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THE WHITE HOUSE
WASHINGTON

Lynn May says Justice is
not sending over the
report on the Idaho
disaster until COB Friday.

He suggests you ask Marsh
to call:

Deputy Asst. Attorney General
Irving Jaffe
739 3306



[June 1976]

IDAHO

~~1976~~ ~~Mr. Allen~~
we took home an adult was
water ok an adult
pursuing
at that in land



THE WHITE HOUSE
WASHINGTON

*Mr. Cannon's
copy*



[June 1976]

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

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. Lynn

SUBJECT: Handling of Damages for
Teton Dam

Issue: This memorandum presents for your decision:

- (1) whether as a matter of public policy, victims of the Teton Dam failure should be paid in full for damages suffered despite the strong likelihood that the Federal Government is not legally liable for damages under present law, and if so;
- (2) what mechanism should be used for any compensation in light of the adverse precedents set by any feasible approach.

Background: Estimates of damage cost still range between \$200 million and \$1 billion. It will be several weeks before we can expect a reasonably accurate estimate.

Interior estimates that more than half of the damage may be to public facilities covered by 100% grants under existing disaster assistance authorities.

Full restitution for damage to private property and individuals cannot be made under existing Federal disaster assistance authorities, which is appropriate in that they are designed to cover disasters in no way caused or preventable by the Federal Government.

There is continuous pressure from Idaho and their Congressional delegation to make a commitment soon to cover all damages on the assumption that the Federal Government is clearly liable.

The Department of Justice advises that we should not proceed on the assumption that the Federal Government is legally liable



for payment of damages for the following reasons:

- Existing law provides Federal immunity from suit over failures of flood control projects, which Teton Dam has been determined by the courts to be, and
- Construction of the dam is clearly a discretionary act which is specifically excepted from liability under the Federal Tort Claims Act, and
- There is small liklihood that a negligence case can be made.

Interior reinforces the last point based on the engineering reviews of the project to date, the outcome of prior litigation over plans for Teton Dam, and the fact that the actual failure cause cannot be determined for several months because of tunnelling work required for such determination.

Issue #1 - Given that the Federal Government is not liable for damages in the strict legal sense, should provision nevertheless be made to pay all damages as a matter of public policy?

Pros: It is perceived by the victims and the general public that the Federal Government must be at fault since the Dam was planned and managed by the Federal Government and there was no known act of God or nature that can be demonstrated to have caused the failure. Therefore compensation for damages should be paid by the Federal Government.

Regardless of the soundness of the Federal case from a legal standpoint, there is little likelihood of convincing the public that there was no misfeasance, malfeasance, or negligence involved in the failure. Many dams have been built without failure, and many more complex technical feats achieved successfully. Thus, maintenance of public credibility calls for payment.

There is little doubt that public sentiment strongly supports full compensation for damage and therefore little chance of successfully avoiding full compensation should it be deemed desirable to do so.



Cons: The existing claims and flood project immunity laws are soundly based and setting them aside in this case can lead to repetition of such action as standard practice. This could lead to massive outlays in cases not so clear as this e.g. where the operation of flood gates or bypasses causes damage to some in order to protect many more, or where a flood control work malfunctions under flood conditions.

Special action in this case will also be cited as precedent for expanding our disaster assistance programs in future natural disasters on either a general or a one-time basis, natural disasters that are clearly beyond the power of the Federal Government to either cause or prevent.

Issue #2 - What mechanism should be used for damage payment? Each of four identified options has disadvantages and each poses specific precedential problems. Factors common to all are:

- Legal liability should not be assumed until established in court.
- We should avoid payment for damage covered by insurance or suits against third parties.
- We should avoid double jeopardy, i.e., both a gratuitous payment and a damage assessment should Federal liability later be established in court.
- We should avoid changing general law solely to cover a unique situation.
- We should minimize potential adverse consequences of precedent.
- We should avoid compromising our ability to recover damages from contractors should they be deemed negligent.
- We should provide for prompt payment and simple administration.



Four options have been identified as follows:

1. Handle under existing Tort claims law.
2. Handle under existing Interior authority to compensate for damages without regard to liability.
3. Propose new legislation providing gratuitous payments to cover damages resulting from the Teton Dam failure.
4. Propose general admendments to existing disaster assistance legislation to cover all Teton damages.

These options are compared in detail on the attachments, but in summary -

- Option 1 may not really be feasible because it can be overturned by a court test of liability which we are very likely to win. It is also the slowest and most cumbersome.
- Option 2 appears simplest and effective, has least adverse potential precedents, and can be supported by appropriations only. It is endorsed by Interior, Justice, and OMB, and is acceptable to HUD.
- Option #3 - has same advantages as option 2, but would require both authorization and appropriation, with greater opportunity for Christmas Treeing, precedent, and possible delay. It is a close second choice of Interior, Justice, and OMB, but possibly the preferred choice of HUD.
- Option #4 - is feasible but has most undesirable precedental value. It is not supported by any Executive Branch advisers, but may be the approach selected by Congress.



Conclusion and recommendation:

Issue 1: Virtually all your advisers recommend that full damages be paid and that the Administration move quickly to gain credit for that position, most leverage on Congress, and early start on Administration in the field.

Issue 2: I recommend option 2 as the mechanism, and will provide the papers for transmitting an appropriation request to Congress today if you wish. I would suggest \$200 M for residual damages not covered by disaster assistance payments, with the understanding that more may be required later.

Decision: Support reimbursement for damages
without conceding liability

Yes _____

No _____

As mechanism, choose option _____

Provide for \$200 M

or

\$ _____ M
\$ _____ M



Comparison of Options for Damage PaymentOPTION 1

Deal with the problem of compensation under existing "Claims" law. Under this option, the Federal Government would not concede legal liability, but would settle claims out of court on the thesis that the Federal Government might be liable.

PRO

1. Would not establish legislative precedents
2. Would require only supplemental appropriations and not a substantive legislative proposal
3. Would work within established administrative and legal mechanisms

CON

1. Adjudication of claims by Interior, Justice and GAO is a time-consuming process and would not provide prompt assistance
2. The probability of an eventual court suit is high and a court is highly likely to rule that the federal government is not liable, for the reasons cited by the Department of Justice. Out of court settlements should then cease and, if it were decided that relief was to be provided anyway, other means of compensation would then have to be devised
3. Congress may wish to enact substantive legislation anyway, over which we would have little influence



OPTION 2

Deal with the problem of compensation under existing Reclamation law with supplemental appropriation. Under the present Interior appropriations act, payments of claims arising out of Reclamation projects can be made without regard to legal liability.

