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APPROVED
OCT 29 1974

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day - October 29

October 26, 1974

Posted 10/29

*To Archives
10/30*

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN *COLE*
SUBJECT: Enrolled Bill H.R. 7780
Extension of duty suspension on
certain silk yarns

Attached for your consideration is H.R. 7780, sponsored by Representative Sikes, which:

- continues through November 7, 1975 the suspension of duty on certain classifications of yarns of silk;
- contains riders pertaining to the tax treatment of trona ore decarbonation and the Federal excise tax on wagers.

Additional information is provided in Roy Ash's enrolled bill report (Tab A).

Arguments for Veto

OMB and Treasury strongly recommend veto because of an unacceptable tax rider (section 2) which would qualify a non-mining activity - the decarbonation of trona ore - for a 14 percent depletion allowance, retroactively to 1971. They state that reopening the depletion allowance door would undermine the Administration efforts during the past several years to delineate the distinction between mining and manufacturing processes. It is estimated that this would reduce Federal revenues by about \$2 million annually.

Arguments for Signing

Interior approves of this favorable tax treatment. They feel it is in accord with the Mining and Minerals Policy Act of 1970 which declares it to be a policy of the Federal Government

No statement



"to foster and encourage private enterprise in the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries..."

Bill Timmons states that the rider to which OMB and Treasury object is one offered by Senator Hansen to which he attaches great importance. "The Senator has been working on it for years and it would be a slap in his face for this bill to be vetoed." Additionally, Bill feels this is a minor issue and since we are looking at other vetoes the President should accept the decision of Congress.

Recommendations and Decision

_____ Sign H.R. 7780 (Tab B)

Interior
Timmons
Cole

_____ Veto H.R. 7780 (Sign
veto statement Tab C)

Treasury
OMB
CEA
Counsel's Office (Areeda)

APPROVED
OCT 29 1974

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

OCT 25 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7780 - Extension of duty suspension
on certain silk yarns
Sponsor - Rep. Sikes (D) Florida

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Continues through November 7, 1975 the suspension of duty on certain classifications of yarns of silk; and contains riders pertaining to the tax treatment of iron ore decarbonation and the Federal excise tax on wagers.

Agency Recommendations

Office of Management and Budget	Disapproval (veto message attached)
Department of the Treasury	Disapproval (veto message attached)
Council of Economic Advisers	Disapproval (Informally)
Department of Justice	No objection (section 3)
Office of the Special Representative for Trade Negotiation	No objection (section 1)
Department of Commerce	No objection
Department of State	No objection
Department of Labor	No objection
Department of the Interior	Approval

Discussion

The enrolled bill contains the following provisions:

Duty suspension on silk yarns (section 1)

The duty on spun silk yarn was suspended, by a series of laws, from 1959 until November 7, 1973. Since there was no domestic

production, this duty-free treatment was extended to provide economic benefits to United States producers of fabrics using this yarn. Since circumstances have not changed, H.R. 7780 is designed to provide similar duty-free treatment for spun silk yarn imports until November 7, 1975. Under provisions of the bill duty-free status would be accorded silk yarn imports entering between November 7, 1973 and the date of enactment.

Tax treatment of trona ore decarbonation (section 2)

This provision would treat the decarbonation of trona ore (which is used principally in making glass and cement) as an "ordinary treatment process" related to mining, thereby allowing percentage depletion on trona (at the rate of 14 percent) based on the value of soda ash extracted from it.

Under the Internal Revenue Code, any percentage depletion allowance on property other than oil or gas wells must be based upon "gross income from mining." The term "mining" for this purpose includes not only the extraction of the ores or minerals from the ground, but also certain "ordinary treatment processes." Prior to 1960, the latter term was described in the Code as processes normally applied by mine owners or operators to extracted ores or minerals in order to obtain the commercially marketable product.

