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THE WHITE HOUSE

WASHINGTON

October 4, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: FRANK G. ZARB

FROM: JAMES E. CONNOR *JEB*

SUBJECT: Remaining Energy Independence  
Authority Issues

The President reviewed your memorandum of October 3 and approved the following:

ISSUE 1: To what extent should the Davis-Bacon Act apply to projects undertaken or funded by the EIA?

Option 3 - Include a provision in the bill stating affirmatively that the Davis-Bacon Act procedures apply to any financial assistance or other actions taken by the Authority.

ISSUE 2: Inclusion of conservation in the scope of EIA projects.

Option 2 - Authorize EIA support for only those projects that increase efficiency of energy use and production of energy and that involve only new technologies not yet commercially proven.

ISSUE 3: Inclusion of transportation facilities other than pipelines in EIA's scope.

Option 1 - Include individual transportation or transmission facilities either wholly or substantially dedicated to the movement of energy.

ISSUE 4: Restrictions on investment turnover.

Option 2 - Limit EIA's ability to "roll-over" its portfolio.

Please follow-up with appropriate action.

cc: Don Rumsfeld



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D. C. 20461

October 3, 1975

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB *FZ*

SUBJECT: REMAINING ENERGY INDEPENDENCE AUTHORITY ISSUES

Clearance of the draft bill authorizing the Energy Independence Authority during the OMB interagency review has revealed a few remaining major issues. Your guidance on these issues is necessary in order to complete the legislation and transmit the bill to the Congress in the next few days.

ISSUE 1: To what extent should the Davis-Bacon Act apply to projects undertaken or funded by the EIA?

The Davis-Bacon Act requires bidders for Federal public works projects to pay laborers and mechanics wages certified by the Secretary of Labor as equal to or greater than the prevailing rates in the relevant geographic area.

Option 1. Exempt the Authority entirely from the Davis-Bacon Act.

Pros:

- Would avoid additional Federal intrusion in the private sector with a Federal wage setting procedure criticized by many for its effects.
- Would leave the Authority's actions more analogous to that of a private corporation, whose functions are not subject to this requirement.
- Would facilitate joint financing with the private sector.
- The EIA is designed to be exempt from other Federal constraints related to public buildings and contracts.

Cons:

- Would be perceived politically as anti-labor.
- Since Federal financial assistance is involved, the rationale for the Davis-Bacon Act itself would be relevant to the Authority's operations.
- The proposal was announced before the Construction Trades Meeting and billed as a positive action towards labor.

Option 2. Provide that the Davis-Bacon Act would apply to the operations of the Authority (e.g., when it constructs a facility itself with a view to its lease or sale after construction), but the Davis-Bacon Act would not apply when the only Federal involvement is financial assistance (loans or loan guarantees) made to the private sector.

Pros:

- Would be a more modest extension of the current Federal law.
- Would not create a disincentive to private sector participation in loans and loan guarantees.
- Would be some movement to a pro-labor position.
- There is precedent for a similar provision in the General Revenue Sharing Act under which Davis-Bacon applies to operations and to financing when the Federal participation is greater than 25 percent.

Cons:

- Would not be as attractive politically to labor as a complete Davis-Bacon application.
- Would be some restriction on the latitude available to the Authority, in contrast to the absence of such a requirement with respect to private corporations.
- Would probably be extended to complete coverage by the Congress anyway.

Option 3. Include a provision in the bill stating affirmatively that the Davis-Bacon Act procedures apply to any financial assistance or other actions taken by the Authority.

Pros:

- Would be the most pro-labor politically, considerably extending the reach of the current Federal law.
- With only minor exceptions, the Davis-Bacon Act always applies fully when mentioned in a statute.
- Would assure that Federal financing is not provided for projects in which laborers are paid unconscionably low wages.
- Would give the Administration credit for what the Congress will almost certainly do anyway.

Cons:

- Could be a considerable disincentive to the private sector for participation in the financial assistance provided by the Authority.
- Would be a substantial extension of a controversial Federal law into new private sector areas.
- Would be inconsistent with the concept that the Authority would generally have the same investment latitude as a private corporation.

Decision

\_\_\_\_\_ Option 1 recommended by: Simon, Greenspan

\_\_\_\_\_ Option 2 recommended by: Morton

MR7 Option 3 recommended by: Vice President, Zarb, Lynn, Train, Dunlop, Seidman

ISSUE 2: Inclusion of conservation in the scope of EIA projects.