PRO

1. Would minimize legal and practical precedents
2. Would require only appropriations, thus, limiting possible scope of what will be enacted
3. Avoids problem of concession of liability
4. Would probably meet most public demands for equity
5. Option of litigation is left to claimants who elect to pursue that course
6. As opposed to utilizing existing claims laws, an adverse court decision would still allow payments to continue out of appropriation
7. Could be structured to work within present Interior and disaster assistance mechanisms

CON

1. Sets a practical precedent for use of this general claims provision for claims of this magnitude
2. Would require substantial coordination with other Federal departments
3. Congress may wish to enact substantive legislation anyway
4. As a primarily administrative approach, probably more susceptible to abuse through overpayment than a judicial approach



OPTION 3

New legislation specifically limited to the Teton disaster and designed so as not to specify any federal liability. The proposed legislation could provide payments for: death and non-insured physical injury; and non-insured property losses directly caused by the flooding that are not eligible for other federal grant programs (e.g. eligible for loan programs). The legislation would not provide payments for: damages for mental anguish; and opportunities foregone.

PRO

1. This option is the least risky legislative alternative and reduces the risks of having more costly general disaster relief legislation enacted
2. Avoids opening up existing disaster relief assistance legislation to "Christmas Tree" amendments
3. Would probably meet most public demands for equity
4. Avoids problem of concession of liability
5. While the legislation would be specifically targeted to the Teton Dam disaster, the existing disaster assistance program apparatus could be utilized in processing assistance
6. Legislation drafted so as to limit windfalls to claimants
7. Satisfies Congressional urge for legislative solution

CON

1. Could be treated by Congress as precedent calling for specially tailored legislation for each disaster.
2. Despite specificity of legislation, legal and programmatic precedents are more likely to emerge than under options 1 or 2
3. Subject to potential "Christmas Treeing" or to conversion to general legislation



OPTION 4

Propose amendments to existing disaster assistance legislation to provide compensation by grants to make individuals "whole" (defined in legislative proposal). These amendments could include: 100% grants to those not currently eligible; partial or complete disaster loan forgiveness for individuals and businesses.

PRO

1. Would probably meet most public demands for equity
2. Additional assistance has been provided through devices such as loan forgiveness provisions in disasters before April 20, 1973-therefore has precedent
3. Works within existing program and administrative apparatus
4. Satisfies Congressional urge for legislative solution

CON

1. Additional assistance provided for this unusual disaster would have to be provided for all future natural disaster declarations
2. The longest range and most costly budgetary implications would result from this option
3. Abuses that led to the repeal of loan forgiveness probably would recur based on experience with earlier disasters, e.g., Hurricane Agnes, L.A. earthquake, etc. Loan forgiveness caused many to overestimate their disaster damage up to the maximum amount forgiven
4. Tampers with existing natural disaster assistance legislation which was strongly supported by the previous Administration, and achieved only after prolonged review and considerable legislative difficulty
5. Invites "Christmas Tree" amendments, especially if another disaster occurs during congressional consideration
6. Applying these changes to all future declared disasters acknowledges that the current legislation is not sufficiently comprehensive



Cannon FX/

THE WHITE HOUSE

Washington

June 6, 1976

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

RECOMMENDATION FOR MAJOR
DISASTER DECLARATION - IDAHO

Governor Cecil D. Andrus of Idaho has requested a major disaster declaration because of emergency conditions and damages caused by the collapse of the Teton Dam and the resultant flooding.

Shortly before noon, Saturday, June 5, the Teton Dam collapsed, threatening several communities in Eastern Idaho. Some 30,000 people were evacuated from the flood path. The communities of Sugar City and Teton were flooded so that only roof tops were visible. Estimates of the damage are not yet available, but early reports indicate that this is a serious disaster emergency.

Secretary Hills and Tom Dunne, Administrator of the Federal Disaster Assistance Administration, conclude that this is a disaster of major proportions and that Federal assistance is required.

RECOMMENDATION

It is recommended that you declare a major disaster for the State of Idaho by signing the attached letter authorizing the necessary funds to provide Federal disaster assistance. Max Friedersdorf concurs in this recommendation.



THE WHITE HOUSE

INFORMATION

WASHINGTON

June 8, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Status of Idaho Flood Disaster

Background

On Sunday, June 6, 1976, at the request of Governor Cecil D. Andrus of Idaho, you declared a major disaster authorizing Federal assistance to the victims of a flood in eastern Idaho, resulting from the collapse of a Bureau of Reclamation dam on the Teton River. The President called Governor Andrus Saturday night and informed him that we would do everything possible to assist the state. I notified the Governor early yesterday morning that the President had formally declared a disaster for the Idaho flood.

The Federal Disaster Assistance Administration (FDAA) sent a team into Idaho to make initial damage assessments Saturday evening. Secretary Tom Kleppe sent the director of the Bureau of Reclamation and one other person into Idaho to determine the actual cause of the collapse.

Current Status

The most recent damage assessment by the Federal Disaster Assistance Administration (FDAA) estimates that five people are known dead, over fifty missing and nearly one hundred injured. Property damage has not yet been calculated because of the continuing course of high water down the Snake River and residual standing water in the areas below the dam. At least fifteen hundred homes have been damaged and perhaps one thousand mobile homes will be required by the FDAA to house the homeless. Damage to farms and towns in the course of the flood is very extensive.



The dam in question was finished last fall and was close to capacity when it burst. It was the object of a losing court suit by conservationists to prevent construction on environmental grounds.

Senator Frank Church has indicated that he believes the Federal government should assume total responsibility for restitution of damages and that he may introduce legislation to cover indemnification of injured parties who may not be furnished Federal disaster assistance under current law.

Yesterday afternoon a group from Interior (Bureau of Reclamation), Justice, FDAA, TVA, Corps of Engineers, OMB and the Domestic Council will meet to assess Federal liability and discuss the appropriateness of special assistance legislation. We should have a decision paper for you shortly.



Cannon

FYI

IDAHO DAM DISASTER

Q: The dam that burst on the Teton River in Idaho last Saturday was built by the Federal Government. What is the Administration doing about aiding the victim's of the resultant flood?

A: President Ford declared the affected area to be eligible for Federal disaster assistance on Sunday, June 6, 1976. High level officials** from the Federal Disaster Assistance Administration, the Department of Interior and the Department of Agriculture have been sent to direct relief efforts to affected communities and individuals, examine ways of preventing additional damage, especially to nearby agricultural areas, and to discover the cause of the collapse of the dam.

President Ford has received periodic updates on the disaster relief efforts. Yesterday (June 8), he was briefed by Secretary Thomas Kleppe and Federal Disaster Assistance Administrator Thomas Dunne. He has also directed his Administration to examine the need for additional Federal assistance for the areas injured by the flood.