In the case of trona, the first commercially marketable product is soda ash. According to the report of the Senate Finance Committee (hereafter "the Committee report") on H.R. 7780, the decarbonation of trona to produce the higher-value soda ash was held under the pre-1960 law to qualify as an "ordinary treatment process" and accordingly eligible for the 14 percent depletion allowance.

In 1960, however, Public Law 86-564 eliminated the previous description of treatment processes and substituted an exclusive specific list of the ordinary treatment processes which are to be considered as mining. This list did not contain trona decarbonation; moreover, the 1960 amendment contained a provision setting forth the treatment processes not considered as mining, and decarbonation (in general, unspecified as to particular ores or minerals) was included in this category.

The Committee report states that:

- from 1960 to 1971 Treasury treated the 1960 amendment as not prohibiting percentage depletion for decarbonation of soda ash in the specific case of trona;
- it is only since 1971, with the issuance of Treasury regulations on the subject, that Treasury has disallowed trona decarbonation as an ordinary treatment process and thus ineligible for percentage depletion; and
- Treasury now maintains that its position between 1960 and 1971 was incorrect but that they will "grandfather" trona decarbonation as an ordinary treatment process for all years through 1970.

H.R. 7780 would accordingly reopen the percentage depletion allowance to trona decarbonation, retroactively to 1971. The Committee report estimates that this would reduce Federal revenues by about \$2 million annually.

Treasury communicated its objection to such a provision in letters to Senator Russell Long and Congressman Ullman in October 1973; and to the conference committee on H.R. 7780. The Department's main argument was that the decarbonation process changes the chemical composition of the trona compound which, under current law, is considered a manufacturing process rather than a mining process.

Wagering tax amendments (section 3)

This section would:

- reduce the Federal excise tax on wagers from 10 percent to 2 percent as of December 1, 1974;
- increase from \$50 to \$500 the annual occupational tax imposed on persons liable for the wagering tax and on persons engaged in receiving wagers, as of December 1, 1974; and
- clarify certain ambiguities of existing law by limiting explicitly the disclosure and use of information pertaining to taxpayer compliance with Federal wagering taxes. In general, it would prohibit Treasury officials from disclosing, except in connection with the administration or

enforcement of the tax laws, information from any document or record supplied by a taxpayer in connection with wagering taxes. Such documents or information contained therein could not be used against taxpayers in any criminal proceeding, except in the administration or enforcement of the tax laws.

The Administration did not have an opportunity to comment to the Congress on these wagering tax amendments during the legislative development of H.R. 7780, but would not have opposed them.

In its views letter on the enrolled bill, Treasury explains its veto recommendation as follows:

"...Basically, our position is that decarbonation is equivalent to the manufacturing processes of 'calcining,' 'thermal action' and other 'treatments effecting a chemical change' which are specifically excluded from mining processes under section 613(c) (5) of the Internal Revenue Code. To distinguish between eligible mining processes and ineligible manufacturing processes, we believe it is necessary to maintain the statutory test based on whether or not the processes produce a chemical change in the ore or mineral. This bill would seriously distort the existing clear line and set a bad precedent.

"Once the line is broken, we believe others will seek similar treatment in order to obtain consistent treatment with trona. We understand there is already pressure building for similarly expanding the depletable base for low-grade bauxite.

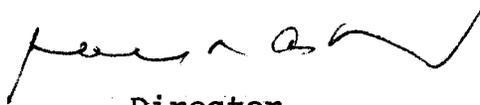
"We have considered countervailing factors in terms of approval or disapproval of the bill. One is the suggestion by Senator Hansen of Wyoming (where most trona is mined) that, without the bill, the investment return of soda ash manufacturers would be so low they would be forced out of business. The Department believes that this is not a realistic evaluation. The conclusion is reinforced by the fact that with the knowledge that under current law the Internal Revenue Service would not include decarbonation as a mining process, Texas Gulf Corporation is investing \$75 million in a Wyoming plant which will use that process."

