

The original documents are located in Box 14, folder “Environment (10)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

file

THE WHITE HOUSE

WASHINGTON

INFORMATION

November 15, 1976

MEMORANDUM FOR THE PRESIDENT

THROUGH:

JAMES M. CANNON

FROM:

BRADLEY H. PATTERSON, JR.
GEORGE W. HUMPHREYS

SUBJECT:

Governor Longley's Inquiry re the
Passamaquoddy/Penobscot Case

Governor Longley of Maine met with you recently and asked you to look into this matter; you told him you would do so.

The Passamaquoddy Indian Tribal Council won a Federal Court decision from Judge Gignoux at the beginning of 1975 declaring that the United States has a trust responsibility to the Tribe and declaring that the Tribe is in fact covered by the terms of the 1790 Nonintercourse Act (25 USC 177) which forbids the conveyance of Indian land without the consent of the United States. This decision was affirmed by the First Circuit Court of Appeals on December 23, 1975.

The chain of effects from that decision is:

- The land conveyances in the treaties of 1794 and 1818 between Maine (then Massachusetts) and the Passamaquoddy and Penobscot Indians respectively, wherein the Indians gave up some 2,000,000 and 10,000,000 acres respectively of their aboriginal lands may well be void, since the United States was not a party to these treaties nor were they ever ratified by the Senate.
- This in turn puts a cloud over the ownerships and titles in those 12,000,000 acres -- which amounts to 60% of the State of Maine.





- Because of this cloud, bond attorneys have advised clients not to buy State of Maine construction bonds, and a \$27 million sale of same has been held up.
- Tax anticipation bonds (from real estate taxes) for the operating expenses of Maine towns and counties will probably suffer the same fate as of next January. This will hurt some of those communities.
- The Federal Government, now as Trustee for the Indians, has in the Circuit Court's words "the duty to investigate and take such action as may be warranted in the circumstances." This may well mean pursuing or expanding (to other property-owning defendants) two protective lawsuits filed some time ago against Maine on behalf of the tribes by Justice at the insistence of the Court.
- Judge Gignoux has set back a November 15 deadline to January 15, 1977 for the Federal Government to come into his court and tell him what they are going to do to discharge their trusteeship obligation. Much research must be done to put any expanded suits in final form before a July, 1977 expiration of the Statute of Limitations for all Indian claims for trespass damages.

The State Attorney General continues to call the Indians' claim "preposterous", "frivolous" and "without merit"; the Maine Congressional delegation introduced a bill to repeal the Nonintercourse Act and has more recently washed its hands of the matter claiming that it is a problem for the Courts.

The Indians have long been ready to talk about a comprehensive settlement package but the State has shown little interest.

Actions Now Being Taken:

Solicitor Austin of Interior is sending a letter to the Maine Deputy General, transmitting documents showing the strength of the case and inviting his input and comment.

Secretary Kleppe is responding to a letter he has received from Governor Longley, will refer to Mr. Austin's invitation to the State Deputy Attorney General, and will also refer to the Governor's visit with you -- by saying that "The President has asked me to look into this matter." We and Mr. Buchen believe that this discharges your obligation to Governor Longley and keeps the matter at the proper arm's length from the White House.

The Future:

After receiving input from both the Indians and the State, Interior will send its Litigation Report to Justice -- i.e., the formal request for definitive or expanded lawsuits.

The Litigation Report will then be made available to the Indians and the State and further comments will be invited.

These comments may point to a possible overall settlement, such as a "Maine Native Claims Settlement Act" by the Congress (as an alternative to months if not years of claims litigation.)

Justice will inform Judge Gignoux of the steps taken so far.

Mr. Carter, then as President, will have to make the final judgment about what kind of lawsuits or a legislative package to support.



OFFICE OF THE VICE PRESIDENT

WASHINGTON, D.C.

12/8

Allen Moore

advises me decision -

No answer -

and

He



Leah

LAW OFFICES

McNUTT, DUDLEY, EASTERWOOD & LOSCH
BARR BUILDING
WASHINGTON, D. C. 20006
4 27

(202) 296-4222
CABLE ADDRESS "McNUTT-LAW"

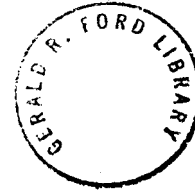
CONRAD D. PHILOS
COUNSEL

PAUL V. McNUTT (1946-1955)
HENRY A. DUDLEY
O. P. EASTERWOOD, JR.
ROBERT E. LOSCH

SPOTTSWOOD R. DUDLEY
COUNSEL
80 PINE STREET
NEW YORK, N.Y. 10005

December 3, 1976

Mr. James M. Cannon
Assistant to the President
for Domestic Affairs,
The White House
Washington, D. C.



Dear Mr. Cannon:

The purpose of this letter is to bring to your attention a serious problem which has long-term implications in meeting the nation's energy needs and could severely impact the Nuclear Power Industry in the coming years.

This problem results from a recent decision by the Region I Administrator of the Environmental Protection Agency which threatens to cancel Seabrook Station. This is a power plant which is jointly owned by 11 New England utilities, which are represented by Public Service Company of New Hampshire and is planned for operation in the early 1980's. The decision involves the cooling system for the plant. The system was originally approved by the Region I Administrator of the EPA on June 24, 1975. This approval was modified somewhat on October 24, 1975. Then in a surprise ruling on November 9, 1976 the Region I Administrator revoked his previous approval.