BACKGROUND

The damage estimates are not complete and are likely to rise. The most recent damage estimate is as follows:

5 deaths (2 additional deaths attributed to heart attacks)
1,277 injured, treated and released
9 hospitalized, 2 in serious condition
50 people unaccounted for, changes hourly
1,114 homes destroyed
32,025 homes with major damage
2,025 homes with minor damage
180 mobile homes destroyed
47 mobile homes damaged
416 small businesses damaged
\$50 million of property damage (buildings, utilities,
sewage, roads, bridges, recreation areas, etc.)



** William Crockett, Deputy Administrator, FDAA
John Knebel, Under Secretary, USDA
John Horton, Assistant Secretary, Land and Water
Resources, Interior
Gilbert Stamm, Commissioner of Bureau of Reclamation,
Interior



STATE OF IDAHO
OFFICE OF THE GOVERNOR
BOISE

CECIL D. ANDRUS
GOVERNOR

June 9, 1976

CC: May

Lyman
Steve
MA
for now
Frank
Jim

Norbert T. Tiemann
Federal Highway Administrator
U.S. Department of Transportation
Nassif Building
400 7th Street, SW
Washington, DC 20590

Dear Mr. Tiemann:

A letter dated May 26, 1976 from Division Administrator E. M. Wood regarding Federal-aid system realignment, describes funding conditions which have become untenable with failure of the Teton Dam on June 5, 1976.

Emergency Relief funding under Title 23 is available for routes included in the Federal-aid system. As of June 30, 1976 the existing Federal-aid primary, secondary and urban systems will be terminated. Theoretically, these systems will be replaced on July 1, 1976 with revised Federal-aid systems based on functional classification of routes. Mileage of the revised Federal-aid secondary system under local jurisdiction is expected to be reduced by about 50 percent, however. Major revision of other systems will occur as well.

Development of Emergency Relief projects occasioned by failure of the dam prior to June 30, 1976, is an obvious impossibility. Yet those routes to be functionally removed from the Federal-aid system will not qualify for disaster funding under PL93-288. As noted in Mr. Wood's letter, only route segments which are not part of the Federal-aid system at the time of a Presidential declaration of disaster are eligible.

Conversely, those routes covered by PL93-288, which will become part of the Federal-aid system through functional realignment, will presumably qualify for neither Emergency Relief or PL93-288 funding.

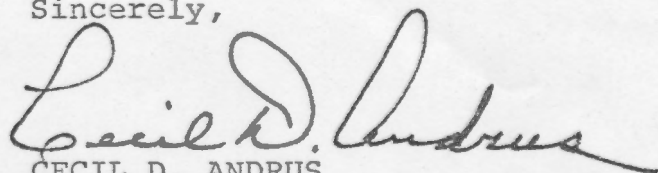
Provisions covering emergency assistance in time of disaster are apparently nullified by a combination of Federal law and regulations. Surely, this was not the intent. This being the case, I urge you to cooperate with me in seeking extraordinary means to resolve the matter.

Page 2
Norbert T. Tiemann
Washington, DC 20590

This can be accomplished by withholding application of rules and regulations governing Federal-aid system realignment for a period of 90 days. Failing this, emergency legislation might be enacted by the Congress. At the same time, in view of the magnitude of the problem resulting from failure of a Federal dam, it seems proper to remove state and local matching requirements.

Will you please give this matter your immediate attention, and advise me of action you will take.

Sincerely,


CECIL D. ANDRUS
GOVERNOR

ms

cc: Senator Frank Church
Senator James A. McClure
Representative George Hansen
Representative Steven D. Symms

The President of the United States
Attention: Mr. James Cannon
Domestic Counsel



STATE OF IDAHO

OFFICE OF THE GOVERNOR

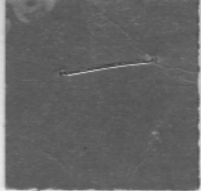
CECIL D. ANDRUS

BOISE

83720



The President of the United States
Attention: Mr. James Cannon
Domestic Counsel
White House
Washington, DC



THE WHITE HOUSE
WASHINGTON

Lynn will
wait for you
to call

THE WHITE HOUSE

ACTION

WASHINGTON

June 10, 1976

MEMORANDUM FOR JIM CANNON

FROM:

LYNN MAY - *Lynn May*

SUBJECT:

Presidential Announcement of Administration's
Plans to Furnish Additional Relief to Victims
of the Idaho Dam Collapse

Three options come to mind for the President's announcement of his program to compensate the victims of the flood resulting from the collapse of the Federal dam on the Teton River:

1. Issue a simple statement announcing his proposal and urging the Congress to pass the necessary legislation (Attachment A.)
2. Hold a brief meeting at the White House with the Idaho Delegation, the Governor of Idaho, Secretary Kleppe, Secretary Butz and the head of the FDAA to announce his plan. Secretary Kleppe, with other principals, could then brief the press and answer questions.
3. The President could travel to Idaho, survey the area, and go through the same drill as Option 2.

The following is a list of pros and cons for each option.

1. Issue a statement.

Pro

- Could be done quickly and would allay frustration and rumors in the disaster area.
- Would put the President solidly in front of the issue.

Con

- Would only have an impact in the State of Idaho.



2. White House Meeting.

Pro

- Would symbolize a quick cooperative effort on the part of the Executive Branch and the Congress to meet the needs of a major man-made disaster.

Con

- Could be perceived as capitalizing on the news value of a disaster during a political campaign.

3. Idaho Ceremony.

Pro

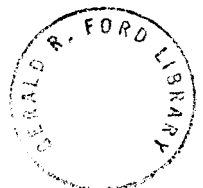
- Would show President's concern for the victims of the disaster in a very graphic way.
- Would symbolize a cooperative solution as described above.

Con

- Same as in Option 2.
- Travel arrangements would delay announcement.

Attachment

cc: Jim Cavanaugh
Max Friedersdorf



A

DRAFT 6/10/76
Lynn May

I am today calling for an appropriation of \$200 million to provide compensation for the victims of the tragic flood caused by the collapse of the Bureau of Reclamation dam on the Teton River in Idaho. If additional funds are required, I will request further appropriations later.

These funds will complement on-going Federal disaster assistance to compensate for injuries and damages inflicted by the flood. Claims will be administered by the Department of Interior, under terms of existing Reclamation Law, and will be available to claimants at relief centers now in operation.

I urge the Congress to act promptly on my appropriation request to ensure that the victims of this unfortunate catastrophe can rebuild their lives and communities.

I am also directing all appropriate Cabinet Officers and Heads of Federal Agencies to work in close cooperation with the the Interior Department and the Federal Disaster Assistance Administration to deliver this and other Federal disaster assistance to the people and communities injured by the flood.



