollings and Jackson bills. Although our primary objective has been to develop actions within existing law, we have also been analyzing proposed legislation and are prepared to work with the Congress on these bills. Changes I feel are necessary were detailed in a memo of September 9, 1975, from Kent Frizzell to you through Frank G. Zarb and Rogers C. B. Morton. I believe that negotiating with the Congress in good faith is far more likely to result in good legislation. If reasonable compromises can be reached on impact aid and on the features affecting the progress of the OCS leasing program, then we may find the bills acceptable. If not, then the bills can be judged on their merits and vetoed. Should the veto not be sustained, the resulting Law will be less objectionable to implement to the extent that our negotiations have been successful. I do not believe that an Administration position in favor of wholesale changes in the Jackson and Hollings bills including the proposed Federal Energy Impact Assistance Program (Option 3a) will significantly alter the chances of sustaining a veto. Without good faith negotiation with the House, the bills are likely to include impact aid provisions, such as those currently featured in committee prints, which will contain enough money for enough States to make sustaining of a veto difficult. That outcome is costly both in terms of money and in terms of other objectionable program provisions which we will not have made an effort to improve."

THE WHITE HOUSE

WASHINGTON

November 26, 1975

MEMORANDUM FOR: JIM CONNOR
FROM: JIM CANNON 
SUBJECT: Frank Zarb's Memorandum on Impacted
Aid for Areas affected by energy
developments and OCS Leasing Policy

We have reviewed Frank Zarb's memorandum and concur with the recommendation of Lynn, Morton and Zarb that the Administration:

- . seek substantial revision in OCS leasing bills now moving through the Congress, and
- . propose a new Federal Energy Impact Assistance Program.

If the President accepts this recommendation, we suggest that its implementation be careful and deliberate. Specifically, I recommend that any formal announcement of this decision:

- . Be withheld until the President has the opportunity to make it himself, if he wishes. Perhaps the proposed new program should be surfaced in the State of the Union Message.
- . Be preceded by preparation of:
 - Proposed legislation covering the new program.
 - Draft Presidential statement and transmittal letter.
 - Draft fact sheet.

A number of agencies are involved and there is a strong need for:

- . Coordination on the implementing steps.
- . Agreement and support of all agency heads.