Case Number: 2016-0152-F

FOIA MARKER

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Folder Title: Chron File - April 1994 #2 [1]				
Staff Office-Individual: Defense Policy-Bell, Robert				
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Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Lynn Davis et al. Subject: Change in Meeting Place and Time. (2 pages)	04/18/1994	P1/b(1)
002. letter	[Stanley R. Arthur] [Personally Identifiable Information] [partial] (1 page)	03/16/1994	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 264

FOLDER TITLE:

Chron File - April 1994 #2 [1]

2016-0152-F
vz4565

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 18, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ~~ROBERT G. BELL~~ RGB

FROM: STEVEN R. JONES SJ

SUBJECT: NASA Draft Bill RE: NASA Authorizations (LRM #D-710)

OMB has requested NSC views on the attached draft NASA Authorization bill for FY 1995. The draft bill authorizes appropriations of $14.3 billion for FY 1995. I have discussed the bill with OMB budget analysts and have no objections.

Concurrence by: Jeremy Rosner

RECOMMENDATION

That you sign the memo at Tab I.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: NASA Draft Bill RE: NASA Authorizations (LRM #D-710)

The NSC staff has no objections to the draft NASA Authorization bill.

2766
39 pages total

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

April 11, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-710
DRAFT #535

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3151 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
EDUCATION - John Kristy - (202)401-2670 - 207
ENERGY - Bob Rabben - (202)586-6718 - 209
HHS - Frances White - (202)690-7760 - 328
HUD - Edward J. Murphy, Jr. - (202)708-1793 - 215
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
LABOR - Robert A. Shapiro - (202)219-8201 - 330
STATE - Julia C. Norton - (202)647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
EPA - Thomas C. Roberts - (202)260-5414 - 326
GSA - William R. Ratchford - (202)501-0563 - 237
NEC - Sonyia Matthews - (202)456-6722 - 429
NSC - William H. Itoh - (202)395-3723 - 249
NSF - Lawrence Rudolph - (703)306-1060 - 248
OPM - James N. Woodruff - (202)606-1424 - 331
OSTP - Roselis D'Allessandro - (202)456-6011 - 288
SBA - Kris Swedin - (202)205-6702 - 315
USTR - Fred Montgomery - (202)395-3475 - 223
OGE - Jane Ley - (202)523-5377 - 261

FROM: JAMES J. JUKES (for) JJ
Assistant Director for Legislative Reference

OMB CONTACT: Jeffrey WEINBERG (395-3457)
Secretary's line (for simple responses): 395-3454
Steve ISAKOWITZ (395-3807)

SUBJECT: NASA Draft Bill NASA Authorizations

DEADLINE: NOON April 18, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Greg Simon
John Kamensky
C. Walden
Donsia Strong
C. Cerda
Kathy Peroff
Jack Fellows
Steve Isakowitz
Bruce Campbell
Memphis Norman
Sarah Horrigan
Bob Damus
Bill Coleman, OFPP
Barry White
Ed Rea
Brad Kyser
Jim Brown
Chuck Kieffer
Jon Baker, CEA

LRM #D-710

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Jeffrey WEINBERG
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3457
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: NASA Draft Bill NASA Authorizations

The following is the response of our agency to your request for views on the above-captioned subject:

_______ Concur

_______ No objection

_______ No comment

_______ See proposed edits on pages _______

_______ Other: _______

_______ FAX RETURN of _____ pages, attached to this response sheet

National Aeronautics and
Space Administration
Office of the Administrator
Washington, DC 20546-0001

Draft #535

APR 7 1994

The Honorable Leon E. Panetta
Director
Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Dear Mr. Panetta:

In accordance with Circular No. A-19, I am forwarding for Office of Management and Budget coordination and advice 25 copies of a proposed bill for FY 1995, "To authorize appropriations to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and Inspector General; and for other purposes," a draft sectional analysis thereof, and draft letters for transmitting the proposed bill to the House and Senate.

The proposed authorization bill includes a revised appropriations structure, developed in close coordination with your office. This new structure provides distinct, comprehensive budgetary authority for NASA's human space flight programs and science, aeronautics, and technology programs.

With the exception of the appropriations categories, the proposed authorization bill generally follows the format of the FY 1994 NASA authorization legislation submitted to the Congress in May 1993.

The enclosed draft letter of transmittal to the Congress discusses differences between the proposed bill and the FY 1994 NASA authorization as proposed by the Administration.

The National Performance Review directed NASA to "develop a legislative proposal to amend its authorizing legislation in a manner which would allow for the temporary (five years) denial of FOIA requests for certain types of technical data." The National Performance Review directed NASA to work with the Justice Department, the Commerce Department's Patent and Trademark Office, and the Office of the United States Trade Representative prior to submitting the proposal to Congress. Therefore, NASA has prepared Section 203, "Protection of Commercially Valuable Information," to initiate these discussions.

If we may be of assistance to you during your coordination of this package, please let us know.

Sincerely,

Daniel S. Goldin
Administrator

3 Enclosures
(25 copies)

DRAFT
For coordination
and advice

Honorable Albert Gore
President of the Senate
Washington, DC 20510

Honorable Thomas S. Foley
Speaker of the House of
Representatives
Washington, DC 20515

Dear Mr. President:

Dear Mr. Speaker:

Submitted herewith is a draft bill, "To authorize appropriations to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and Inspector General; and for other purposes," together with the sectional analysis thereof.

Section 4 of the Act of June 15, 1959, 73 Stat. 75 (42 U.S.C. 2460), provided that no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation. It is a purpose of the enclosed bill to provide such requisite authorization in the amounts and for the purposes recommended in the President's budget for FY 1995. For that fiscal year, the bill would authorize appropriations totaling $14,300,000,000, to be made to the National Aeronautics and Space Administration as follows:

(1) for "Human space flight," amounts totaling $5,719,900,000;

(2) for "Science, aeronautics, and technology," amounts totaling $5,901,200,000;

(3) for "Mission support," amounts totaling $2,662,900,000; and

(4) for "Inspector General," amounts totaling $16,000,000.

The last section of Title I of the draft bill provides that the bill, upon enactment, may be cited as the "National Aeronautics and Space Administration Authorization Act, 1995."

The proposed authorization bill includes a revised appropriations structure, developed in close coordination with the Office of Management and Budget. The appropriation provides for human space flight activities, including development of the Space Station, and operation of the Space Shuttle. This includes support of planned cooperative activities with Russia, upgrades to the performance and safety of the Space Shuttle and required construction projects in direct support of Space Station and Space Shuttle programs. The appropriation for science, aeronautics, and technology provides for the research and development activities of NASA. Funds are included for high priority investments in Mission to Planet Earth, aeronautics, and new technology investments. Funds are included for the construction, maintenance, and operation of associated programmatic facilities. The appropriation for mission support provides for safety, reliability and quality assurance activities supporting agency programs; space communication services for NASA programs; salaries and related expenses in support of research at NASA field installations; design, repair, rehabilitation and modification of institutional facilities and construction of new institutional facilities; and other operations activities supporting the conduct of agency programs. The Office of Inspector General will continue to have a separate appropriation.