THE WHITE HOUSE
WASHINGTON

REQUEST

June 10, 1976

MEMORANDUM FOR JIM CANNON

FROM: LYNN MAY *Lynn May*

SUBJECT: Idaho Disaster

Below is the most recent survey of the damage in Idaho.

Crop loss	\$30.0M
Potential loss of fertile land	80.0
Railroads	37.0
Public Utilities	100.0
Homes & contents - total loss	64.0
Homes & contents - partial loss	39.7
Businesses - total loss	29.0
Businesses - partial loss	6.7
Farm equipment	4.5
Canals & Irrigation	3.0
Livestock	7.5
Business Interruption loss	7.5
Teton Dam	60.0
Vehicles	<u>4.5</u>

Total \$473.4M

Note:

The above figures were furnished by the General Adjustment Bureau (GAB), a private insurance adjusting company that assesses large claims for insurance companies. FDAA advises that the GAB is extremely reputable and factual, but this is only an estimate and that the final tally will likely be higher.



cc: May

THE WHITE HOUSE
WASHINGTON

June 11, 1976

MEMORANDUM FOR: JIM CANNON
PAUL O'NEILL
KEN LAZARUS

FROM: PHIL BUCHEN *P.*

Attached is material which came from the Department of Interior relative to the basis for the appropriation of funds to pay claims arising out of the failure of the Teton River Dam.



January 26, 1915

March 3, 1915

205

PARK

SUNDRY CIVIL EXPENSES APPROPRIATIONS ACT FOR 1916

[Extracts from] An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and sixteen, and for other purposes. (Act of March 3, 1915, ch. 75, 38 Stat. 822)

* * * * *

RECLAMATION SERVICE

The following sums are appropriated out of the special fund in the Treasury of the United States created by the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), and therein designated "the reclamation fund":

[Damage payments.]—For * * * payment of claims for damage to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; * * * (38 Stat. 859)

EXPLANATORY NOTES

Provision Repeated; Evolution of Word-
ing. A provision for the payment of damage claims has appeared in each annual appropriation act for the Bureau of Reclamation beginning with the Act of March 3, 1915. The shortened form shown above was first used in the Act of September 6, 1930, 64 Stat. 687. It has been carried in each subsequent annual Interior Department Appropriation Act through fiscal year 1935, and thereafter in each annual Public Works Appropriation Act through the most recent one, the Act of October 15, 1966, 80 Stat. 1008.

As first enacted in 1915, the provision read: "payment of damages caused to the owners of lands or private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of irrigation works, and which may be compromised by agreement between the claimant and the Secretary of the Interior."

The appropriation act for fiscal year 1927 and subsequent acts inserted the word "other" before "private property" and added "or such officers as he may designate" at the end. The appropriation act for fiscal year 1939 and subsequent acts dropped the last clause "and which may be compromised by agreement between the claimant and the Secretary of the Interior or such officers as he may designate." The appropriation act for fiscal year 1948 and subsequent acts revised the provision to read "payment of claims for damage to or loss of property, personal injury, or death,

arising out of the survey, construction, operation or maintenance of works by the Bureau of Reclamation". The Act of September 6, 1950, substituted "activities of" for the phrase "the survey, construction, operation or maintenance of works by".

Comparable Provision, Indian Irrigation Projects. The Act of February 20, 1929, 42 Stat. 1252, 25 U.S.C. § 388, provides for similar payment in connection with Bureau of Indian Affairs irrigation works.

Remedy Solely Discretionary. The remedies provided by the appropriation acts and the Act of February 20, 1929, have been construed to be matters entirely within the discretion of the Secretary of the Interior, rather than statutory rights to compensation. Solicitor White Opinion, 60 I.D. 451, 454 (1950); *Bill Powers*, TA-271 (Ir.), 71 I.D. 237 (1964).

Procedures for Administrative Determinations. Each Regional Solicitor is authorized to determine, under the annual Public Works Appropriation Act, claims not exceeding \$15,000 for damage to or loss of property, personal injury, or death arising from activities of the Bureau of Reclamation. The Regional Solicitor is likewise authorized to make determinations for claims under \$15,000 arising from the survey, construction, operation or maintenance of irrigation works on Indian irrigation projects. Appeal lies to the Solicitor, upon written notice of appeal filed with the Regional Solicitor within 30 days of receipt of the determination. Solicitor's Regulation No. 5, amended October 5, 1965.



March 3, 1915

March 3,

Relation to Tort Claims. The annual appropriation acts, and the Act of February 20, 1929, 45 Stat. 1252, 25 U.S.C. § 388, relating to claims for damages caused by Indian irrigation projects, provide only for the administrative determination of claims which do not sound in tort, as the Federal Tort Claims Act is considered to provide the exclusive remedy for all tort claims. As a matter of procedure, when a claim is submitted for administrative determination it is considered under both the annual Public Works Appropriation Act and the Federal Tort Claims Act, to determine if a remedy is available under either Act. For cases and determinations involving tort claims, see the Act of June 25, 1948, herein and notes thereunder.

Relation to Claims for Taking of Property. Where the reclamation activities result in a "taking of" property, rather than

in "damages to" property (admittedly a difficult distinction to draw), the landowner is entitled to just compensation under the Fifth Amendment to the Constitution. If such property is not acquired by the Bureau of Reclamation by purchase or condemnation, the property owner may bring suit under the Tucker Act in the Court of Claims or the United States District Court. Selected cases are noted herein under the Fifth Amendment to the Constitution, and extracts from the Tucker Act appear herein in the Appendix.

Editor's Note, Annotations of Administrative Determinations. The annotations of administrative determinations which follow should not be considered an exhaustive treatment, as the proceedings in this field are voluminous. However, an attempt has been made to select illustrative decisions spanning the range of fact situations.