Recommendation

We believe that H.R. 7780 should be vetoed on the grounds that:

- section 2 would establish a highly undesirable precedent by reopening the depletion allowance door to a process which, at least since 1971, has been determined to be a nonmining activity;
- it would undermine the Administration's efforts during the past several years to delineate the distinction between mining and manufacturing processes; and, if this distinction is not maintained, it will be difficult to resist claims by others for similar treatment for cement, bauxite, gypsum, certain limestones and other materials; and
- the remaining provisions of the bill (regarding the duty suspension on silk yarns and the wagering tax amendments) could be reenacted by the Congress before the end of this session or early next session.

We have prepared the attached draft of a veto message for your consideration, which follows the same basic reasoning as Treasury's draft, but omits mention of Treasury's concern with the wagering tax applying to State lottery officials.



Director

Enclosures

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

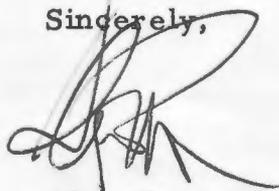
October 24, 1974

Dear Mr. Rommel:

This is in response to your request for the Council of
Economic Advisers' comments on H. R. 7780.

It is our view that Section 2(a) of the Bill would create
a gross distortion of the depletion allowance provision of the
Internal Revenue Code. We therefore recommend that the
President veto the Bill.

Sincerely,



Alan Greenspan

Mr. Wilfred H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503



RECEIVED

RECEIVED

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

OCT 25 1974

Honorable Roy Ash
Director, Office of Management
and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to the request of your Office on the enrolled enactment of H.R. 7780, "To extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes." This Department would have no objection to the President's approval of this measure from the standpoint of its provisions relating to the extension of the existing suspension of duties referred to above.

The Department defers to the Department of the Treasury regarding views on section 2 of the enrolled enactment which would amend section 613(c) (4) (E) of the Internal Revenue Code of 1954 (relating to treatment processes considered as mining) and section 3 concerning wagering tax amendments.

Sincerely,



Secretary of Labor

RECEIVED

TO THE HOUSE OF REPRESENTATIVES:

I am withholding my approval of H.R. 7780, to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill would amend the Tariff Schedules of the United States by providing duty-free treatment for spun silk yarn imports through November 7, 1975. It would also make certain amendments with respect to the imposition of tax on wagers and the disclosure of wagering tax information.

Unfortunately, the Congress attached to these desirable provisions an unacceptable tax rider which would qualify a non-mining activity -- the decarbonation of trona ore -- for a 14 percent depletion allowance, retroactively to 1971.

Under the tax law, any percentage depletion allowance on property other than oil or gas wells must be based upon "gross income from mining." Until several years ago, the extraction of soda ash ("decarbonation") from trona ore was determined to be a mining activity eligible for percentage depletion allowance.

Since 1971, with the issuance of Treasury regulations on this subject, the decarbonation of trona has been considered a non-mining process and accordingly ineligible for a percentage depletion allowance. This is because the decarbonation process changes the chemical composition of the trona compound which, under current law, is considered a manufacturing process rather than a mining process.

By retroactively reopening the percentage depletion allowance to trona decarbonation, therefore, H.R. 7780 would undermine the efforts of the government during the past several years to delineate the distinction between mining and manufacturing processes. Unless this distinction is maintained, the equitable administration of our tax laws will be further hampered.

If the Congress were to reenact this bill without the trona ore amendment, I would be pleased to approve it.

THE WHITE HOUSE,

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 717

Date: October 25, 1974

Time: 5:30 p.m.

FOR ACTION: ✓ Geoff Shepard
Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Saturday, October 26, 1974

Time: 9:00 a.m.

SUBJECT: Enrolled Bill H.R. 7780 - Extension of duty
suspension on certain silk yarns

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing
or call in your recommendation or comments
to Warren Hendriks on ext. 6570.

Thank you.

*OBE -
we will ret.*

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.

Warren K. Hendriks
For the President

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

OCT 25 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7780 - Extension of duty suspension
on certain silk yarns
Sponsor - Rep. Sikes (D) Florida

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Continues through November 7, 1975 the suspension of duty on certain classifications of yarns of silk; and contains riders pertaining to the tax treatment of trona ore decarbonation and the Federal excise tax on wagers.