Title II of the bill includes several legislative proposals. The first provision would authorize NASA to set aside certain procurements for minority institutions and small and small disadvantaged businesses that otherwise have difficulty competing for contract awards. The second provision would make minor changes in the timing of the annual Aeronautics and Space Report. The third provision would authorize NASA to protect from disclosure commercially valuable information which has been generated in the performance of experimental, developmental, or research activities conducted by, or funded in whole or in part by NASA. In its report on NASA, the National Performance Review directed NASA to "enhance its protection of commercially sensitive information on joint NASA-industry technology projects by allowing temporary protection from FOIA disclosure." In order to obtain the necessary statutory authority to provide such protection, NASA was directed to "develop a legislative proposal to amend its authorizing legislation in a manner which would allow for the temporary (five years) denial of FOIA requests for certain types of technical data." The National Performance Review directed NASA to work with the Justice Department, the Commerce Department's Patent and Trademark Office, and the Office of the United States Trade Representative prior to submitting the proposal to Congress.

Finally, the fourth provision would allow NASA to enter into contracts that provide for payment of contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates any such contracts. The provision would also allow NASA to pay reasonable termination costs from any unobligated appropriations currently available for any purpose.

Where required by Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332(2)(C)), and the implementing regulations of the Council on Environmental Quality, environmental impact statements covering NASA installations and the programs to be funded pursuant to this bill have been or will be furnished to the House Committee on Science, Space, and Technology as appropriate.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and its enactment would be in accord with the program of the President.

Sincerely,

Daniel S. Goldin
Administrator

2 Enclosures

A BILL

"To authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and Inspector General, and for other purposes.

TITLE I--FISCAL YEAR 1995 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1994:

(a) For "Human space flight," for the following programs:

(1) Space Station, $1,889,600,000;

(2) Russian Cooperation, $150,100,000;

(3) Space Shuttle, $3,324,00,000;

(4) Payload and Utilization Operations, $356,200,000;

(5) Construction of facilities relating to such programs, including the following;

(i) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $20,200,000,

(ii) Modernize Firex Systems, LC-39 Pads A and B, Kennedy Space Center, $4,800,000,

(iii) Replace Component Refurbishment Laboratory, Kennedy Space Center, $7,500,000;

(b) For "Science, aeronautics and technology," for the following programs:

(1) Space Science, $1,766,000,000;

(2) Life and Microgravity Sciences and Applications, $470,900,000;

(3) Mission to Planet Earth; $1,238,100,000;

(4) Aeronautical research and technology, $898,500,000;

(5) Advanced Concepts and technology, 608,400,000;

(6) Academic Programs, $97,200,000;

(7) Launch services, $340,900,000;

(8) Mission communication services, $481,200,000;

(9) Construction of facilities relating to the above programs, including the following:

(i) Modernization of the Unitary Plan Wind Tunnel Complex, Ames Research Center, $22,000,000,

(ii) Construction of the Earth Systems Science Building, Goddard Space Flight Center, $17,000,000;

(c) For "Mission support," for the following programs:

(1) Safety, reliability and quality assurance, $38,700,000;

(2) Space communication services $268,900,000;

(3) Construction of Facilities, including land acquisition, including the following:

(i) Seismic Upgrade of Research Development, and Test Building, Dryden Flight Research Facility, $8,000,000;

(ii) Restore Exterior and Interior Systems, Building 3/13/14, Goddard Space Flight Center, $5,000,000;

(iii) Modernize Condenser Water Systems, Southern Sector, Jet Propulsion Laboratory, $4,300,000;

(iv) Rehabilitate Utility Tunnel Structure and Systems, Johnson Space Center, $4,300,000;

(v) Rehabilitate Payloads Hazardous Servicing Facility Heating, Ventilating, and Air Conditioning System, Kennedy Space Center $1,500,000;

(vi) Modernize Metrology and Calibration Facility, Marshall Space Flight Center, $4,900,000;

(vii) Repair of Facilities at Various Locations, not in excess of $1,000,000 per project; $30,000,000;

(viii) Rehabilitation and Modification of Facilities at Various Locations, not in excess of $1,000,000 per project; $30,000,000;

(ix) Minor Construction of New Facilities and Additions to Existing Facilities at Various Locations, not in excess of $750,000 per project, $2,000,000;

(x) Facility Planning and Design, not otherwise provided for, $10,000,000;

(xi) Environmental Compliance and Restoration, $35,000,000.

(4) Research and program management, including personnel and related costs, travel, and research operations support, $2,220,300,000;

(d) For "Inspector General," $16,000,000.

(e) Notwithstanding the limitations of subsections 101(h), appropriations hereby authorized for "Human space flight" and "Science, aeronautics, and technology," and "Mission support," excluding appropriations for personnel and related costs and travel, may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Human space flight," "Science, aeronautics, and technology," and "Mission support" pursuant to this Act may be used in accordance with this subsection for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000 unless the Administrator or the Administrator's designee has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(f) When so specified and to the extent provided in an appropriation Act, any amount appropriated for "Human space flight," for "Science, aeronautics, and technology," for "Mission support," or for "Inspector General," may remain available without fiscal year limitation.

(g) Appropriations made pursuant to subsection 101(c) may be used, but not to exceed $35,000, for official reception and representation expenses.

(h) Funds appropriated pursuant to subsections 101(a), (b), and (c), excluding 101(a)(5), 101(b)(9), and 101(c)(3) and appropriations for personnel and related costs and travel, may be used for:

(1) the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, but only if the cost of each project, including collateral equipment, does not exceed $200,000; or,

(2) repair, rehabilitation, or modification of facilities controlled by the General Services Administration, provided the cost of each project, including collateral equipment does not exceed $500,000.

(i) Appropriations made pursuant to subsections 101(a), 101(b), and 101(c), excluding 101(a)(5), 101(b)(9), and 101(c)(3) and appropriations for personnel and related costs and travel, may be used for unforeseen programmatic facility project needs, provided the cost of each such project, including collateral equipment, does not exceed $750,000.

Administrator's Reprogramming Authority

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraph 101(a)(5), paragraph 101(b)(9), or paragraph 101(c)(3)

(a) at the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent, or

(b) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total amount authorized under paragraphs (a) and (b) shall not exceed the total of the amounts specified in Section 101(a)(5), 101(b)(9), and 101(c)(3).