NOTES OF OPINIONS

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1. Direct causation

The Government is not liable under the Federal Tort Claims Act for property damage resulting from water escaping through a sudden break in an irrigation canal which was constructed according to plans prepared by engineers based upon the best engineering practices available, and inspected regularly with reasonable diligence and skill after being placed in operation. However, the Government at its discretion may compensate injured parties in these circumstances under the Interior Department Appropriation Act where the cause of the damage is shown to be the direct result of activities of the Bureau of Reclamation. *Northern Pacific Railway Co., et al., T-560 (Ir.) (May 10, 1954).*

Where action of claimant in removing dirt from banks of irrigation ditch was shown to have been a proximate cause of a break in the ditch resulting in the flooding of his land, no damages may be recovered against the United States under appropri-

ation act provision available therefor. *C. F. Burbridge, M-32045 (January 30, 1944).*

Recovery for alleged damages was denied when the claimant failed to show by a preponderance of the evidence that alleged contamination of his spring was caused by an increase in the alkaline or salt content of irrigation waters pumped, "damages resulting from remote or consequent causes being held not to come within the purview of the statute. *Columbia Basin Orchards Co., M-31669 (November 19, 1942).*

2. Floods

The Government is not liable, under the Federal Tort Claims Act, for damage caused to crops by a flood diverted to claimant's land by the existence of a Bureau of Reclamation canal because the original design to build the laterals without placing divers under them was within the discretionary function exception of the Act. The Flood Control Act, 33 U.S.C. § 702c, and immunity statute, applicable only when liability would exist without it, and as there was no liability, the Flood Control Act does not bar the payment of claims under the Public Works Appropriation Act. In this instance the flood waters would not have been diverted onto claimant's land but for the lateral, thus the damage done was the direct result of non-tortious activities of the Bureau of Reclamation. Claim allowed. *Powers, TA-271 (Ir.) 71 I.D. 237 (1944).*

Where flooding of land was the result of a rainstorm of unprecedented or cloud-like proportions, and not the result of a direct act or omission, or negligence in construction, operation or maintenance of a drainage ditch, claimants cannot recover

from the Gov.
S. L. Tooke
1942).

No recovery under the Federal Tort Claims Act for property damage resulting from a flood which was caused by a rainstorm of unprecedented proportions of water from the reservoir which utilized the full capacity of the reservoir, and the claimant would have been expected to protect his property from the flood.

Claims for damages to landowners under the Federal Tort Claims Act for property damage caused by a flood which was caused by a rainstorm of unprecedented proportions of water from the reservoir, and the claimant would have been expected to protect his property from the flood.

1. Canal breaks
Damage caused by a flood which was caused by a rainstorm of unprecedented proportions of water from the reservoir, and the claimant would have been expected to protect his property from the flood.



to" property (admittedly a action to draw), the landowner just compensation under the ment to the Constitution. If is not acquired by the Bureau on by purchase or condemnation property owner may bring suit cker Act in the Court of Claims ed States District Court. Se are noted herein under the ment to the Constitution, and the Tucker Act appear herein ndix.

Note, Annotations of Admin- eterminations. The annotations tive determinations which fol- ot be considered an exhaustive s the proceedings in this field ous. However, an attempt has to select illustrative decisions e range of fact situations.

vision available therefor. *C. E. M-32045* (January 30, 1945). for alleged damages was denied claimant failed to show by a fair ace of the evidence that alleged ion of his spring was caused by in the alkaline or salt content of waters pumped, "damages ren- remote or consequent causes" not to come within the purview tute. *Columbia Basin Orchard 369* (November 19, 1942).

ernment is not liable, under the rt Claims Act, for damage caused y a flood diverted to claimant's e existence of a Bureau of Rec- anal because the original decision he laterals without placing cul- er them was within the discre- tion exception of the Act. The ntrol Act, 33 U.S.C. § 702c, is an statute, applicable only where ould exist without it, and as there bility, the Flood Control Act doe ne payment of claims under the rks Appropriation Act. In this he flood waters would not have rted onto claimant's land but for l, thus the damage done was the ult of non-tortious activities by the Reclamation. Claim allowed. *B. A-271* (Ir.) 71 I.D. 237 (1964). flooding of land was the result of m of unprecedented or cloudbur- ortions, and not the result of a t or omission, or negligence in the ion, operation or maintenance of e ditch, claimants cannot recover

from the Government for property damaged. *S. L. Tooke, et al., M-31871* (August 22, 1942).

No recovery may be had against the United States where it was shown that the operation of certain reservoirs of a Govern- ment irrigation project did not cause the flooding of claimants' lands during a severe rainstorm but that in fact they reduced, im- peded and retarded the flood waters of a creek above the reservoirs; that large quan- tities of water were not suddenly released from the reservoirs; that the reservoirs were operated efficiently and in such manner as to utilize the available storage capacity to the fullest possible extent for the regulation and control of the flood waters; and that but for the reservoirs, the flood waters in the creek, and the damage resulting therefrom, would have been appreciably greater. *Lenora Simpson, et al., M-30564* (February 16, 1940).

Claims filed against the United States by landowners on the west side of the Rio Grande River who alleged that the Alamo levee, constructed by the United States in 1933 on the east side of the River, had caused their lands to be flooded, were dis- allowed, the Under Secretary of the Interior holding that the alleged damaged lands were a part of the flood plain of the Rio Grande River which would be flooded independ- ently of the Alamo levee, and that the United States had a right to construct the levee to protect its property against floods in the River even if such construction should result in damage to the lands on the opposite side of the river. *Norberto Butler, et al., August 29, 1935.*

Floods of unprecedented occurrence and volume are acts of God over which the Gov- ernment has no control and for which it cannot be held liable. *Palmyra Longuemare, et al., February 21, 1930.*

3. Canal breaks

Damage caused by flooding when a canal break occurred due to gopher burrowing could not be compensated under the Public Works Appropriation Act since the break was not directly caused by the activities of the Bureau of Reclamation. *Wilbur B. Cas- ady and Mary A. Cassidy, and Farmers Insurance Group, TA-235* (Ir.), 69 I.D. 195 (1962).

When a canal dike breaks because of the activities of ground squirrels, the direct cause of the break is the presence of *ferae* nature, over which the United States has no control, thus no liability can attach. *Aura Barnes, 57 I.D. 584* (1942).

Damages caused by water escaping from a Government canal to railroad trestles and

embankments is compensable under the annual appropriation act as the direct result of activities of the Bureau of Reclamation. *Northern Pacific Railway Co., et al., T-560* (Ir.) (May 10, 1954).

Flooding caused by tumbleweeds, which sank and rolled along the bottom of a cuivert of an irrigation lateral, clogging a drain and causing claimant's land to be overflowed, was held to have resulted from the manner in which the canal was main- tained by the Government, to be "damage due to unavoidable causes in which the ele- ment of negligence does not appear," and claimant accordingly was permitted to re- cover for damage resulting therefrom. *George H. Munro, M-31573* (January 24, 1942).

4. Canal seepage

When an award for damage to property is rendered as a result of seepage from an irrigation canal, and that award is based on the permanent depreciation in value of the property due to the seepage, no addi- tional award may be rendered unless the extent or intensity of the seepage has in- creased since the first award to a degree which has caused further permanent depreciation in the value of the property. *Norma Streit, et al., T-1100* (Ir.) (Febru- ary 4, 1964). For the earlier award, see *Arnold Streit, T-476* (Ir.) (Supp.), 62 I.D. 12 (1955).