Some of your advisors continue to strongly support the addition of conservation in the EIA's scope. There are several possible ways conservation can be included:

Option 1. Authorize EIA to support any conservation project meeting the general EIA conditions for financial assistance such as the inability to obtain credit elsewhere, direct relationships and significant contribution to energy independence.

Pros:

- Broadest flexibility for EIA.
- Potential for significant energy savings.
- Would be politically popular and will probably be added by the Congress anyway so the Administration should get the credit.

Cons:

- Could involve a substantial portion of EIA resources.
- May be further broadened by the Congress if the legislation starts out with such flexibility.
- Could further expand EIA's intrusion into and competition with the private sector, because all industrial sectors (e.g., processes to improve efficiency of steel production) are included.

Option 2. Authorize EIA support for only those projects that increase efficiency of energy use and production of energy and that involve only new technologies not yet commercially proven.

Pros:

- Limits scope to new technologies.
- Would enable assistance to be provided for such projects as commercialization of new more efficient engines, self-contained decentralized utilities system, fluidized bed boilers, and possibly rail electrification.
- Avoids competition with all existing industrial sectors.
- Would be politically popular.

Cons:

- Could result in some additional competition with the private sector, such as in the production of new automobile engines.
- Will probably be broadened by the Congress anyway.

Option 3. Limit eligibility to those projects which increase efficiency of electricity generation or use.

Pros:

- Narrows authority to projects with the biggest near-term payoff and could result in substantial energy savings.
- Limits interference with industrial and transportation sector.
- Could support such projects as purchase by utilities of electrical storage systems, load control systems, time of day meters, or heat pumps; could also allow for rail electrification since most freight operations could be conducted in off-peak electrical periods.

Cons:

- No logical reason to restrict conservation to electric utilities.
- More flexible than allowing no conservation measures.
- Avoids known area of potential energy savings.
- Will not be as politically popular as Option 2.

Option 4. Exclude energy conservation from EIA scope.

Pros:

- Limits EIA's scope.
- Lessens competition with private sector.

Cons:

- Would be politically unpopular and would probably be added by the Congress.
- Eliminates a major contribution towards energy independence from EIA.



Decision

- WAG Option 1 recommended by: Vice President, Train, Coleman  
WAG Option 2 recommended by: Morton, Zarb, Greenspan, Seidman  
\_\_\_\_\_ Option 3 recommended by:  
\_\_\_\_\_ Option 4 recommended by: Simon, Lynn

ISSUE 3. Inclusion of transportation facilities other than pipelines in EIA's scope.

Although this issue has been brought to your attention before, Secretary Coleman feels strongly that all transportation facilities meeting the general conditions for EIA assistance be included.

Option 1. Include individual transportation or transmission facilities either wholly or substantially dedicated to the movement of energy.

Pros:

- By providing assistance only to pipelines, the EIA may tilt coal transportation decisions to slurry pipelines rather than railroad or other decisions away from waterways.
- Limits intrusion in the transportation sector.
- Providing assistance only to pipelines may shift present modes of coal transportation and add to current difficulties of railroads.
- No logical reasons for limiting to pipelines.

Cons:

- Further expansion of EIA's scope.
- There are other Federal programs available or proposed for railroads, although they may not be adequate.
- If EIA finances a production facility, related transportation facilities may be financable by the private sector.

Option 2. Limit transportation facilities to pipelines.

Pros and cons are the mirror arguments as in Option 1. Further, if this option is chosen, the pipelines under EIA's jurisdiction should be limited to major oil and gas pipelines that meet the other conditions for investment. Such a limitation would reduce unfair advantages for coal slurry pipelines over railroads.

Decision



Option 1 recommended by: Vice President, Morton, Zarb, Train, Coleman, Seidman

Option 2 recommended by: Simon, Greenspan, Lynn

ISSUE 4: Restrictions on investment turnover.

As currently drafted, the bill would permit the Authority to turn over its portfolio, realizing the proceeds of projects no longer financed by it and reinvesting in other eligible energy projects during its seven-year operating period. In effect, this could allow the Authority to invest in substantially more than \$100 billion of projects over its lifetime.

There is disagreement as to whether the \$100 billion available to the Authority for financial assistance should be "frozen," so as to only allow \$100 billion of investment, or permit the Authority to dispose of assets and reinvest the proceeds in other projects during its seven years of financial activity.

Option 1. Permit the Authority to "roll over" its portfolio without restriction.

Pros:

- Would afford great flexibility to the Authority in managing its investments, particularly in providing interim financing.
- Would provide an incentive for the rapid transfer from public to private capitalization, which is one of the key objectives of the Authority.
- Would provide the Board of Directors the flexibility necessary to make a greater energy impact.