Work on this power plant has been going on at UE&C since April 1972, and in rigorous conformance with the regulations the licensing for the plant has been under way by the utility since February 1972. Construction

Mr. James M. Cannon
Page Two

December 3, 1976



was begun in July 1976. This was 1-½ years later than planned due to delays caused by the extended review by the Nuclear Regulatory Commission.

The utility has announced that the cancellation cost of the plant would be about \$300 million. It is my considered opinion that should cancellation occur, a de facto moratorium in ordering new nuclear power plants will be established. No utility would again want to be in a position of having to face such a large financial risk from a last minute decision change. While the decision is unrelated to nuclear power, the impact is much larger with nuclear plants because of the extended licensing phase.

Since this has serious implications to an entire industry, I request that you review this matter and do what you can to have the decision reviewed and reversed by Mr. Russell E. Train, Administrator of the Environmental Protection Agency. I would like to urge a decision on this issue be reached promptly and during the current administration. The completion of the tunnels associated with the cooling water system is now time limiting to completion of the power plant. Each month of delay will increase the end cost of the plant approximately \$15 million. In addition, the issue is very complex and therefore should be settled within this administration where there is the background to understand and properly deal with the problem.

The following are additional reasons why this decision should be reviewed and reversed:

1. If the plant is cancelled, this will represent a significant burden on the consumers in the area served. Cancellation costs will result in future higher electric bills. If the energy needs are not met, unemployment will follow and living standards will decline. The greatest burden will be carried by the citizens at the lower economic levels.

2. The existing cooling water system for the Seabrook plant is about as good a system as is reasonable and



December 3, 1976

practical from an engineering standpoint and represents a significant environmental improvement over that used on previous coastal power plants. The proposed 7 miles of 19 ft. diameter, hard rock tunnels go about 200 ft. under a surrounding salt marsh and the beaches assuring there is no environmental impact and extend out into the ocean about as far as is practical. They represent a significant additional cost to the plant since a much cheaper alternative would be to dredge a channel from the ocean to the plant site.

3. The two suggested alternatives are simply not feasible. To make the already long tunnels still longer would be very costly (several hundred million dollars) since they are time limiting to the plant. Also, longer tunnels may not be possible because the rock conditions further under the ocean are unknown. A change to cooling towers would result in a several year licensing delay. Both state and federal approvals would be required. The NRC has previously objected to the use of cooling towers at this site.

4. The decision reached on Seabrook will set a precedent for all power plants to be sited on the coast regardless of whether they are coal, nuclear, or some other type. If it is not satisfactory to connect the plant to the ocean with long tunnels, then it would seem it would not be satisfactory to use the ocean at all for cooling. This would also have implications for the offshore plants. Loss of the ocean as a means of cooling power plants will have a major detrimental effect in meeting our future energy needs.

5. This decision will impact the future energy supply of the New England region and of the United States. The Seabrook plant is well along. While construction was just started in July 1976, delays amounting to 1-½ years were previously experienced due to the extended review by the Nuclear Regulatory Commission. The utilities used this time to better plan the work and manufacture materials for

Mr. James M. Cannon
Page Four

December 3, 1976

construction. Thus, while construction has just begun, parts for the plant are well along. If utilities are not allowed to complete plants which are this far along, there will be no hope of meeting the energy needs in the 1980's.

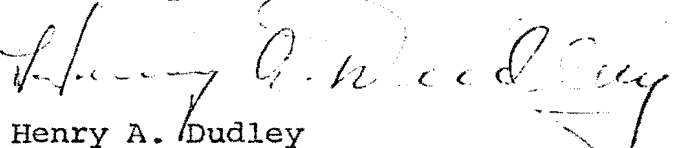
6. The integrity of decisions reached by the government's regulatory agencies is in question. Significant expenditures have been incurred by the plant owners in the belief that the proposed system had been accepted by the EPA. In addition to the over \$100 million spent on other parts of the plant, \$12 million of special equipment has been completed for constructing the tunnels and related marine work and are ready to be put in service. The estimated \$300 million cancellation costs will have a serious financial impact on the companies involved.

7. There will be an effect on jobs throughout the country. It is estimated that approximately 7,000 equivalent full-time people are presently working on the Seabrook plant alone. Of this only about 770 are located at the site.

Attached for your information to enable you to better understand this problem are two documents - a chronology of the project and a description of the circulating water intake and discharge system which is the part of the plant that is in question.

I would be pleased to meet with you or your staff, at your convenience, to discuss this further.

Sincerely,


Henry A. Dudley

cc: Humphreys

LAW OFFICES

McNUTT, DUDLEY, EASTERWOOD & LOSCH
BARR BUILDING
WASHINGTON, D. C. 20006

(202) 296-4222
CABLE ADDRESS "McNUTT LAW"

CONRAD D. PHILOS
COUNSEL

PAUL V. McNUTT (1946-1955)
HENRY A. DUDLEY
O. P. EASTERWOOD, JR.
ROBERT E. LOSCH

SPOTTSWOOD P. DUDLEY
COUNSEL
80 PINE STREET
NEW YORK, N. Y. 10005

December 3, 1976

Mr. James M. Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D. C.