Claimant contended that seepage water from Bureau of Reclamation ditches and canals had rendered grazing land useless and caused damage to cattle from falls suffered by ice formation. The record showed several other sources for the seep- age, however, namely heavy irrigation and rainfall on adjacent upland farms and two springs in the area; therefore the claim was denied. The damages must be the direct result of activities of the Bureau of Reclama- tion, which required in this context that seepage water from project facilities alone, without contribution from other sources, be sufficient to cause the damage. *Howard D. Galletine, T-980* (Ir.), 67 I.D. 191 (1960).

Claimant had conveyed the right of way for a canal to the United States, which subsequently caused damage to the base- ment of his home and his crops by seepage. Upon a showing of damage directly caused by activities of the Bureau of Reclamation, measured by the difference in appraisal value of the property with and without the seepage condition, compensation was made to claimant, past rulings to the contrary being reversed. *Arnold Streit, T-476* (Ir.) (Supp.), 62 I.D. 12 (1955).



5. Reservoir water releases and escapes

The claimant contended the formation of accumulated ice jams, caused by the fluctuation of river flow in the winter resulting from irregular power releases made through the powerplant, damaged his irrigation diversion dam. However, previous ice jams had developed on the river during periods of continuous water release from the powerplant, ice jams had occurred during the same winter on nearby rivers with no apparent relationship to continuous or fluctuating flows, and reservoir intake records showed the natural flow of the river would have varied over 550 per cent during the period the damage occurred. Therefore, it could not be established that damage to claimant's dam was the direct result of non-tortious activities of employees of the Bureau of Reclamation. *Hanover Irrigation District*, TA-256 (Ir.) (February 20, 1964).

Spillway gates at a Bureau of Reclamation dam gave way, permitting a large volume of water to escape from the dam. Failure of the gates was traced to a defective anchor bolt common to two of the gates, but even a close inspection would not have revealed the defect, therefore there was no negligence on the part of the Government. An award for damage claims for flooded lands could be made from the current Interior Department Appropriation Act (1951), however, even though the damage occurred in 1942, as Congress has provided no statute of limitations for this discretionary power. Solicitor White Opinion, 60 I.D. 451 (1950).

The Government was held not liable for damage caused by flooding when an unprecedented accumulation and flow of heavy ice loosened the structure and caused a dam to break where it was shown that the dam was properly designed and constructed to withstand such pressure as it would be likely to meet based on past experience. *Nashua Booster Club, et al.*, M-30446 (September 13, 1940).

Where a large volume of water from a reservoir was discharged in order to clean and repair it, causing a greatly increased flow of water in the river below the dam and reservoir which overflowed the banks of the river and resulted in damage to owners of adjoining lands, it was held that the one was a direct consequence of the other and that claimants could therefore recover. Dec. Comp. Treasury, June 15, 1915.

6. Livestock losses

Claimant's damages were caused by loss of livestock through drowning in an unfenced irrigation canal. Applicable state law,

which determined the result for a negligence theory of liability under the Federal Tort Claims Act, did not require a landowner to fence his land or be liable to the owner of livestock injured while upon that land, therefore the claim was denied under the Federal Tort Claims Act. A long-established policy of the Department did not consider livestock drowning in irrigation facilities to be the direct results of Government employees' activity, thus the claim was denied under the statute relating to claims for damage caused by Indian irrigation works. *John C. Brock*, TA-249 (Ir.), 70 I.D. 397 (1963). For other determinations under the appropriation acts denying awards in cattle drowning cases, see *D. Jones*, TA-185 (Ir.) (April 23, 1959); *Ray Strouf*, TA-180 (Ir.) (February 5, 1959); *Alfred Koeltzow*, TA-18 (Ir.) (July 25, 1949).

7. Indian irrigation projects

The criteria for an award under the annual Public Works Appropriation Acts and those for awards under the Indian project act are the same, thus determinations made under the one may be used as precedent for the other. Therefore, a claim for losses of livestock by drowning in an Indian irrigation project canal must be denied. *John C. Brock*, TA-249 (Ir.), 70 I.D. 397 (1963).

Realignment of telephone poles brought about through wind action after the footings of the poles had been softened by submersion in water, and through the action of the poles during the winter in lifting the poles from their settings, in an area inundated by the construction of the Wild Horse Dam on the Duck Valley irrigation project, Nevada, held due to direct acts of Bureau of Indian Affairs employees in the survey, construction, operation or maintenance of irrigation projects for which damages were recoverable under the 1929 act. *Elko County Telephone and Telegraph Co.*, M-31026 (January 17, 1941).

8. Land purchase contract release claim

Where there was no indication that the original appraisals of a canal right of way purchased by the Government were increased because of inclusion in the contract of a clause requiring claimant to accept the purchase price as full payment for all damages, and no evidence that future damage was within the contemplation of the party when the purchase price was paid, then upon proof of damage by canal, compensation will be allowed. *Streit*, T-476 (Ir.) (Supp.), 62 I.D. (1955).

Notwithstanding an agreement in the land-purchase contract to accept the



CT, 1916

he result for a negligence under the Federal Tort not require a landowner be liable to the owner while upon that land, was denied under the Act. A long-established argument did not consider in irrigation facilities results of Government; thus the claim was statute relating to claims by Indian irrigation work, TA-249 (Ir.), 70 for other determinations appropriation acts denying owning cases, see *Dale* (r.) (April 23, 1959); 80 (Ir.) (February 6, 1960); *Meltzow*, TA-18 (Ir.)

projects

an award under the an Appropriation Acts and under the Indian project us determinations made be used as precedent for e, a claim for losses of ng in an Indian irriga- must be denied. *John C.* (r.), 70 I.D. 397 (1963). telephone poles brought action after the footings on softened by submer- through the action of ice inter in lifting the poles in an area inundated of the Wild Horse Dam ey irrigation project, direct acts of Bureau ployees in the survey, on or maintenance of r which damages were the 1929 act. *Elko and Telegraph Co.*, M-941).

contract release clauses

no indication that the a canal right of way Government were in- clusion in the contract claimant to accept the payment for all dam- e that future damage temption of either chase price was fixed, damage by canal seep- ill be allowed. *Arnold* (Supp.), 62 I.D. 12

an agreement in a ct to accept the put-

chase price as full payment for all damages for entry upon the property and the con- struction, operation and maintenance of reclamation works thereon, a vendor may be awarded damages under the provisions of the annual Interior Department appro- priation act when the contract gives the vendor the right of possession until a cer- tain date, and before that date the Bureau of Reclamation overflows the land and destroys the crops growing upon it. *Ruth O. Wiles*, T-462 (Ir.), 61 I.D. 109 (1953).