Cons:

- Despite the initial \$100 billion figure, the extent of the Authority's leverage in the private sector could be significantly greater.
- The prospect of increasing the value of the portfolio by rolling over the Authority's investments might induce financing of lower-risk projects most likely to provide a return and be financed by the private sector.
- Effect of EIA on capital markets would be more difficult to measure as EIA could invest an indeterminate amount.

Option 2. Limit EIA's ability to "roll-over" its portfolio.

Under this option, the Authority would be able to liquidate its investments but not reinvest them. However, any gains realized on liquidation could be used to offset losses. Also require that any funds left after establishing reserves for anticipated losses must be returned to the Treasury to retire the Authority's outstanding debt and equity.

Pros:

- Assures that the total investment in energy projects does not exceed the \$100 billion ceiling.
- Provides some incentive for the Authority to liquidate profitable operations early to offset expected losses.
- No incentive to purchase less risky and easily marketable securities.

Cons:

- Does not provide the degree of flexibility that would be available to a private corporation to get more leverage.
- Reduces the potential leverage available to the Authority to accelerate capital investment in energy projects.
- May distort investment decisions.

Decision

Option 1 recommended by: Vice President

AR7

Option 2 recommended by: Morton, Zarb, Train,  
Greenspan, Simon, Lynn, Seidman

After you make these decisions, our plans are to have the legislation ready for transmittal to the Congress by Tuesday morning. We will check with you on our plans for press, Congressional, and other briefings.

THE WHITE HOUSE  
WASHINGTON

Jim -

We staffed Coleman's letter at the same time ~~we~~ sent the original up to the President --

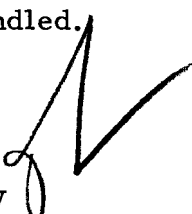
I received no comments back but when I checked

Zarb's office they said they felt that Issue 3 of Zarb's memo of 10/3 handled the Coleman matter and they would not be responding further.

Cannon of course addressed the Coleman matter in his memo

of October 3 -- which has already been to the President.

Seems to me that we can consider the Coleman matter handled.  
Do you agree?

Trudy 

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 3, 1975

MEMORANDUM

FOR: JIM CONNOR  
FROM: DON RUMSFELD

The President wanted to make sure the people who were working on the EIA options are aware of the Coleman letter. Would you please see that that happens.

Attachment

A handwritten signature in black ink, appearing to read "Don", is located to the right of the "Attachment" text. The signature is written in a cursive style with a long, sweeping tail.

THE WHITE HOUSE

WASHINGTON

September 30, 1975

MR PRESIDENT:

Secretary Coleman indicated that he promised to have his comments on the EIA to you before you left this afternoon. Accordingly I am forwarding them to you.

I have given copies to Frank Zarb, Jim Lynn, Jim Cannon and Alan Greenspan for their comments.

Jim Connor



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

September 30, 1975

The President  
The White House  
Washington, D. C. 20500

Dear Mr. President:

I have reviewed the September 27 draft of the "Energy Independence Authority Act of 1975" and note that transportation, transmission and conservation have been deleted from the categories of projects eligible for financial assistance and eligibility has been narrowed to transportation by pipeline. I understand that the change reflects a compromise decision between those who wanted a narrow scope for corporation financial assistance and those who preferred a broader charge.

For the reasons summarized below, I think the change unwise and strongly urge inclusion of language permitting assistance to more than one transportation mode and for energy conservation projects.

First, it is wrong to permit financial assistance for pipelines but not other forms of transportation. One result, for example, will be to "tilt" in favor of coal transmission by slurry pipeline rather than railroad, even though unit trains may be better candidates for aid because track is already present, track upgrading may be less costly than new pipeline construction, and it is difficult to attract private sector financing.

Railroads presently haul 78 percent of all coal and such transport accounts for 19 percent of total rail traffic. Pipeline transportation for coal is less well developed than other methods and in certain cases may be the most advantageous means, but permitting massive financial assistance to pipelines and not to railroads creates an imbalance: railroads may be unable to secure financing to upgrade lines to move coal, but pipelines will have a ready source of capital -- without regard to which mode is the more efficient in a given case.