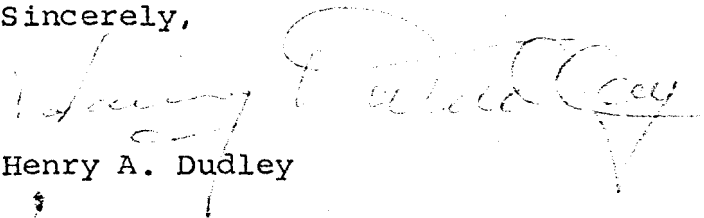
Dear Mr. Cannon:

I would like to add an important item to my letter to you, dated December 3, 1976, on the Seabrook Station.

Seabrook Station represents a significant step toward nuclear plant standardization, an important part of meeting the nation's energy needs. Two units are under construction at Seabrook, New Hampshire; and two replicate units for Charlestown, Rhode Island, are in the licensing phase. A single unit for Sears Island, Maine, is in the planning phase. If the current confusion with nuclear plants ends, it is expected that utilities will order additional plants of this design.

This additional information should be considered in reaching a decision on the Seabrook plant.

Sincerely,


Henry A. Dudley

cc: Humphreys

LAW OFFICES

McNUTT, DUDLEY, EASTERWOOD & LOSCH
BARR BUILDING
WASHINGTON, D. C. 20006

(202) 296-4222
CABLE ADDRESS "McNUTT-LAW"

CONRAD D. PHILOS
COUNSEL

PAUL V. McNUTT (1946-1955)
HENRY A. DUDLEY
O. P. EASTERWOOD, JR.
ROBERT E. LOSCH

SPOTTSWOOD P. DUDLEY
COUNSEL
80 PINE STREET
NEW YORK, N. Y. 10005

December 3, 1976

Mr. James M. Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D. C.

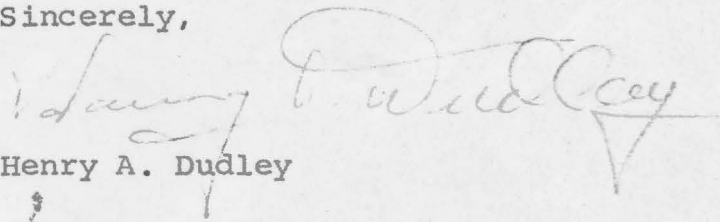
Dear Mr. Cannon:

I would like to add an important item to my letter to you, dated December 3, 1976, on the Seabrook Station.

Seabrook Station represents a significant step toward nuclear plant standardization, an important part of meeting the nation's energy needs. Two units are under construction at Seabrook, New Hampshire; and two replicate units for Charlestown, Rhode Island, are in the licensing phase. A single unit for Sears Island, Maine, is in the planning phase. If the current confusion with nuclear plants ends, it is expected that utilities will order additional plants of this design.

This additional information should be considered in reaching a decision on the Seabrook plant.

Sincerely,


Henry A. Dudley

SEABROOK STATION LICENSING CHRONOLOGY



<u>Date</u>	<u>Event</u>
February 1, 1972	Application before the State of New Hampshire Site Evaluation Committee and Public Utility Commission for a Certificate of Site and Facility
March 30, 1973	Application for a Class 103 Construction Permit and Operating License tendered by PSNH to the Atomic Energy Commission (AEC), the agency then responsible for coordinating review by all government agencies, including specifically the Environmental Protection Agency
July 9, 1973	AEC docket application
January 29, 1974	Certificate of Site and Facility issued by New Hampshire Public Utilities Commission approving the plant for the State
April 1974	AEC Staff issued the Seabrook Station Draft Environmental Statement for review and comments by the public, the Council on Environmental Quality and other Federal, State and local agencies including specifically the EPA. This document weighs the environmental, economic, technical and other benefits of the proposed Seabrook Station against environmental and other costs, considering available alternatives
August 2, 1974	Application filed with EPA for a waiver to Section 316 of the Federal Water Pollution Control Act to allow use of cooling of the plant using ocean water brought in and then discharged through large diameter tunnels. This application was required due to a change in the EPA's regulations requiring a waiver for this type of cooling water system
August 14, 1974	AEC Staff issued their Safety Evaluation Report for Seabrook Station. This report summarizes the results of the technical evaluation of PSNH's proposed design.
August 21-22, 1974	Advisory Committee on Reactor Safeguards (ACRS) subcommittee meeting and site visit
September 6, 1974	ACRS committee meeting with PSNH and NRC Staff
October 9, 1974	Second ACRS subcommittee meeting with PSNH and AEC Staff
October 31, 1974	Second ACRS committee meeting with PSNH and AEC Staff
December 4, 1974	Third ACRS subcommittee meeting with PSNH and AEC Staff
December 10, 1974	Letter report by the Advisory Committee on Reactor Safeguards recommending construction of the proposed Seabrook Station