9. Wells

Claimants alleged their water wells went dry as a result of the construction of a drainage ditch by the Bureau of Recla- mation. The record showed the wells went dry within a short time after the drainage ditch was constructed, the wells had sup- plied water for several years before the ditch was constructed, substantial water was encountered during construction of the ditch past claimant's properties, and the water table had been lowered noticeably since construction. This was enough to con- stitute a *prima facie* case in favor of the causal relationship between the ditch con- struction and the drying up of the wells; and in the absence of rebuttal evidence, and particularly because of the difficulty in drawing conclusions with mathematical certainty regarding subterranean water, this showing entitled claimants to recovery under the current Public Works Approp- riation Act. *Ed Brewer, et al.*, TA-253 (Ir.), 71 I.D. 84 (1964).

10. Silting

Where silt, exposed by the lowering of the water surface of a Bureau Reservoir, was blown over adjacent lands by the pre- vailing winds, no claim for damage result- ing therefrom could be allowed because the damage was not the direct result of the operation of Government employees. *W. E. Bertlett, et al.*, 57 I.D. 415 (1941).

11. Subirrigated lands

Diversion by the Government of waters of a lake, thereby depriving meadowland of its moisture derived from subirrigation, even though the land was not contiguous to the meander line of the lake, constitutes a valid claim for damages within the con- templation of the appropriation act pro- vision. However, where the meadowland is damaged by the diversion of waters of a lake, the landowner is not entitled to general damages to his remaining lands, as incidental to the damage to the former, if the latter were not directly benefited by those waters prior to their diversion. *George W. Myers and Lillie A. Myers*, 49 I.D. 106 (1922).

12. Property, what constitutes

Claimants sought damages because the construction and operation of a reclamation project had increased the volume of water in a lake, thereby diluting its dissolved min- eral content and making claimant's business of extracting salts from the water more ex- pensive. The claim was denied on the grounds no valid property right was dam- aged, since claimant had never appropriated the dissolved minerals in the lake or obtained a license or permit from the city or state for that purpose. *Roxie Thorson and Marie Downs*, T-710 (Ir.), 63 I.D. 12 (1956).

13. Transfer of facilities

A damage claim submitted for seepage from a canal which resulted in waterlogging land belonging to claimants was undisputed insofar as the damage or its cause was con- cerned. However, responsibility for the oper- ation and maintenance of the structures was transferred to the Department of Agricul- ture by agreements made under the Water Conservation and Utilization Act, as soon as the Bureau of Reclamation had finished constructing the main and branch canals and the laterals. The Bureau of Reclama- tion's original plans called for construction of drainage systems also, anticipating the seepage problem, but its responsibilities for construction were terminated before these structures were built. Therefore, the funds appropriated for the Bureau of Reclamation should not be charged with damages result- ing from a failure by other entities to fully execute a plan of construction the Bureau was not allowed to complete. *Marilynn Trus- cott and Solveig C. Evans*, T-453 (Ir.), 61 I.D. 88 (1953).

14. Fire

Claimant may recover damages from the United States for property damage resulting from a forest fire which occurred during the construction of a reservoir where the forest fire resulted from a shift of the wind during land-clearing operations by burning and was not due to negligence on the part of Gov- ernment employees. *The Sheelin-Hixon Co.*, 58 I.D. 189 (1942).

Claimant may recover damages from the United States for property damage where during the burning of dry willows necessary to the maintenance of an irrigation ditch a sudden wind came up and carried the fire into adjacent cut-over meadow lands. *Race Harney*, M-31661 (February 4, 1942).

15. Roads and bridges

Damages for the extraordinary use of a public highway bridge by Government per- sonnel in the course of constructing the various units of the Kendrick project,



Wyoming, are compensable from funds made available in the Interior Department Appropriation Act, 1954, for the payment of claims for damage to property arising out of activities of the Bureau of Reclamation. The measure of damages for injury to a public highway bridge ordinarily is the cost of repairing the injured bridge. How-

ever, where the bridge is out of date and has become a safety hazard because of the extraordinary use which causes the damage, the estimated cost of repairs may be applied against the cost of a new bridge designed to meet present day traffic requirements. *Claim of Natrona County, Wyoming, T-512 (Ir.), 61 I.D. 264 (1915).*

* * * * *

[Jackson Lake enlargement.]—Jackson Lake enlargement work, Idaho-Wyoming: For maintenance, operation, continuation of construction, and incidental operations, conditioned upon the deposit of this amount by the Kuhn Irrigation and Canal Company and the Twin Falls Canal Company to the credit of the reclamation fund, \$476,000; (38 Stat. 860).

EXPLANATORY NOTE

Provision Repeated. A similar provision is contained in the Sundry Civil Expenses Appropriation Act for 1917, approved July 1, 1916, 39 Stat. 304.

* * * * *

[Expenditures and obligations not to exceed appropriations or amount in reclamation fund.]—Under the provisions of this Act no greater sum shall be expended, nor shall the United States be obligated to expend, during the fiscal year nineteen hundred and sixteen, on any reclamation project appropriated for herein an amount in excess of the sum herein appropriated therefor, nor shall the whole expenditures or obligations incurred for all of such projects for the fiscal year nineteen hundred and sixteen exceed the whole amount in the "reclamation fund" for that fiscal year. (38 Stat. 860)

EXPLANATORY NOTES

Provision Repeated. A similar provision is contained in each subsequent annual Sundry Civil Expenses Appropriation Act through fiscal year 1922, and each annual Interior Department Appropriation Act thereafter through the Act of October 12, 1949, 63 Stat. 781.

Cross Reference. Section 16 of the Reclamation Extension Act of August 1, 1914, 38 Stat. 690, provides that after July 1, 1915, no expenditures shall be made out of the reclamation fund except out of appropriations made by Congress. The Act appears herein in chronological order.

* * * * *

[Interchange of appropriations.]—Ten per centum of the foregoing amount shall be available interchangeably for expenditure on the reclamation projects named; but not more than ten per centum shall be added to the amount appropriated for any one of said projects. (38 Stat. 861)

EXPLANATORY NOTE

Provision Repeated. This provision is repeated in each subsequent annual Sundry Civil Expenses Appropriation Act through fiscal year 1922 and each annual Interior Department Appropriation Act thereafter through the Act of October 12, 1949, 63 Stat. 781, with the following modifications:

The Act of May 24, 1922, 42 Stat. 367, and subsequent acts include additional authority for emergency repairs; and the Act of July 1, 1946, 60 Stat. 367, and subsequent acts insert the words "for operation and maintenance projects" after "going amounts."