Agency Recommendations

Office of Management and Budget	Disapproval (veto message attached)
Department of the Treasury	Disapproval (veto message attached)
Council of Economic Advisers	Disapproval (Informally)
Department of Justice	No objection (section 3)
Office of the Special Representative for Trade Negotiation	No objection (section 1)
Department of Commerce	No objection
Department of State	No objection
Department of Labor	No objection
Department of the Interior	Approval

Discussion

The enrolled bill contains the following provisions:

Duty suspension on silk yarns (section 1)

The duty on spun silk yarn was suspended, by a series of laws, from 1959 until November 7, 1973. Since there was no domestic

To: Sharon Hendricks
10-25-74
4:30 p.m.

Veto

We assume that the form of this message including the title and the first paragraph, will be revised to conform with the approach taken in the veto message on H.R. 11541--the National Wildlife Refuge System, dated October 22, 1974.

TO THE HOUSE OF REPRESENTATIVES

I am returning without my approval H.R. 7780, "To extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes."

This bill would amend the Tariff Schedules of the United States by providing duty-free treatment for spun silk yarn imports through November 7, 1975. It would also make certain amendments with respect to the imposition of tax on wagers and the disclosure of wagering tax information.

Unfortunately, the Congress attached to these desirable provisions an unacceptable tax rider which would qualify a nonmining activity -- the decarbonation of trona ore -- for a 14 percent depletion allowance, retroactively to 1971.

Under the tax law, any percentage depletion allowance on property other than oil or gas wells must be based upon "gross income from mining." Until several years ago, the extraction of soda ash ("decarbonation") from trona ore was determined to be a mining activity eligible for percentage depletion allowance.

Since 1971, with the issuance of Treasury regulations on this subject, the decarbonation of trona has been considered a nonmining process and accordingly ineligible for a percentage depletion allowance. This is because the decarbonation process changes the chemical composition of the trona compound which, under current law, is considered a manufacturing process rather than a mining process.

By retroactively reopening the percentage depletion allowance to iron decarbonation, therefore, H.R. 7780 would undermine the efforts of this Administration during the past several years to delineate the distinction between mining and manufacturing processes. Unless this distinction is maintained, the equitable administration of our tax laws will be further hampered.

If the Congress were to reenact this bill without the iron ore amendment, I would be pleased to approve it.

THE WHITE HOUSE

October , 1974

TO THE HOUSE OF REPRESENTATIVES:

I am withholding my approval of H.R. 7780, to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill would amend the Tariff Schedules of the United States by providing duty-free treatment for spun silk yarn imports through November 7, 1975. It would also make certain amendments with respect to the imposition of tax on wagers and the disclosure of wagering tax information.

Unfortunately, the Congress attached to these desirable provisions an unacceptable tax rider which would qualify a non-mining activity -- the decarbonation of trona ore -- for a 14 percent depletion allowance, retroactively to 1971.

Under the tax law, any percentage depletion allowance on property other than oil or gas wells must be based upon "gross income from mining." Until several years ago, the extraction of soda ash ("decarbonation") from trona ore was determined to be a mining activity eligible for percentage depletion allowance.

Since 1971, with the issuance of Treasury regulations on this subject, the decarbonation of trona has been considered a non-mining process and accordingly ineligible for a percentage depletion allowance. This is because the decarbonation process changes the chemical composition of the trona compound which, under current law, is considered a manufacturing process rather than a mining process.

By retroactively reopening the percentage depletion allowance to trona decarbonation, therefore, H.R. 7780 would undermine the efforts of the government during the past several years to delineate the distinction between mining and manufacturing processes. Unless this distinction is maintained, the equitable administration of our tax laws will be further hampered.

If the Congress were to reenact this bill without the trona ore amendment, I would be pleased to approve it.