No justification, save as a handle for a compromise, has been heard for this distinction. It seems arbitrary, irrational and injurious to the achievement of a sound national transportation policy. Of course, the corporation is emphasizing development of new energy production, but to finance only newer forms of transportation implies that existing forms are either less efficient or doing well enough to take care of themselves. This is hardly true in the case of railroads. Nor are alternate sources of government financial assistance to the railroads necessarily adequate. Project Independence estimated that added coal flows will necessitate roadbed upgrading and more than \$1 billion for track and facility improvements, most of which will be spent for rolling stock. Expected government assistance will be neither focused nor sufficient to support investment of that magnitude without impairing other urgently needed rehabilitation projects.

The bill's imbalance is not restricted to railroads. Waterways carry about 15 percent of the coal production and 44 percent of the petroleum and petroleum products. While almost 57 percent of oil is moved by pipeline, the restriction in the bill eliminates waterway transportation, which carries almost half our petroleum, from eligibility for assistance. Again, there seems to be no logical justification for the discrimination.

In short, assuming some aid to transportation will be given by the corporation, restricting the funds to pipelines may have the result of replacing existing modes with newer but not necessarily more efficient ones, and thereby further aggravating the financial problems of railroads. Whatever the energy goals of the corporation, this hardly seems to be sound or flexible transportation policy.

Second, financial assistance for energy conservation projects should be permitted. Transportation, for example, uses about half the petroleum consumed nationally and one-fourth the total energy consumed. You have recognized the importance of energy conservation in the automotive and bus fuel economy program and other programs. Yet elimination of conservation projects would preclude assistance for such projects as rail electrification, production of fuel-saving devices for vehicles, and possibly support for mass transportation

programs. I understand, for example, that many countries in Western Europe are electrifying their rail systems. A number of our freight railroads could similarly benefit from the operating and energy efficiencies resulting from electrification of heavily used lines. Since the bulk of such freight operations could be conducted in periods when the demand for electricity is not at its peak, the required increase in electrical generation capacity would be negligible.

Clearly, energy conservation activities are critically important to the achievement of energy independence. Again, then, the exclusion seems an arbitrary narrowing of the scope of the corporation's activities. I believe that such projects merit the support of a corporation mandated to help achieve energy independence and I urge reinsertion of language permitting such aid.

Finally, for any assistance given for transportation, I believe that Presidential review (eliminated in the September 27 draft) should be retained. If Presidential review is not possible, the Department of Transportation should be consulted to ensure that the corporation's decisions are consistent with national transportation policy.

I believe the changes -- actually restorations -- I have suggested would contribute to a balanced approach which in my view is essential to creating an Energy Independence Authority which has maximum effect. In its present form, however, the bill would seriously undermine the development of a sound national transportation policy and would impair realization of the bill's energy independence goals.

Respectfully,



William T. Coleman, Jr.

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

October 3, 1975

*ART*

MEMORANDUM FOR: JIM CONNOR  
FROM: JIM CANNON ✓  
SUBJECT: Coleman Letter re: Energy Independence Authority Act

Secretary Coleman has expressed concern that the final draft of the "Energy Independence Authority Act of 1975" deleted transportation transmission and conservation from its eligibility categories but did include pipeline transmission. Coleman's position is: (a) transportation should be included and, (b) its eligibility should eliminate pipelines to avoid a tilt in favor of coal transmission through pipelines rather than railroads.

Coleman attended a meeting with Frank Zarb and others on October 1 to discuss this issue. As a result, it was agreed (a) that Coleman's position on pipelines was correct and, (b) that the issue of including or excluding transportation in the Act would be placed before the President in a forthcoming issue paper being developed by FEA.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 30, 1975

Time:

FOR ACTION:

cc (for information):

Jim Cannon  
Alan Greenspan  
Jim Lynn  
Frank Zarb

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 3

Time: 12 Noon

SUBJECT:

Letter of September 30 from Secretary  
Coleman regarding the Energy Independence  
Authority Act of 1975

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

The Original of this letter was given to the President  
today with the notation that we would have your comments  
for him later this week.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a  
delay in submitting the required material, please  
telephone the Staff Secretary immediately.

Jim Connor  
For the President

September 30, 1975

MR PRESIDENT:

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THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

10/1/75

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The White House  
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Railroads presently haul 78 percent of all coal and such transport accounts for 19 percent of total rail traffic. Pipeline transportation for coal is less well developed than other methods and in certain cases may be the most advantageous means, but permitting massive financial assistance to pipelines and not to railroads creates an imbalance: railroads may be unable to secure financing to upgrade lines to move coal, but pipelines will have a ready source of capital -- without regard to which mode is the more efficient in a given case.

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Respectfully,



William T. Coleman, Jr.