* * * * *



FOR IMMEDIATE RELEASE

Idaho
JUNE 11, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am today sending to the Congress a request for an appropriation of 200 million dollars to provide payments for the victims of the flood damage caused by the collapse of the Teton Dam in Idaho. If additional funds are required, I will request further appropriations later.

These funds will complement on-going Federal disaster assistance to provide further relief for injuries and damages inflicted by the flood. Claims will be administered by the Department of Interior, in accordance with regulations to be issued by the Secretary, and will be available to claimants at relief centers now in operation.

I urge the Congress to act promptly on my appropriation request to ensure that the victims of this tragic catastrophe can rebuild their lives and communities.

I am also directing all Cabinet officers and heads of appropriate Federal agencies to work in close cooperation with the Interior Department and the Federal Disaster Assistance Administration to deliver this and other Federal disaster assistance to the people and communities injured by the flood.

#



Disaster

THE WHITE HOUSE

REQUEST

WASHINGTON

June 14, 1976

MEMORANDUM FOR JIM CANNON

FROM: LYNN MAY *Lynn May*

SUBJECT: Senate Hearings on Legislation to Compensate
the Victim's of the Teton Dam Disaster

When I learned that Senator Church planned to move-up hearings from June 24 to June 15 on the Teton Dam disaster before the Senate Interior Committee, I asked Joe Jencks to ask Senator McClure, also on the Interior Committee, to arrange a postponement of the hearings until the Administration had completed writing regulations covering the President's proposal for compensation of damages. Apparently, McClure wasn't successful or didn't try too hard because the hearings are on for tomorrow. It would appear that Senator Church is attempting to reassert leadership over this issue and perhaps hold the Administration's feet to the fire for additional aid.

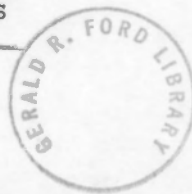
I have been working with OMB and the Federal agencies involved to:

- (1) Develop uniform testimony for the agencies scheduled to appear before Church's Committee. (I have suggested that Interior, take the lead with the other agencies acting as a back-up panel. Basically, their testimony should say that the President's proposal is the quickest and most efficient means for delivery compensation but specific questions regarding the compensation would have to await publication of regulations at the end of this week.)
- (2) Ensure that the agencies in the field are cooperating to deliver normal relief and are geared-up to handle the additional claims under the President's proposal.

While the Church hearings could be a little rough, I have had good reports about Federal cooperation and responsiveness in the disaster area. Both the Congress and the Governor of Idaho have been made aware that no compensation payments can be made, apart from normal disaster relief, until Federal regulations are published and the necessary appropriations legislation is passed.

cc: Jim Cavanaugh *J*

*Response
Today.*



Spec We-Care
THE WHITE HOUSE
WASHINGTON

August 26, 1976

MEMORANDUM FOR:

JACK MARSH
JIM CANNON ✓
JIM LYNN

FROM:

MAX FRIEDERSDORF

SUBJECT:

Teton Dam

Teton Dam relief legislation has now passed the House and Senate in similar form and should be on the President's desk soon for signature.

There is interest in the Idaho Congressional Delegation for a signing ceremony.

I recommend a brief ceremony in the Oval Office with the Idaho Delegation.

cc: Bill Nicholson
Bob Wolthuis



August 26, 1976

MEMORANDUM FOR:

JACK MARSH

FROM:

MAX FRIEDERSDORF

SUBJECT:

Teton Dam

When the President visits Old Faithful at Yellowstone on Sunday, he will be about 100 miles from Teton Dam.

Thousands of persons are still homeless and volunteers from Idaho and 4 or 5 surrounding states are working in the area.

Senator McClure and Representative George Hansen strongly recommend the President:

1. Visit the site (Idaho Falls is about 30 miles from Teton and could accommodate Air Force One.)
2. Sign S. 3542, Teton Dam Damage bill, which has cleared the Senate yesterday and cleared for Presidential signature.
3. If the President can't visit the site and sign the bill there; do a fly-over and sign the bill at Yellowstone.

Representatives Hansen, Symms, "Bizz" Johnson, Lujan, Pettis and Clausen, Members of the House Interior Water Resources Subcommittee, plan to visit the site on Saturday afternoon, and this could be rescheduled to coincide with a Presidential stop-over on Sunday.

McClure and Hansen wanted to go with a press announcement at noon today that they had invited the President to visit Teton on Sunday when he was at nearby Old Faithful.

I talked them out of it on the grounds that if the President couldn't make it, the let-down would be counter-productive.

They agreed and went with an announcement that they were urging the President to sign S. 3542 soonest.

Can we get guidance from Vail? McClure, et al, are really worked up on this one.

cc: Kendall, Leppert, Wolthuis, Nicholson, Cannon, Lynn



THE WHITE HOUSE
WASHINGTON

*file
Disaster*

August 26, 1976

MEMORANDUM FOR: JACK MARSH
FROM: MAX FRIEDERSDORF
SUBJECT: Teton Dam



Because of the circumstances I believe we should appeal the decision for the President not to stop at the site of the Teton Dam disaster during his return trip to Washington on Sunday.

The convenience, the timeliness, and the appropriateness of a Presidential stop-by seem to me to be obvious.

For the President to be in the vicinity of an area that suffered such great loss of life and property, and not to make a brief visit, could be interpreted as callous or at least disinterested.

The bill that just passed the Senate is the biggest public reparations bill passed in the history of the U.S. Government and could amount to claims up to \$1 billion.

You will also recall that the President phoned Governor Andrews of Idaho who was most cooperative and has been friendly and cooperative in his dealings with the President.

There have been and continue to be many volunteer workers from surrounding states helping out in Idaho and the disaster, of course, is probably the biggest news event of the year in the Rocky Mountain area.

At the time of the disaster you will recall there were numerous requests for the President to visit the disaster area but his schedule would not permit.

I realize the logistics problems are numerous, but I believe that such a stop would be very beneficial and the lack of the stop could be very damaging.

I have discussed this in detail with Jim Cannon and he concurs.

cc: Jim Cannon



THE WHITE HOUSE
WASHINGTON

✓
August 27, 1976

MEMORANDUM FOR:

JACK MARSH

FROM:

MAX FRIEDERSDORF *M.F.*

SUBJECT:

Teton Dam Bill

The Teton Dam legislation is scheduled to arrive at the White House about noon today. OMB is expediting the processing of the bill through the system.

Lynn May is also preparing, on a contingency basis, a backgrounder and talking points for the President.

If the President decides to stop at Teton Dam on Sunday, the bill and statement should be ready.

If not, we could schedule a signing ceremony here at the White House next week.

cc: Jim Cannon /
Jim Lynn
Bill Kendall
Charlie Leppert
Lynn May
Bob Wolthuis
Ken Hagerty