Special Reprogramming Authority for

Construction of Facilities

SEC. 103. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed 1/2 of 1 percent of the funds appropriated pursuant to Paragraphs 101(a)(1) through (4), 101(b)(1) through (8), and 101(c)(1) and (2), to Paragraphs 101(a)(5), (b)(9), and (c)(3). The Administrator may also transfer up to $10,000,000 of the amounts authorized under Paragraphs 101(a)(5), (b)(9) and (c)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost and the reasons therefor.

Limitations on Authority

SEC. 104. Notwithstanding any other provision of this Act-

(a) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation,

(b) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 101(a)(1) through (4), 101(b)(1) through (8), and 101(c)(1), (2) and (4),

(c) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1995."

TITLE II--GENERAL PROVISIONS

SEC. 201. Authority to achieve contract goal for minorities

(a) IN GENERAL.-- Pursuant to Public Law 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, 103 Stat. 863 (section 2473b of title 42, United States Code); Public Law 101-507, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991, 104 Stat. 1380; and Public Law 102-389, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, 106 Stat. 1610, the Administrator is required to establish a goal whereby at least eight per centum of annual Federal funding for prime and subcontracts in support of authorized programs, including the space station by the time operational status is obtained, is made available for contracts and subcontracts with --

(1) small business concerns or other organizations owned or controlled by socially and

economically disadvantaged individuals which include women for purposes of this section;

(2) Historically Black Colleges and Universities; and

(3) other minority educational institutions.

(b) WAIVER OF COMPETITIVE PROCEDURES.-- To the extent practicable and when necessary to facilitate achievement of the goal described in subsection (a), the Administrator may reserve acquisitions exclusively for eligible concerns designated in subsection (a) and may authorize such reservations for subcontracts. This set-aside authority is in addition to and does not affect the acquisition process under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(c) REGULATIONS.-- The Administrator shall prescribe such regulations as are necessary to carry out this section.

(d) DEFINITIONS.-- For purposes of this section--

(1) the term "Historically Black Colleges and Universities" means those institutions identified by the Secretary of Education pursuant to section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) the term "other minority educational institutions" means those institutions designated by the Secretary of Education pursuant to section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058).

(3) the term "socially and economically disadvantaged individuals" has the meaning given such terms in section

8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)) and includes women for purposes of this section.

SEC. 202. Section 206 of the National Aeronautics and Space Act of 1958, as amended, (section 2476 of title 42, United States Code) is amended by changing the words "January" to "May," and "calendar" to "fiscal."

SEC. 203. Section 303 of the National Aeronautics and Space Act of 1958, as amended, is amended by adding the following new subsection (c) after subsection (b):

"(c)(1) In the furtherance of the objective set forth in section 102(d) of this Act, the Administrator may, subject to the limitations of subsection (2) below, prescribe regulations under which the Administration is authorized to delay for a period not to exceed five years, the unrestricted public disclosure of technical data in the possession of, or under the control of the Administration that has been generated in the performance of experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by, the Administration, <u>provided</u> that such technical data are, or may be, directly applicable to the design, engineering, development, production, processing, manufacture, or operation of products or processes that may have significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.

(2) The regulations prescribed pursuant to subsection (1) above shall be published in the Federal Register for a period of no less than 30 days for public comment before promulgation and shall contain a listing, which may be periodically updated, of those experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by the Administration, which the Administrator has determined may result in products or processes of significant value in maintaining the United States leadership or competitiveness in civil or governmental aeronautical and space activities by the United States industrial base. The regulations shall also include provisions that:

(i) assure that such data is available for dissemination within the United States to United States persons and entities in furtherance of the objective of maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base;

(ii) specify the period for which the delay in unrestricted public disclosure of such data is to apply, and the restrictions on further disclosure of such data during such period;

(iii) include where applicable, a requirement that any dissemination of such data either during or after the period specified in (ii) above, be in compliance with the Export Administration Control Act of 1979, the Arms Export Control Act, and their implementing regulations;

(iv) assure that the legitimate proprietary interests of the proprietor of any rights in such data are protected during and after the period specified in (ii) above; and

(v) provided for the appropriate availability of such data for inspection by the United States investigatory bodies and Congress.

(3) For the purpose of this section, "technical data" is defined as any recorded information of a technical or scientific nature, including computer software, within

the scope of subsection (b)(1), regardless of the method of recording or the media on which it may be recorded.

(4) As a guide in making the determination of subsection (b)(1), a product or process may have significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities if:

(i) it could be brought to practical applications within a reasonable time and made available for use in United States civil and governmental aeronautical and space activities by the United States industrial base; or

(ii) is related to a proof-of-concept or an advancement in the state-of-the-art, the practical application of which could result in significant technological advancements in United States civil or governmental aeronautical and aerospace activities by the United States industrial base."

SEC. 204. The National Aeronautics and Space Act of 1958, as amended, is amended by adding a new section to follow section 311 which shall be as follows:

"TERMINATION LIABILITY

"Sec. 312. The Administrator may enter into contracts that are for periods in excess of the period for which funds are otherwise available for obligation and provide for payment for contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates such contracts. If funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the costs of such contract shall be paid from appropriations originally available for performance of the contract, from other, unobligated appropriations currently available for any purpose, or from funds appropriated to make termination payments."

SECTIONAL ANALYSIS
of a Bill

"To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes."

TITLE I

FISCAL YEAR 1995 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION

SECTION 101

Subsections (a), (b), (c), and (d) would authorize to be appropriated to the National Aeronautics and Space Administration, funds, in the total amount of $14,300,000,000 as follows: (a) for "Human space flight," a total of five program line items aggregating the sum of $5,719,900,000; (b) for "Science, aeronautics, and technology," a total of 9 line items aggregating the sum of $5,901,200,000; (c) for "Mission support," a total of four line items aggregating the sum of $2,662,900,000; and (d) for "Inspector General," $16,000,000.

Subsection (e) would authorize the use of appropriations for "Human space flight," "Science, aeronautics, and technology," and "Mission support," excluding appropriations for personnel and related costs and travel, without regard to the provisions of Subsection 101(h) for items of a capital nature, other than for the acquisition of land, at locations other than the installations of the Administration for the performance of research and development contracts, and for or to nonprofit organizations, whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities. Title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Moreover, each such grant shall be made under such conditions as the Administrator shall find necessary to ensure that the United States will receive benefit therefrom adequate to justify the making of that grant.

In either case, no funds may be used for construction of a facility in accordance with this subsection, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator notifies the specified committees of the Congress, of the nature, location, and estimated cost of such facility.