<u>Date</u>	<u>Event</u>
December 1974	Final Environmental Statement by the NRC Regulatory Staff reflecting review comments by the public, the Council on Environmental Quality and Federal, State and local agencies including specifically the EPA
January 19, 1975	AEC abolished; regulatory responsibilities assumed by the Nuclear Regulatory Commission (NRC)
January 30, 1975	EPA public hearings on PSNH's requested exemptions from thermal effluent limitations and on design criteria for the intake of the proposed once-through cooling system Sections 316(a) and 316(b) of the Federal Water Pollution Control Act. (The Seabrook proceedings were the first under Section 316(b) for intakes)
March 19, 1975	EPA released its DETERMINATIONS approving the once-through open ocean cooling system with conditions relating to both the design and location of the intake structure
May 16, 1975	EPA issued clarifications to their DETERMINATIONS
May 27, 1975	Atomic Safety and Licensing Board (ASLB) hearings began on health and safety issues
May 29, 1975	State of New Hampshire Water Supply and Pollution Control Commission issued their Section 401 Certificate approving the once-through cooling system
June 24, 1975	EPA reissued their DETERMINATIONS approving the once-through cooling system with the exact location of the intake structure and number of intake ports to be specified in the future
July 3, 1975	ASLB public hearings on health and safety were completed
August 25, 1975	EPA public hearing on proposed new intake location.
August 26, 1975	ASLB public hearings began on environmental issues pertinent to Seabrook Station
September 30, 1975	EPA issued revised DETERMINATIONS with some detail changes to the June 24, 1975 issue including specifying the intake location
October 9, 1975	State of New Hampshire Water Supply and Pollution Control Commission issued a modification to their Section 401 Certification to incorporate the EPA changes in the September 1975 DETERMINATIONS

Date	Event
October 24, 1975	Revised DETERMINATIONS issued by EPA approving a specific intake location. This location resulted in increasing the length of the intake tunnel about 4000 feet.
November 10, 1975	Intervenor Seacoast Anti-Pollution League requests adjudicatory hearing on DETERMINATIONS relative to intake location
November 16, 1975	ASLB public hearings on environmental issues completed
November 25, 1975	EPA grants SAPL request for hearing on DETERMINATIONS
Feb. 23-27, 1976	ASLB Evidentiary Hearing reopened
March 23 to April 2, 1976	EPA's Adjudicatory hearing held on DETERMINATIONS
May 21, 1976	Transcript and record of EPA Adjudicatory hearing on DETERMINATIONS certified by EPA Administrative Law Judge Yost to EPA's Regional Administrator
June 10, 1976	EPA Regional Administrator returns case to Law Judge
June 21, 1976	Law Judge returns case to Regional Administrator
June 29, 1976	Atomic Safety and Licensing Board releases "Initial Decision on Seabrook Construction Permits"
July 7, 1976	NRC issued Seabrook Construction Permits
July 21, 1976	Ruling released by U.S. Court of Appeals, District of Columbia on "Environmental Effects of Fuel Cycle"
July-Sept. 1976	Various appeals filed on the construction permits
September 30, 1976	Atomic Safety and Licensing Appeal Board's (ASLAB) Memorandum and Order (ALAB-349) granting NRC's motion to suspend Seabrook construction permits effective 10/8/76 pending review by NRC of the environmental effects of fuel cycle. (See July 21, 1976 court decision)
October 5, 1976	Commission's Order announcing its decision to review ASLAB's 9/30/76 decision (ALAB-349), and setting date of 10/26/76 to hear oral argument. Effectiveness of ALAB-349 thereby stayed
October 26, 1976	Hearing before NRC on ASLAB's Memorandum and Order ALAB-349



- 4 -

<u>Date</u>	<u>Event</u>
November 5, 1976	NRC announces suspension of proceedings on ALAB-349 overturning ASLAB's decision to suspend construction, based on information which shows the environmental effects of fuel cycle are small
November 9, 1976	Press conference announcing EPA's Initial Decision revoking their DETERMINATIONS of June 24, 1975 and October 24, 1975 regarding once-through cooling
November 12, 1976	PSNH's petition for EPA Administrator's review of the November 9, 1976 Initial Decision by the Region I Administrator which revoked the prior DETERMINATIONS of the Regional Administrator.

ACTION
JMC REQUESTTHE WHITE HOUSE
WASHINGTON

December 13, 1976

76 DEC 13 PM 5 13

MEMORANDUM TO: JIM CANNON

FROM: GEORGE W. HUMPHREYS

SUBJECT: Assemblyman Duryea's Request
For Assistance

Perry Duryea asked for whatever assistance you could offer on two applications for EDA assistance.

The school districts from Sag Harbor and Amagansett have applied for special assistance funds to pay for needed expansion of educational facilities. The applications have cleared the New York State Education people and are in Washington for decision. Perry understands the decision will be made on or about December 15 and the applicants will be notified on the 24th.

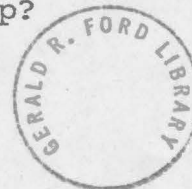
EDA has allocated \$230,000,000 total for New York State, and over \$400,000,000 of requests have been forwarded.

APPLICATION NUMBERS

Amagansett School #LNY-1183-0

Sag Harbor School #LNY-0944-0

Do you want to ask Paul Leach to follow up?



Environ.

CC: Art Quern

ACTION
JMC REQUEST

THE WHITE HOUSE

WASHINGTON

December 13, 1976

76 DEC 13 5 13

MEMORANDUM TO: JIM CANNON
FROM: GEORGE W. HUMPHREYS *[Signature]*
SUBJECT: Assemblyman Duryea's Request
For Assistance

Perry Duryea asked for whatever assistance you could offer on two applications for EDA assistance.

