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THE WHITE HOUSE

WASHINGTON

July 30, 1976

MEMORANDUM FOR:

MARTIN R. HOFFMANN,  
THE SECRETARY OF THE ARMY

RUSSELL E. TRAIN, ADMINISTRATOR,  
ENVIRONMENTAL PROTECTION AGENCY

FROM:

JIM CONNOR

At the direction of the President, I am forwarding a copy of his letter of July 30, 1976, to Secretary Butz concerning Section 404 of the Federal Water Pollution Control Act.

Attachment

JULY 30, 1976

Office of the White House Press Secretary

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THE WHITE HOUSE

July 30, 1976

Dear Mr. Secretary:

The Congress is now evaluating Section 404 of the Federal Water Pollution Control Act under which the Army Corps of Engineers regulates dredge and fill activities. I have directed a 60-day delay in any expansion of Corps permit jurisdiction to accommodate this Congressional review.

In promulgating the regulations under this authority, we have sought -- to the maximum extent permissible under existing law -- to exempt agricultural and forestry activities. To the same end, we shall urge the Congress, in reconsidering this program, to provide an exemption for all lands currently used for farming, ranching and forestry as long as such use continues.

I believe such an exemption provides an appropriate balance between the need to protect the Nation's waters and wetlands and the need for production of food, fiber and forest products. Accordingly, I ask that you, as the Administration's spokesman for producers of these essential commodities, join with the Secretary of the Army and the Administrator of the Environmental Protection Agency in urging the Congress to enact such an exemption.

Sincerely,


GERALD R. FORD

The Honorable Earl L. Butz  
Secretary of Agriculture  
Washington, D.C. 20250

THE WHITE HOUSE  
WASHINGTON

DATE: July 30, 1976

TO: JIM CONNOR

FROM: JIM CAVANAUGH 

SUBJ:

FYI \_\_\_\_\_

ACTION  X



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: James M. Cannon  
Assistant to the President  
for Domestic Affairs *JMC*

Paul H. O'Neill  
Deputy Director  
Office of Management and Budget *OH*

SUBJECT: Army Corps of Engineers Dredge and Fill  
Authority under Section 404 of the  
Federal Water Pollution Control Act

Your decision to support the broadest geographical jurisdiction by the Corps of Engineers over dredge and fill activities has now been transmitted to the Congress.

In general, this position has been favorably received -- especially by environmentalists (see Tab A). However, we are concerned that your decision to support exemption of current agricultural and forest activities has not been effectively communicated to those who are engaged in such activities. In particular, we were distressed that the Senate Committee on Public Works did not ask for testimony from the Department of Agriculture.

Accordingly, we recommend that you sign the attached letter (Tab B) to Secretary Butz which underlines your concerns. The letter will serve as an effective vehicle for Secretary Butz and others to make your position known to interested persons. It has been approved by Army, Agriculture and EPA.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

*original given to Bob Linder  
for dispatch 7/31/76.  
BBZ*

## FORD FOR CONTROL OF ALL U.S. WATERS

### Supports Environmentalist Stand on Interpreting Antipollution Law

Special to The New York Times

WASHINGTON, July 28—The Ford Administration, adopting a position close to that of environmentalists, has announced it supports a broad jurisdictional interpretation of the Water Pollution Control Act of 1972.

Four spokesmen for the Administration, including Russell E. Train, the administrator of the Environmental Protection Agency, disclosed the newly articulated policy in testimony at a hearing last night of the Senate Public Works Committee.

The Administration and environmental groups, led by the Natural Resources Defense Council, support Government protection by a permit program of "all waters" of the United States, including wetlands, marshes, swamps and non-navigable streams and tributaries. The Army Corps of Engineers would administer the program, designed to control draining, dredging and filling of these areas.

But the Senate committee is considering an amendment to the law that would restrict Government jurisdiction to "navigable waters," defined as a "means to transport interstate or foreign commerce" or as "waters which are subject to the ebb and flow of the tide."

#### Limitation of Control

These provisions would remove as much as 75 percent of the nation's 80 million acres of wetlands from Federal protection, according to the Natural Resources Defense Council.

The House of Representatives has already approved a similar limitation on Government jurisdiction, in an amendment offered by Representative Jim Wright, Democrat of Texas, which was adopted on June 3.

The advocates of Government control acknowledged that the law did not specifically grant broad jurisdiction, but they argued that its general mandate, applying to "all waters of the United States," provided the basis for such authority.

This mandate, according to Mr. Train, was further strengthened because "several Federal courts have endorsed the wisdom, and constitutionality, of this committee's observation that: 'water moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.'"

The Administration and the environmentalists said that broad control was necessary because of the interdependent nature of water systems. "Dredged and fill material can physically destroy essential parts" of these systems, Mr. Train said.

#### Regulation of Farming

Senator Edmund S. Muskie, a member of the Public Works Committee who had helped draft the original law, accepted the need for maintaining the quality of the nation's water. But he objected to the methods used by the Corps of Engineers.

During the hearing, the Maine Democrat said that the corps, since initiating its expanded program last summer, had created "a permit system we never envisaged, covering activities we never had in mind."

Mr. Muskie and several other committee members expressed their constituents' concern that broad interpretation of the law, if taken to an extreme, could result in Federal regulation of normal farming activities, such as plowing, harvesting, and the creation of stock and feed ponds.

The spokesmen for the Administration disputed this, saying that their goal was to regulate dredging and filling that had a "significant impact," and that this excluded small farms.

The Administration proposed to give the corps discretionary authority, allowing it to exempt from permit regulations areas currently in agricultural use, normal agricultural and forestry activities and other activities "with minimal impact."

On the issue of exemptions, the Natural Resources Defense Council's environmental lobby took exception to the Administration's position, asserting that it might create a loophole allowing large industrial and commercial concerns to develop the wetlands without Government control.

Ron Outen, a member of that lobby, said in an interview today that the "little farmers" were being used as "pawns of big agribusiness and the people who want to gobble up the wetlands."

In spite of that objection, Mr. Outen said, the environmental lobby was "pleased and encouraged" by the Administration's position, which, he said, "maintains the concept that all waters are connected."

The White House press office said today that the Government representatives at the hearing spoke "with the President's complete endorsement."

THE WHITE HOUSE

WASHINGTON

July 30, 1976

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Sincerely,



The Honorable Earl L. Butz  
Secretary of Agriculture  
Washington, D.C. 20250