Subsection (f) would provide that, when so specified and to the extent provided in an appropriation Act, any amount appropriated for "Human space flight," "Science, aeronautics, and technology," "Mission support," "Inspector General" may remain available without fiscal year limitation.

Subsection (g) would authorize the use of not to exceed $35,000 of the "Mission support" appropriation for official reception and representation expenses.

Subsection (h) would provide that, with certain identified exceptions, of the funds appropriated for "Human space flight," "Science, aeronautics, and technology," and "Mission support," as much as (1) $200,000 per project (including collateral equipment) may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, and (2) $500,000 per project (including collateral equipment) may be used for the repair, rehabilitation, or modification of facilities controlled by the General Services Administration. In addition, of the appropriations for "Human space flight," "Science, aeronautics, and technology," and "Mission support," with certain identified exceptions, as much as $750,000 per project (including collateral equipment) may be used for unforeseen programmatic facility project needs.

<u>SECTION 102</u> - Administrator's Reprogramming Authority

Section 102 would authorize upward variations of the sums authorized for the construction of facility line items of 10 percent at the discretion of the Administrator or the Administrator's designee, or of 25 percent following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, for the purpose of meeting unusual cost variations. However, the total amount authorized under these line items may not exceed the total sum authorized for the construction of facilities line items included in subsections 101(a), 101(b), and 101(c).

<u>SECTION 103</u> Special Reprogramming Authority for Construction of Facilities

<u>Section 103</u> would provide that not more than 1/2 of 1 percent of the funds appropriated pursuant to the specified paragraphs under "Human space flight," "Science, aeronautics, and technology," and "Mission support" may be reprogrammed and be available for the construction of facilities and land acquisition at any location if the Administrator determines that new developments or scientific or engineering changes in the national aeronautical and space program have occurred; and that such changes require the use of additional funds for the purpose of construction, expansion or modification of facilities at any location; and that deferral of such action until the next authorization Act is enacted would be inconsistent with the interest of the Nation in aeronautical and space activities. Additionally, up to $10,000,000 of funds authorized for construction of facility projects may be reprogrammed for these purposes. However, no such funds may be obligated until 30 days have passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report containing a description of the construction, its cost, and the reasons therefore.

<u>SECTION 104</u> Limitations on Authority

Section 104 would provide that, notwithstanding any other provision of this Act --

(a) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation,

(b) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 101(a)(1) through (4), 101(b)(1) through (8), and 101(c)(1), (2), and (4),

(c) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SECTION 105

Section 105 would provide that the Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1995."

TITLE II

GENERAL PROVISIONS

SECTION 201. Authority to achieve contract goal for minorities.

The general purpose of Section 201 is to provide NASA with the necessary statutory authority to "reserve" or "set-aside" procurements for certain small business concerns, minority-owned firms or institutions with a focus on minority students and meet the set-aside goals previously established by legislation.

Subsection (a) identifies the current statutory provisions applicable to NASA in this regard. Title III of Public Law 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act (which includes NASA appropriations), 1990 (103 Stat. 863) (codified at 42 U.S.C. 2473b) requires the Administrator of NASA to

> annually establish a goal of at least 8 per centum of the total value of prime and sub-contracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals [cite omitted] including Historically Black

Colleges and Universities and minority educational institutions [cite omitted].

Public Law 101-507, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (104 Stat. 1380), reinforced this requirement. This provision, however, omitted the reference to "minority educational institutions" and added small businesses or other organizations owned or controlled by women to the list of contractors with which contracts and subcontracts count toward meeting the goal. The Act did not revise the provision at 42 U.S.C. 2473b to add women-owned or controlled concerns as eligible sources. Neither the 1992 NASA Authorization Act (Public Law 102-195) nor the 1992 Department of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act (Public Law 102-139) contain any similar provision. The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Public Law 102-389) (106 Stat. 1610), repeats the provision which appears in Public Law 101-507. This sequence has created confusion as to whether awards of contracts and subcontracts to concerns owned or controlled by women and minority educational institutions should be counted toward meeting the 8 percent goal. Subsection (a) would include all of the entities--Historically Black Colleges and Universities, minority educational institutions, and small businesses or other organizations owned or controlled by women--which have been identified in the various statutes cited as being unable to achieve effective participation in NASA contracting opportunities.

The existing legislation, described above, does not appear adequate to authorize the use of set-asides. These statutes do not go beyond the establishment of minority contracting goals. The Supreme Court, in the cases of Fullilove v. Klutznick, 448 U.S. 448, 100 S.Ct. 2758 (1980), and City of Richmond v. J.A. Croson Company, 488 U.S. 469, 109 S.Ct. 706 (1989), has established the principle that only set-aside programs which are mandated or specifically approved by Congress are constitutional. Thus, NASA determined that specific statutory authority to establish a set-aside program was necessary.

Subsection (b) would provide NASA with the authority to "reserve" or "set aside" procurements for exclusive participation by the eligible concerns designated in the subsection. In addition, these opportunities would be extended to subcontracts through subcontracting plans submitted by prime contractors. It is anticipated that acquisitions designated for set-aside would be conducted on a competitive basis among eligible concerns to better assure NASA a fair and reasonable price. This authority would enable NASA to achieve, or even exceed, the prescribed goal and thus accelerate the participation of minority concerns as NASA contractors and subcontractors.

It should be noted that this authority would be in addition to and does not affect the acquisition process under section 8(a) of the Small Business Act (15 U.S.C. §637(a)). Indeed, reliance on section 8(a) of the Small Business Act is insufficient to enable NASA to attain the required goal. First, businesses which are owned or controlled by women are not part of the section 8(a) process. Second, agency surveys indicate that many minority concerns, whose products can meet NASA's requirements, do not participate in the section 8(a) program and cannot usually compete successfully on a full and open basis. The set-aside authority provided by subsection (b) would expand opportunities for NASA to enter into contracts and subcontracts with these minority concerns as well as concerns owned or controlled by women.

Subsection (c) provides that the Administrator shall prescribe such regulations as are necessary to carry out the section.

Subsection (d) defines the categories previously specified in subsection (a).

SECTION 202 Amendment to the Space Act on Reports to Congress

The purpose of Section 202 is to amend section 206 of the National Aeronautics and Space Act of 1958, as amended, to authorize NASA to submit the annual Aeronautics and Space Report in May, rather than January, and to submit the report on a fiscal, as opposed to calendar, year basis.

In July of 1990, the Office of Management and Budget directed NASA to publish the Aeronautics and Space Report on a fiscal year basis and on a more timely basis. (The reports were published about two to three years after the year they covered.) Since fiscal year 1990, the reports have been written on a fiscal year basis. In order to conform the language of the law with actual practice, NASA proposes to change the word "calendar" to "fiscal." NASA also proposes to change the word "January" to "May" in order to provide enough time to prepare the report.