The school districts from Sag Harbor and Amagansett have applied for special assistance funds to pay for needed expansion of educational facilities. The applications have cleared the New York State Education people and are in Washington for decision. Perry understands the decision will be made on or about December 15 and the applicants will be notified on the 24th.

EDA has allocated \$230,000,000 total for New York State, and over \$400,000,000 of requests have been forwarded.

APPLICATION NUMBERS

Amagansett School #LNY-1183-0

Sag Harbor School #LNY-0944-0

Do you want to ask Paul Leach to follow up?



PRIORITY
PRECEDENCE

UNCLAS
CLASSIFICATION

FROM: JAMES LYNN

TO: DICK CHENEY
(VAIL)

INFO:

RELEASED BY: FE

FOR COMMCENTER USE ONLY

DEX

DAC

046

GPS

LDX

PAGES

7

TTY

CITE

DTG: 1976 DEC 21 21 37

TOR: 212208Z17

SPECIAL INSTRUCTIONS:

BEST COPY AVAILABLE



76 DEC 21 PM 5:08

WHITEHOUSE
COMMUNICATIONS
ROOM



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

DEC 21 1975

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. LYNN
JAMES M. CANNON

Issue

Whether the Executive Order prohibiting Federal use of poisons to control coyotes should be rescinded.

Background

Coyotes kill sheep. (See attached photographs.)

The sheep that are jeopardized are either on

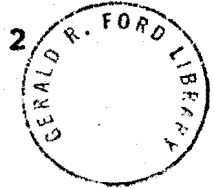
- o private land (ranches), or
- o Federal lands, usually pursuant to grazing permits.¹

In 1931, the Federal Government assumed responsibility for controlling damage done by animals to crops or livestock.² This function is not related primarily to Federal lands -- indeed most control measures are taken on private lands after the owner calls for Federal help. Over the years the following types of animals have been subject to control: rodents, foxes, bears, bobcats, wild dogs, skunks and coyotes.

Approximately 183 Federal employees utilize the following methods to control coyote population, principally on private lands

- o trapping
- o shooting

- 1 There is little evidence that coyotes living on Federal lands run onto private land, kill sheep and run back to the sanctuary of Federal lands.
- 2 Initially the Department of Agriculture had responsibility; this function was transferred to the Department of Interior in 1939 along with the other functions of the Biological Survey which became the Fish and Wildlife Service.



- o denning (killing the young in the den) and,
- o poisoning

Until 1972 the chief poison substances were "strychnine" and sodium monofluoroacetate, known as "1080". These poisons were placed in bait carcasses. Both are relatively stable through changes in weather -- indeed to the point of remaining toxic in the carcass of the poisoned coyote.

Also used was a device called a "coyote getter" which involves a .38 caliber gun which shot a poison capsule into the coyote's mouth when a trigger was stepped on.

On February 8, 1972, President Nixon issued an Executive Order which banned the use of

- o all toxic chemicals to kill predatory animals; and
- o all toxic chemicals used for killing other non-predatory animals if the chemicals had a secondary effect, i.e., the carcass of the poisoned animal would itself poison another animal if eaten

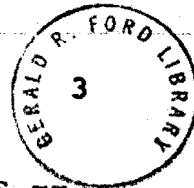
both with respect to

- o Federal lands, and
- o the Federal animal damage control program described above.

The only exceptions concern emergency measures on Federal lands and the use of sodium cyanide, described below, as approved by the Environmental Protection Agency (EPA).

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) became law eight months after the Executive Order was issued. That Act requires registration of poisons. It permits EPA to ban poisons or to limit their use to a particular manner of application or to certain types of pests. EPA's registration procedures, unlike the outright ban of the Executive Order, require the agency to weigh the benefits of the use of the poison in controlling animal populations against the environmental costs of doing so.

Currently, neither strychnine or 1080 is registered (the registrations having been cancelled) for predators such as coyotes; they are registered for use against rodents.



Sodium cyanide -- a poison without secondary effects -- is registered for use against coyotes provided it is used in a M-44 device which, unlike the earlier .38 caliber shell version, is spring-loaded to shoot a pellet into the coyote's mouth. Sodium cyanide was also used experimentally in a "toxic collar" pursuant to your change to the Executive Order in July 1975. The coyotes learned to avoid it.

Currently, approximately 15,000 to 20,000 M-44 devices are employed by Interior. Interior believes the device is effective but has no data to prove it. The sheep ranchers believe the device is ineffective, but neither they nor Agriculture have any supporting data -- nor indeed does either have data to show the amount of sheep loss due to coyotes.³

The Legal Effect of Rescinding the Executive Order

Rescission of the Executive Order would have the following results

- o no effect on the use of 1080 because it is not registered for use against predatory animals and still could not be used against coyotes,
- o no effect on the use of strychnine for the same reason, and
- o no effect on sodium cyanide because it is registered and now being used

With the Executive Order ban lifted, 1080 and strychnine could be used, but for rodent control, on the public lands. (It is currently used on private lands only.) To the extent these poisons persist in the dead rodents -- and, under certain conditions, they do -- coyotes would also die since their main food is rodents. However, EPA has already begun proceedings to cancel the registrations of these poisons as to rodent control.