THE WHITE HOUSE,

PLEASE RETURN TO:
RESEARCH
ROOM 121 E. O. B.

TO THE HOUSE OF REPRESENTATIVES

I am ~~returning without~~ ^{withholding} my approval ^J H.R. 7780, ^C to extend
for an additional temporary period the existing suspension of
duties on certain classifications of yarns of silk, and for
other purposes. ^W Insert A

This bill would amend the Tariff Schedules of the United States by providing duty-free treatment for spun silk yarn imports through November 7, 1975. It would also make certain amendments with respect to the imposition of tax on wagers and the disclosure of wagering tax information.

Unfortunately, the Congress attached to these desirable provisions an unacceptable tax rider which would qualify a nonmining activity -- the decarbonation of trona ore -- for a 14 percent depletion allowance, retroactively to 1971.

Under the tax law, any percentage depletion allowance on property other than oil or gas wells must be based upon "gross income from mining." Until several years ago, the extraction of soda ash ("decarbonation") from trona ore was determined to be a mining activity eligible for percentage depletion allowance.

Since 1971, with the issuance of Treasury regulations on this subject, the decarbonation of trona has been considered a nonmining process and accordingly ineligible for a percentage depletion allowance. This is because the decarbonation process changes the chemical composition of the trona compound which, under current law, is considered a manufacturing process rather than a mining process.

TO THE HOUSE OF REPRESENTATIVES:

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

While this legislation has certain worthy objectives, it contains so many objectionable and inequitable features that I cannot give it my approval.

The bill would, first of all, make major changes in the Randolph-Sheppard Act under which for many years preference has been given to blind persons to operate vending facilities on Federal property. H.R. 14225 seeks to correct certain criticisms which have been made by the blind vendors about the operation of the act. However, the bill goes too far and would in fact create new inequities.

All net receipts and commission income from vending machines on Federal properties operated in direct competition with blind vendors (except for military exchanges and the Veterans Canteen Service) would have to be assigned to licensed blind vendors or their State licensing agencies. Half of such income would have to be assigned in the case of machines not in direct competition with the vendors.

By retroactively reopening the percentage depletion allowance to trona decarbonation, therefore, H.R. 7780 would undermine the efforts of ^{the government} ~~this Administration~~ during the past several years to delineate the distinction between mining and manufacturing processes. Unless this distinction is maintained, the equitable administration of our tax laws will be further hampered.

If the Congress were to reenact this bill without the trona ore amendment, I would be pleased to approve it.

hate
this Administration has only been in 2 1/2 months.

THE WHITE HOUSE

October 1974

October 17, 1974

Dear Mr. Director:

The following bills were received at the White House on October 17th:

- | | | | |
|-----------------|-------------|--------------|--------------|
| S.J. Res. 236 ✓ | S. 2840 ✓ | H.R. 7768 ✓ | H.R. 14225 ✓ |
| S.J. Res. 250 ✓ | S. 3007 ✓ | H.R. 7780 ✓ | H.R. 14597 ✓ |
| S.J. Res. 251 ✓ | S. 3234 ✓ | H.R. 11221 ✓ | H.R. 15148 ✓ |
| S. 355 ✓ | S. 3473 ✓ | H.R. 11251 ✓ | H.R. 15427 ✓ |
| S. 605 ✓ | S. 3698 ✓ | H.R. 11452 ✓ | H.R. 15540 ✓ |
| S. 628 ✓ | S. 3792 ✓ | H.R. 11830 ✓ | H.R. 15643 ✓ |
| S. 1411 ✓ | S. 3838 ✓ | H.R. 12035 ✓ | H.R. 16857 ✓ |
| S. 1412 ✓ | S. 3979 ✓ | H.R. 12281 ✓ | H.R. 17027 ✓ |
| S. 1769 ✓ | H.R. 6624 ✓ | H.R. 13561 ✓ | |
| S. 2348 ✓ | H.R. 6642 ✓ | H.R. 13631 ✓ | |

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.