In the Fiscal Year 1992 report, the Executive Summary on the first page includes the following introduction:

> Note: The National Aeronautics and Space Act of 1958 directed that the annual Aeronautics and Space Report include a "comprehensive description of the programmed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding calendar year." This year's report (like last year's) has been prepared on a fiscal year basis, which is consistent with the budgetary period now used in programs of the Federal Government. The Administration is working with Congress to amend the National Aeronautics and Space Act of 1958 accordingly.

The proposed amendment fulfills this pledge.

<u>SECTION 203</u> Protection of Commercially Valuable Information

Section 509 of NASA's 1993 Authorization Act, Pub. L. 102-588, amended Section 303 of the Space Act to include a provision which authorized the Administrator to protect (1) information generated under an agreement entered into under section 203(c)(5) and (c)(6) of the Space Act, if (2) the information would be considered a trade secret or commercial or financial information which would be privileged or confidential under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party participating in such an agreement. This provision permitted NASA to protect information covered by this subsection for a period up to five years from disclosure in response to a request submitted under the Freedom of Information Act, title 5, United States Code. However, the provision provides only limited coverage.

In its report on NASA, the National Performance Review directed NASA to "enhance its protection of commercially sensitive information on joint NASA-industry technology projects by allowing temporary protection from FOIA disclosure." In order to obtain the necessary statutory authority to provide such protection, NASA was directed to "develop a legislative proposal to amend its authorizing legislation in a manner which would allow for the temporary (five years) denial of FOIA requests for certain types of technical data." Finally, the National Performance Review directed NASA to work with the Justice Department, the Commerce Department's Patent and Trademark Office, and the Office of the United States Trade Representative prior to submitting the proposal to Congress. The proposed language is offered to initiate discussions with the government departments and offices identified.

<u>New subsection (c)(1)</u> of this section would authorize NASA to withhold technical data in the possession of, or under the

control of the Administration that has been generated in the performance of experimental, developmental, or research activities or programs if the program was conducted by, or funded in whole or in part by, the Administration. The data would be protectable if they are, or may be directly applicable to the design, engineering, development, production, processing, manufacture, or operation of products or processes that may have significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.

New subsection (c)(2) would require the publication of regulations in the Federal Register which would include a list, periodically updated, of those experimental, developmental, or research activities or programs covered by this section. The regulations would assure that this data is available for dissemination within the United States to United States persons and entities in furtherance of the objective of maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base. The regulations would specify the period for which the delay in unrestricted public disclosure of the data would apply, and the restrictions on further disclosure of such data during such period. Also, the regulations would include, if applicable, a requirement that any dissemination of such data be consistent with the Export

Administration Control Act of 1979, the Arms Export Control Act, and implementing regulations thereto. In addition, the regulations would assure that the legitimate proprietary interests of the proprietor of any rights in such data are protected during and after the period specified by the regulations. Finally, the regulations would provide for the appropriate availability of such data for inspection by United States investigatory bodies and Congress.

New subsection (c)(3) defines technical data as used in Paragraph (1) as any recorded information of a technical or scientific nature, including software, regardless of the method of recording or the media on which it is recorded.

New subsection (c)(4) provides guidance concerning the products or processes that may have significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities. As a result of this amendment to the Space Act, NASA may delay disclosure of technical data concerning such processes or products which are in the possession of or under the control of the Administration that has been generated in the performance of experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by the Administration.

SECTION 204 Termination Liability

With the recent termination of several programs, NASA contractors have become concerned with the practical application of the standard Limitation of Funds clause prescribed by the Federal Acquisition Regulation (title 48, Code of Federal Regulations (CFR)) (FAR) for cost-reimbursement contracts. Because few government programs are fully funded, agencies must incrementally fund most cost-reimbursement contracts. To preclude possible violations of the Anti-Deficiency Act (31 U.S.C. 1341) on these types of contracts, the Limitation of Funds clause provides that the Government is not obligated to reimburse the contractor for costs incurred in excess of the total amount allotted to the contract at any particular point in time. The clause goes on to prescribe a mechanism for managing the mutual obligations of the parties under these conditions. One of these obligations may be the payment of termination costs if the Government does not allot sufficient funds to continue the program in question.

Over its history, NASA has terminated very few contracts, including those that are incrementally funded. On the contrary, most contractors have performed well, had all their allowable costs reimbursed, and earned a reasonable fee. Similarly, NASA has received valuable services and products, paid reasonable costs as funds are allotted incrementally, and achieved some remarkable research objectives. When the possibility of termination is greater, however, contractors have expressed increasing concern with the perceived risks associated with cost-reimbursement contracting.

Contract termination costs, as allowed by the FAR, include employee salaries, fringe benefits, facility leases, loss of useful value, personnel layoff obligations, subcontractors, legal expenses, and fees. Events which cannot be predicted with any certainty, such as placement of employees in other positions within the company, ability to sell or lease idle facilities, and changes in overhead rates, affect these types of costs. As a result, termination costs vary substantially at any point in time as a program progresses. To cover all contingencies, no matter how remote, associated with possible termination on a contract-by-contract basis would require extraordinary amounts of budget authority and is generally acknowledged as unrealistic under the current process.

Accordingly, Section 204 would provide NASA with statutory authority similar to that provided for contracts regarding expendable launch vehicles in Section 311 of the National Aeronautics and Space Act of 1958, as amended. This authority would allow NASA to enter into contracts that provide for payment of contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates any such contracts. If termination does occur, this authority would also allow NASA to pay reasonable termination costs from appropriations originally available for performance of the contract, from other, unobligated appropriations currently available for any purpose, or from funds appropriated to make termination payments.

ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO	4073
CONNECTION TEL	97036973762
CONNECTION ID	G3
START TIME	04/18 14:45
USAGE TIME	01'29
	2/002

UNCLASSIFIED

FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL
DEFENSE POLICY/ARMS CONTROL DIRECTORATE

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: (202) 395-1185

TO	FAX	PHONE
Mark Herbst	703-697-3762	

NUMBER OF PAGES INCLUDING COVER SHEET 2

SPECIAL INSTRUCTIONS: See attached.

UNCLASSIFIED

OFFICE OF THE SECRETARY OF DEFENSE

April 17, 1994

MEMO FOR MEMBERS OF CNS (SEE DISTRIBUTION BELOW)

SUBJECT: Meeting of NSTC Committee on National Security (CNS)

This note reconfirms that the second full CNS meeting (principals only) is scheduled from 10 a.m. to 11 a.m. on Thursday, April 21, in room 3E-928 of the Pentagon. I apologize for the NSTC office's calendar that showed the meeting at a different time on that date, and hope there was no confusion.