Instead of the outright ban of the Executive Order, newly developed chemicals would be accorded the EPA benefit/cost process.

Interior would be relieved of the duty under the Executive Order to act against private citizens -- such as grazing permittees -- who place poisons on public lands. The Department has not done so.

³ Agriculture has indicated annual sheep losses run to 47 million pounds. We believe these data are highly suspect. They were obtained by surveying sheep ranchers as to what losses they incur from coyotes. Often a sheep rancher would



Attitudes

The sheep ranchers

- o think 1080, and to a lesser extent strychnine, are the answer
- o think sodium cyanide and the M-44 device are almost as big a joke as the toxic collar⁴
- o blame the industry problems on President Nixon's hated Executive Order
- o are not really aware of FIFPA and the cancellation of registration for 1080 and strychnine use against coyotes
- o would be delighted with the rescission of the Executive Order -- even if there is no change in the poisons that can be used
- o consider Train and EPA as separate from your Administration.

The environmentalists

- o view the Executive Order as a symbolic landmark
- o would accordingly deem rescission a giant step backward -- even though the practical effect is nil
- o would rally to a public statement by Train which would indicate that
 - he (Train) would not have rescinded the Order
 - there would be no practical effect of the rescission, emphasizing that 1080 and strychnine registration would probably be withdrawn for rodent use as well
 - Interior was being relieved of its duty under the Executive Order to prevent others from using poison on public lands -- even acknowledging that Interior has never exercised this duty.

⁴ Coyotes learned to avoid sheep with the collar; Interior believes this is due to the odor, not reading the EPA label.

How Can the Problem be Solved?

First, we need information indicating what the problem actually is. How serious? Where? Are current methods effective?

That means more research.

And if existing techniques are not effective, that means even more research.

At the same time, increased effort on other non-poison methods of control (which you have already increased once) would be well received by the sheep ranchers and would be accepted by some environmentalists.⁵

Further research would appeal to the environmentalists. For that reason -- and others -- it is not viewed by the sheep ranchers as an answer.

Organizationally, there is an argument for moving both the research and control operations to Agriculture. The interest to be protected is primarily agricultural, while Interior's interest is to protect living animals. This possibility requires further study.

What are the Options for Styling a Rescission of the Executive Order?

1. Simply rescind the Executive Order -- and have no statement of explanation (a copy of a new executive order which effects the rescission appears at Tab A)
 - the sheep ranchers will applaud -- at least initially -- until they find out that FIFRA stands in their way -- but even then may blame Train and EPA and not you
 - the environmentalists will object vigorously.
2. Rescind the Executive Order and urge legislation to reverse the EPA decisions under FIFRA to allow some temporary, emergency use of 1080 and strychnine

⁵ Interestingly, environmentalists seem to divide into two camps on this issue; one group recognizes that coyote populations need to be controlled by killing them -- but do not want to use methods that endanger humans or wildlife; the second group does not believe that coyote population should be interfered with at all.

- the sheep ranchers will be elated -- even though the legislation will go nowhere
 - the environmentalists will be livid.
3. Rescind the Executive Order -- with a statement indicating that it is no longer necessary because of enactment of FIFRA, which, instead of an outright ban, provides for a more logical benefit/cost procedure
- while this educates the sheep ranchers that FIFRA is a problem, it also points out that FIFRA is better with respect to newly developed poisons than the outright ban of the Executive Order
 - the environmentalists will object, as mentioned under 1 above.

Recommendations

Secretary Knebel argues that the existing Executive Order serves no purpose and rescission will open the way for Congressional consideration of relief. At a minimum it will take you out of the poison review business and leave that job to EPA. He points out that such action will be extremely well received by the industry even though FIFRA would continue to constitute an obstacle.

Administrator Train argues that it is not appropriate for you to infuriate the environmentalists on your way out of office, especially since there is no practical effect of the rescission. Train also points out that rescission of the Executive Order would relieve Interior of its duty to prevent the use of poisons on public lands.

Jim Lynn and Jim Cannon advise against rescission and recommend more resources for research and for non-poison control methods. Transfer of the function from Interior to Agriculture should be proposed.

EXECUTIVE ORDERRELATING TO ENVIRONMENTAL SAFEGUARDS FOR
ANIMAL DAMAGE CONTROL ON FEDERAL LANDS

By virtue of the authority vested in me as President of the United States, and in view of the actions taken by Congress in establishing a regulatory process by which the Environmental Protection Agency ensures that the use of toxicants is permitted only under conditions prescribed by that agency, and in order to provide for the uniform applicability of the conditions prescribed by that agency, in accordance with applicable law and regulations, Executive Order No. 11643 of February 8, 1972, as amended, is hereby rescinded.

THE WHITE HOUSE

, 1976

THE WHITE HOUSE
WASHINGTON

December 22, 1976

J. Nixon

MEMORANDUM TO: JIM CAVANAUGH
FROM: ART QUERN *Art Quern*
SUBJECT: Oil Spill

Attached is a draft Presidential statement regarding the oil spill.

The statement has been cleared with FDAA, the Coast Guard, Commerce and EPA.