Please FAX to me (FAX number is 703-697-3762) by noon on Tuesday, April 19, the following information, so I can make necessary administrative arrangements:

ROBERT G. BELL of NSC
(Invitee's name) (Agency)

(X) Will / ( ) will not attend the April 21 CNS meeting.

( ) Needs escort from River entrance to conference room, because government badge doesn't give Pentagon access.

(X) Needs access/parking arranged for Pentagon River entrance because arriving by:

( ) Taxi (to clear in to River entrance, I need only attendee's name, not a license number).

(X) Personal vehicle. For access and parking at River entrance, license number/State is: ZFE 989 (MD).

( ) Government car that will wait at River entrance (staff cars are cleared for access--I must make arrangements if car is to park and wait).

Please let me know (703-614-0205 or 703-695-6206) if you have questions or I can help in any way. Thanks.

Mark J. Herbst

Mark Herbst
CNS Executive Secretary

MEMBERS/DISTRIBUTION:

Dr. John Deutch, DoD, Chair
Ms. Jane Wales, OSTP, Co-Chair
Dr. Victor Reis, DoE, Vice Chair
Dr. Gordon Adams, OMB
Mr. Leon Fuerth, Office of the Vice President
Mr. Robert Bell, NSC
Mr. Daniel Poneman, NSC
Mr. George Tenet, NSC

Mr. W. Bowman Cutter, NEC
GEN John Dailey, NASA
Dr. Mary Good, DoC
Mr. William Reinsch, DoC
Dr. Lynn Davis, Dept of State
Mr. James Hirsch, CIA
Mr. John Holum, ACDA
Dr. Anita Jones, DoD
RADM David Oliver, DoD

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

[redacted] April 18, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT BELL

FROM: KEITH HAHN

SUBJECT: Military Nomination for Admiral Stanley Arthur

At Tab A Admiral Stanley R. Arthur has been recommended for assignment as Commander in Chief, United States Pacific Command to relieve ADM Larson. Because of the importance of the position of CINCPAC, we believe you should forward the memorandum at Tab I to the President.

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments
Tab I Memorandum to the President
- Tab A Secretary Perry's Recommendation RE ADM Arthur
- Tab B Proposed Press Release
- Tab C Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: Nomination for Admiral Stanley Arthur

Purpose

To nominate Admiral Stanley Arthur to relieve Admiral Charles Larson as Commander in Chief, Pacific Command.

Background

At Tab A Secretary Perry has nominated the current Vice Chief of Naval Operations, Admiral Stan Arthur, to relieve Admiral Chuck Larson as CINCPAC. Admiral Larson has been nominated to become the Superintendent of the U.S. Naval Academy. ADM Arthur served with distinction as the Commander, U.S. Naval Forces, Central Command, during the Persian Gulf War.

RECOMMENDATION

That you nominated ADM Arthur to be the next Commander in Chief, Pacific Command.

Attachments
Tab A Secretary Perry's Recommendation
Tab B Proposed Press Release
Tab C Incoming Correspondence

cc: Vice President
Chief of Staff

THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1000

16 MAR 1994

MEMORANDUM FOR THE PRESIDENT

SUBJECT: General Officer Nomination

I recommend you assign Admiral Stanley R. Arthur, United States Navy, as Commander in Chief, United States Pacific Command, a position of importance and responsibility previously designated to carry the grade of admiral, and nominate him for reappointment to the grade of admiral. Admiral Arthur, age 58, currently serves as Vice Chief of Naval Operations. He will succeed Admiral Charles R. Larson, United States Navy, who will retire.

In order to carry out the duties and responsibilities of the proposed assignment, a flag officer must have demonstrated highly effective performance in senior leadership positions. He must possess a thorough understanding of the Pacific Command structure and the requirements of the Pacific Command theater of operations. He must also thoroughly understand the political environment and have the ability to work well with senior officials from other nations. He must be designated as a joint specialist, and must have completed a joint tour as a flag officer. Admiral Arthur has not completed a joint tour as a flag officer as required by title 10, United States Code, section 164. On the basis of his extensive joint experience as Commander, U. S. Naval Forces, Central Command, during the Persian Gulf War, I recommend you waive this requirement under the provisions of title 10, United States Code, section 164(a)(2). Your signature on this memorandum will constitute your approval of this waiver.

This action will not cause the Navy to exceed the number of officers authorized to be serving in the grade of admiral.

William J. Perry

Attachments

APPROVED ______________________________ DATE __________
President of the United States

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

STATEMENT BY THE PRESIDENT

I am pleased to announce that I have nominated Admiral Stanley R. Arthur, U.S. Navy to succeed Admiral Charles R. Larson as Commander in Chief, United States Pacific Command.

Admiral Arthur has extraordinary experience in the Pacific region and is highly respected by political and military leaders in the area. As Vice Chief of Naval Operations for the last two years, he has demonstrated a firm and steady grasp of all phases of Navy departments, operations and activities. In light of the crucial importance of the Pacific region to our national security, we will look with confidence to Admiral Arthur to continue to provide the highest standards of military leadership and command.

2330

THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301

16 March, 1994

MEMORANDUM FOR THE ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

Tony —

SUBJECT: Nomination for CINCPAC

I am forwarding the nomination of Admiral Stan Arthur as the replacement for Admiral Chuck Larson, Commander-in-Chief Pacific. Admiral Arthur is currently serving as the Vice Chief of Naval Operations. He is our most experienced flag officer in the Pacific Region, is well respected by political and military leaders in the area, and has demonstrated in the last two years as Vice Chief of Naval Operations that he is an extremely capable manager. Stan Arthur has served in both staff and command positions in the Pacific on multiple occasions from 1966 until 1992. These assignments include command of the Coral Sea in 1978-79, the staff of CINCPACFLT from 1980 to 1982, Commander of Carrier Group SEVEN from 1983-85, and most recently as Commander of the SEVENTH Fleet from 1990 to 1992. The Pacific region continues to grow in importance politically, economically, and from the national security perspective and warrants the candidate with the best qualifications.

As noted in our letter of nomination, Admiral Arthur is a joint specialist but has not completed a full joint tour as a flag officer. On the basis of his extensive joint experience as Commander, U.S. Naval Forces, Central Command, during the Persian Gulf War, SecNav and CJCS recommend the President waive the joint tour requirement.

All officers considered are talented and respected in their areas of specialization, but ADM Arthur represented the best all-around characteristics.

a. General Shali and I also considered GEN Ron Fogleman, USAF who is currently serving as Commander TRANSCOM. Ron has recent Pacific experience as Commander of US Air Forces in Korea, but is currently serving as a CINC in a critical role as we focus on building a deployable force. His talents are better suited for this job, in our estimation, than as CINCPAC with its maritime focus.

b. Lieutenant General Hank Stackpole, Commander of our Marine Forces in the Pacific was also a nominee, but due to the complex Air and Naval Operations required in the Pacific we did not consider his experience broad enough or adequately in-depth. Similarly we did not find the background of the Army nominee, Lieutenant General Crouch to be adequate for the mission.

Bill Perry

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. letter	[Stanley R. Arthur] [Personally Identifiable Information] [partial] (1 page)	03/16/1994	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 264

FOLDER TITLE:

Chron File - April 1994 #2 [1]

2016-0152-F
vz4565

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

The White House

Washington

To the Senate of the United States:

I nominate:

The following named officer for reappointment to the grade of Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be Admiral

Admiral Stanley R. Arthur, U. S. Navy, (b)(6) [002]

THE WHITE HOUSE

WASHINGTON

March 17, 1994

94 MAR 18 P12:52

MEMORANDUM FOR THE PRESIDENT

FROM: ALPHONSO MALDON, JR. A Maldon Jr.
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Flag Officer Nomination

Forwarded for your approval and signature is the nomination of Admiral Stanley R. Arthur, United States Navy, for reappointment to the grade of admiral and a recommendation for his assignment as Commander in Chief, United States Pacific Command.

The Secretary of Defense additionally recommends that you waive the joint duty requirement specified in title 10, United States Code, section 164. On the basis of his extensive joint experience as Commander, U.S. Naval Forces, Central Command, during the Persian Gulf War, the Secretary recommends you waive this requirement under the provisions of title 10, United States Code, section 164(a)(2). Your signature on the attached memorandum will indicate your approval of the requested deferment.

This nomination has been staffed by the Secretary of the Navy and was approved by the Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 18, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT G. BELL

FROM: STEVEN R. JONES

SUBJECT: Defense Proposed Report RE: H.R. 3847, Baltimore Dry Dock Transfer Act (LRM #I-2467)

OMB has requested NSC views on the attached defense report. DoD has stated that the Navy has no requirement for the drydock referenced by H.R. 3847 and has no objection to releasing requirements and reversionary interest for this drydock. I have no objection to the DoD position and proposed report.

Concurrence by: Jeremy Rosner

RECOMMENDATION

That you sign the memo at Tab I.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

2891

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report RE: H.R. 3847, Baltimore Dry Dock Transfer Act (LRM #I-2467)

The NSC staff has no objections to the proposed DoD report on H.R. 3847.

EXECUTIVE OFFICE OF THE PR IDE T
OFFICE OF MANAGEMENT AND UDGET
Washington, D.C. 20503

SPECIAL

2891

April 14, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2467

TO: Legislative Liaison Officer -

GSA - William R. Ratchford - (202)501-0563 - 237
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
NSC - William H. Itoh - (202)395-3723 - 249

FROM: RONALD K. PETERSON (for) Ronald K. Peterson
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: Defense Proposed Report RE: HR 3847, Baltimore Dry-Dock Transfer Act

DEADLINE: 10:00 A.M., WEDNESDAY, April 20, 1994

COMMENTS: If you do not respond by the deadline, we may assume that your agency has no comment.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
D. Aviles
S. Swain
E. Rea

Fax 3pg

RESPON TO LEGISLATIVE REF RAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: MIKE GOAD
Office of Management and Budget
Fax Number: (202) 395-5691
Analyst/Attorney's Direct Number: (202) 395-7301
Branch-Wide Line (to reach secretary): (202) 395-6194

FROM: ______________________ (Date)
______________________ (Name)
______________________ (Agency)
______________________ (Telephone)

SUBJECT: Defense Proposed Report RE: HR 3847, Baltimore Dry-Dock Transfer Act

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Honorable Ronald V. Dellums
Chairman, Committee on Armed Services
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your request for views of the Department of Defense on H.R. 3847, 103rd Congress, a bill "To require the Secretary of Defense to release the requirement and reversionary interest in certain property in Baltimore, Maryland."

The Department of Defense has no objection to the legislation.

H.R. 3847 would require the Secretary of Defense to release the requirements and the reversionary interest in a drydock that the Navy has no requirement for and has not used in the last 12 years. There are also no known requirements for the Navy to use the drydock for ship repair in the future.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

** TOTAL PAGE.003 **

3003

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 19, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT BELL RGB

FROM: KEITH HAHN KH

SUBJECT: Memorial Service for Helicopter Casualties

On April 25 at 1030 there will be a memorial service at the new Fort Myer chapel for the 15 U.S. military and Foreign Service personnel and the 11 foreign nationals who died in the accidental shootdown of U.S. helicopters in northern Iraq last week. The President may want to take this opportunity to express his condolences personally to the families of those who died in this unfortunate accident.

RECOMMENDATION

That you sign the schedule proposal at Tab I.

Attachment
Tab I Schedule Proposal

THE WHITE HOUSE

WASHINGTON

3003

Schedule Proposal date ____/____/____

____ACCEPT ____REGRET ____PENDING

TO:	Ricki Seidman Assistant to the President and Director of Scheduling and Advance
FROM:	Anthony Lake
REQUEST:	Memorial Service for U.S. and allied Helicopter Casualties
PURPOSE:	To recognize those who died in the downing of U.S. helicopters in northern Iraq and to express condolences to the families in attendance.
BACKGROUND:	26 people were killed when two U.S. F-15 fighter planes accidentally shot down two U.S. Blackhawk helicopters in northern Iraq on April 14: 15 Americans, 3 Turkish officers, 2 British officers, one French officer and five Kurds. The Defense Department's investigation of this tragic accident is continuing.
PREVIOUS PARTICIPATION:	Letters of condolences to next of kin
DATE AND TIME:	Monday, April 25 at 1030 a.m.
DURATION:	Approximately 1 hour
LOCATION:	Ft. Myer Chapel (new)
PARTICIPANTS:	Families of the deceased Embassy representatives William Perry, Secretary of Defense John Shalikashvili, Chairman, Joint Chiefs of Staff Warren Christopher, Secretary of State (invited) Anthony Lake, Assistant to the President for National Security Affairs (invited)

cc: Stephanie Streett

	Robert Bell, Special Assistant to the President for Defense Policy and Arms Control
OUTLINE OF EVENTS:	President will meet with the families of the deceased for approximately fifteen minutes, then attend the memorial service.
REMARKS REQUIRED:	None
MEDIA COVERAGE:	White House Press
FIRST LADY'S ATTENDANCE:	As desired
VICE PRESIDENT'S ATTENDANCE:	No
SECOND LADY'S ATTENDANCE:	No
RECOMMENDED BY:	Anthony Lake
CONTACT:	Keith Hahn (395-6923)

3014

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 19, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

FROM: ROBERT G. BELL RGB

SUBJECT: Scheduling the Medal of Honor Ceremony

Attached at Tab I is the proposed schedule proposal for the President to award the Congressional Medal of Honor posthumously to Master Sergeant Gary Gordon and Sergeant First Class Randall Shughart. The President approved the award of these medals, our Nation's highest military decoration, last week. Will Itoh has approved the proposed scenario at Tab II.