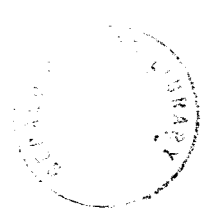


DRAFT

I am deeply concerned by the serious threats to New England's shoreline, wildlife, marine resources and fishing industry posed by the oil spill off the coast of Southeastern Massachusetts.

I have directed Federal agencies to do all that is possible to contain the slick, to limit environmental damage and to provide appropriate assistance under the law to any affected communities and businesses.

The Coast Guard continues to take all possible measures to ensure minimal economic and ecological damage. Representatives of the Economic Development Administration, the Environmental Protection Agency, the Federal Disaster Assistance Administration and the National Oceanic and Atmospheric Administration are on the scene and are monitoring the situation closely. They are prepared at my direction to respond as promptly as possible and to exercise every appropriate authority at their disposal to assist in dealing with this unfortunate accident.



THE WHITE HOUSE
WASHINGTON

*file
Invision.*

1976 DEC 27 AM 9 25

DATE: 12/23/76

TO: JIM CANNON

FROM: LYNN MAY

Comments:

Dexed to Vail on 12/23/76.



122701

THE WHITE HOUSE

WASHINGTON

December 23, 1976



MEMORANDUM FOR: THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Oil Spill Off the Coast of
Massachusetts.

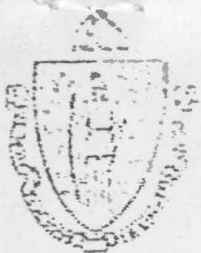
Governor Michael S. Dukakis of Massachusetts has requested a Federal Emergency Declaration to deal with the oil spill from the ship ARGO MERCHANT off Nantuckett Island (Tab A). An emergency declaration differs from a disaster declaration in that it only requires Federal assistance to supplement state and local efforts to protect lives, public health, safety and property. The Governor, however, could not offer any justification for assistance in addition to the ongoing efforts by the Coast Guard, EPA, Federal Disaster Assistance Administration and the SBA to assess the disaster. He subsequently asked that the emergency request be kept open pending additional information (Tab B).

The Coast Guard reports that it is currently taking samples from the water above and the bottom of Georges Bank but has not yet discovered any trace of the oil from the tanker. The Coast Guard and Woods Hole Institute will continue to monitor the oil spillage to determine its effect on the fishing banks off Massachusetts and Rhode Island. The Coast Guard and the State of Massachusetts have also set up beach patrols on the coastline adjacent to the spill to report on any approach of the oil toward land. The Coast Guard indicates that the oil is still apparently heading out to sea away from the fishing banks.

Note: If you meet with Governor Lamm while in Vail, he may bring up the subject of Federal relief for businesses adversely impacted by the lack of snow for skiing. The Governor is apparently preparing a request for SBA disaster loans to aid businesses around Colorado ski areas. The Administrator of the SBA can make the determination to extend the loans under his own authority.

If the lack of snow continues, unemployment may grow in the affected areas and State revenues may suffer but any additional Federal assistance would require further evidence of this effect.





RECEIVED

DISASTER CENTER

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

76 DEC 22 P 4 1976 STATE HOUSE • BOSTON 02133

FDAA

Dist

Action

December 22, 1976

300143

President Gerald R. Ford
The White House
Washington, D.C. 20500

Through:

Mr. E. Paul Hartzell
Director, Region I
Federal Disaster Assistance Administration
150 Causeway Street
Boston, Massachusetts 02114

Dear Mr. President:

I respectfully request that you declare that an emergency exists in the Commonwealth of Massachusetts under the provisions of the Disaster Relief Act of 1974, Public Law 282, 93rd Congress.

Since Wednesday, December 15, 1976, the Coast Guard and Environmental Protection Agency have attempted to deal with the grounding of the Argo Merchant on the Nantucket Shoals, and the leaking of its residual oil contents. This situation climaxed December 21, 1976, when the tanker broke in two. Little hope exists for removing the oil remaining in the hull. The discharge constitutes a major threat to the ecosystem of both Georges Bank and the entire Southeastern Massachusetts coastal area. This spill also poses a direct threat to the North Atlantic commercial fishing industry. It is impossible at this time to estimate the potential damage to public health and the economy, but it could run to many millions of dollars and hundreds of jobs.

On December 21, 1976, I directed that the State Disaster Plan be invoked. In dealing with this emergency to date, the Commonwealth and concerned local governments have monitored the situation and have surveyed their available resources and personnel available for dealing with oil-polluted beach areas.

The resources of the Commonwealth are insufficient to deal with this disaster. I therefore request that all federal assistance be made available to avert or lessen its effects.

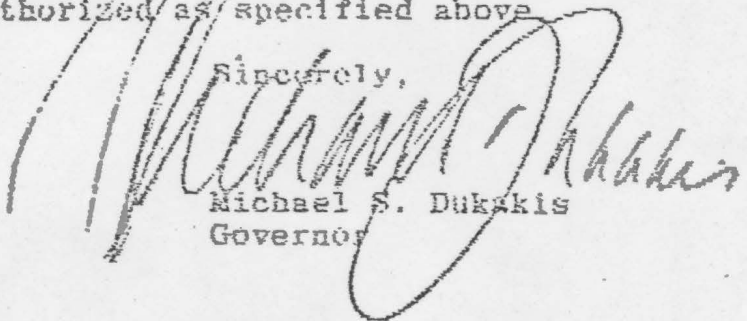


Dist	Action
B	
CR	
ED	
EO	
ER	
ES	
ESR	
SAF	
SAA	
ER	
EO	
GI	
File	

President Ford
Page Two
December 22, 1976

Pursuant to Section 301(a) of the Law and Federal Disaster Assistance Administration regulations, I hereby request that you declare that a State of Emergency exists in the coastal counties of Massachusetts and the offshore waters of the Nantucket Shoals and that Federal aid be authorized as specified above.