RECOMMENDATION

That you forward the schedule proposal at Tab I to the President for approval.

Attachments
Tab I Schedule Proposal
Tab II Medals of Honor Scenario

Schedule Proposal

THE WHITE HOUSE

WASHINGTON

date ____/____/____

____ACCEPT ____REGRET ____PENDING

TO: Ricki Seidman
Assistant to the President and
Director of Scheduling and Advance

FROM: Anthony Lake

REQUEST: Ceremony to Award Medals of Honor

PURPOSE: To recognize the conspicuous gallantry demonstrated by Master Sergeant Gary I. Gordon and Sergeant First Class Randall D. Shughart in the fighting in Mogadishu, Somalia, in which they were killed in action on October 3, 1993.

BACKGROUND: The President approved the posthumous award of the Congressional Medal of Honor to Sergeants Gordon and Shughart on April 12. The two Sergeants volunteered to descend from their helicopter to go to the assistance of the crew of another helicopter that had been downed by Somali gunmen. The Sergeants knew the mission probably meant certain death. After fighting their way into the crash site and protecting the injured crew members (including CWO Michael Durant, who was captured but later released), Sergeants Gordon and Shughart were killed by hostile fire. Their extraordinary heroism saved CWO Durant's life, but at the expense of their own.

PREVIOUS PARTICIPATION: None. These will be the first Medals of Honor awarded since the war in Southeast Asia.

DATE AND TIME: TBD, but before June 1 departure for D-Day commemoration activities.

DURATION: 30 minutes

LOCATION: East Room

PARTICIPANTS: Families and close friends of the two Sergeants, Congressional leadership, Chairman and Ranking Members of the congressional defense committees,

cc: Stephanie Streett

	Representatives of veterans organizations, William Perry, Warren Christopher, Jesse Brown, Anthony Lake, John Shalikashvili, the Joint Chiefs of Staff, the Service Secretaries, Wayne A. Downing, James T. Scott, Samuel Berger, Leon Fuerth and Senior NSC staff
OUTLINE OF EVENTS:	President and First Lady would meet first in the Residence privately with the widow and children of Sergeant Gordon and the widow of Sergeant Shughart. The audience would be seated in the East Room with an Army band playing appropriately subdued but patriotic music. The band would conclude its pre-ceremony program and the President, First Lady and the two widows would be introduced by a narrator and enter the East Room. The President would make brief remarks. The citations to accompany the Medals of Honor would be read by Secretary West. The widows would be presented the medals by the President. The band would play "America the Beautiful". The President and First Lady would depart. After an interval during which the audience would greet the widows in a receiving line, military aides would escort the families from the room.
REMARKS REQUIRED:	The President would make brief remarks (10 minutes) paying tribute to the Sergeants' valor and explaining that they did not die in vain.
MEDIA COVERAGE:	White House Press
FIRST LADY'S ATTENDANCE:	Yes
VICE PRESIDENT'S ATTENDANCE:	Yes
SECOND LADY'S ATTENDANCE:	As desired
RECOMMENDED BY:	NSC
CONTACT:	Robert Bell (395-3330)

NATIONAL SECURITY COUNCIL

12-Apr-1994 19:27 EDT

UNCLASSIFIED

MEMORANDUM FOR:
William H. Itoh (ITOH)

FROM: Robert G. Bell
(BELL)

SUBJECT: Medals of Honor Scenario

Based on my meetings with Generals Sullivan and Downing on this question (and consultations with the Chief Historian of the US Army re past presidential ceremonies for this award), I recommend the following scenario for this important ceremony:

The ceremony should be held in the East Room. The emphasis would be on a somber, dignified event that focused on the valor of the two Sergeants killed in action and the courage their widows have shown in the face of their loss. Media would need to be confined to one unobtrusive area with no questions in order. The audience would be seated in the East Room while an Army band quietly played appropriately subdued patriotic music.

The audience would be kept relatively small, but invitations should be extended to the families and closest friends of the two Sergeants, the chain of command from their Special Operations command: Col Boykin (unit commander), LTG Scott, Gen Downing, Gen Sullivan and Gen Shali; the Secretary of the Army; a small number of senior OSD and White House officials; the Vice President; the Secretaries of Defense, State and Veterans Affairs; and Congressional leaders (including the Chairman and Ranking Member of the defense committees). Hershel Gober would probably recommend we invite the leaders of some veterans groups. We would want to keep that list relatively short. It would certainly be appropriate to have the leaders of the Congressional Medal of Honor Society there.

The President would meet first in the Oval Office with the two widows privately (no photographer). I met Mrs. Gordon and Mrs. Shughart at Fort Bragg two weeks ago and they are very strong, impressive individuals. Mrs. Gordon has a 3 yr-old daughter and a 6-yr old son, who should accompany their mother in the Oval Office. After a few minutes, the band would conclude its pre-ceremony program and the President and Mrs. Gordon and Mrs. Shughart would be introduced by a narrator and enter the East Room. There would be no ruffles or flourishes. The President would make brief remarks of tribute to the Sergeants' valor and sacrifice and explain how our efforts in Somalia saved hundreds of thousands of lives and gave the country a chance to survive. The citation to accompany the Medal of Honor would be read by Secretary West. The widows would be presented the posthumous medals by the President. The band might then play an appropriate piece of music (e.g., America the Beautiful). The President would depart, and the ceremony would conclude. After an interval during which the audience could greet the widows, military aides would escort the families from the room.

Generals Sullivan and Downing and I agree that CWO Michael Durant should not attend (his life was saved by the two Sergeants), lest he become the center of media interest and cause resentment on the part of the families (some in the military do resent the fact that he became a celebrity while few know the story of the two Sergeants, though Durant is increasingly accepted now that he has resumed flying and returned to his unit). Durant's statements to the press in the articles written to date about the Army's recommendation that the Medals be awarded have been dignified and positive. He would be at Ft. Campbell during the ceremony and the press would inevitably seek hinm out for comment, and that is fine.

I will be back from my exercise late Thursday afternoon. If this looks ok to you let me know and I will draw up the SP.

CC: Records

(RECORDS)