Sincerely,

A large, stylized handwritten signature in dark ink, which appears to read "Michael S. Dukakis". The signature is written over the typed name and title.

Michael S. Dukakis
Governor

MSD/am



THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

December 22, 1976

MICHAEL S. DUKAKIS
GOVERNOR

Mr. E. Paul Hartzell
Regional Director
Federal Disaster Assistance Administration
150 Causeway Street, Room 701
Boston, Massachusetts 02141



Dear Mr. Hartzell:

I respectfully request that the Small Business Administration declare that an emergency exists in the Commonwealth of Massachusetts as a result of the break-up of the tanker "Argo Merchant" on the Nantucket shoals on December 21, 1976 and the spillage of its vast cargo of oil.

The spill has reached Georges Bank, the world's richest fishing ground, and early assessments indicate that the potential damage to feeding and spawning grounds could result in catch reductions of up to 75 percent.

The potential impact of this disaster would bear most heavily on the fishing, fish products processing and related industries in Massachusetts ports, including Boston, Chatham, Gloucester, New Bedford, Plymouth and Provincetown, and on marine harvesting throughout the coastal areas of Massachusetts.

Thank you in advance for your prompt attention to this urgent matter.

Sincerely,

Michael S. Dukakis
Governor of Massachusetts

B



RECEIVED
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL DISASTER ASSISTANCE ADMINISTRATION
150 CAUSEWAY STREET, ROOM 713
BOSTON, MASSACHUSETTS 02114

76 DEC 23 12:24

REGION 1

300147
December 23, 1976

IN REPLY REFER TO:

FEDERAL DISASTER
ADMINISTRATION - BOSTON

Honorable Michael S. Dukakis
Governor of Massachusetts
State House
Boston, MA 02133

Dear Governor Dukakis:

Reference our telegram of December 22, 1976 which emphasized the necessity for Federal Disaster Assistance Administration to have more specific information. I was looking forward to discussing this with you on the Thursday morning flight which was cancelled. I understood from Secretary Barry Wednesday night that I would have the opportunity to discuss this problem with you in your Thursday morning meeting, and so informed Senator Kennedy, who asked me to continue our cooperation with you to speed the obtaining of this data.

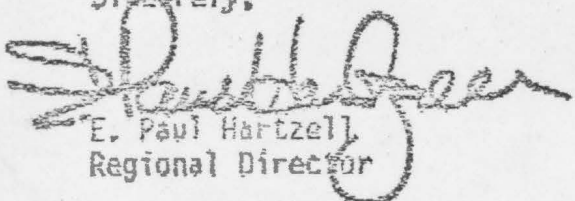
I have been informed by Secretary Barry this morning that this meeting has terminated.

The President has requested an update, by this afternoon, and it is imperative that I receive today, some communication from you clearly defining the threat and impact on which you have based your request for an Emergency Declaration.

We would also have to know what specific resources you have already committed and will commit to lessen the threat.

All the resources of this office are available to assist you, including members of my staff to work in liaison with your staff.

Sincerely,


E. Paul Hartzell
Regional Director



THE COMMONWEALTH OF MASSACHUSETTS

RECEIVED
EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

300148
MICHAEL S. DUKAKIS
GOVERNOR

76 DEC 23 11:02

December 23, 1976

FEDERAL DISASTER

President Gerald R. Ford
The White House
Washington, D.C. 02500



Through:

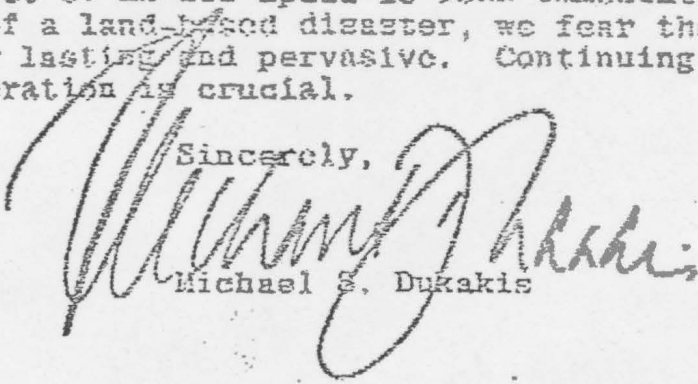
Mr. E. Paul Hartzell
Director, Region I
Federal Disaster Assistance Administration
150 Causeway Street
Boston, Massachusetts 02114

Dear Mr. President:

We respectfully ask that you keep the Commonwealth's request for an emergency declaration open so that we can provide you with more detailed information as it becomes available.

While the effect of an oil spill is less immediately visible than that of a land-based disaster, we fear the damage will be long lasting and pervasive. Continuing Federal-State cooperation is crucial.

Sincerely,


Michael S. Dukakis

MSD/mkd