

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files
Folder Title: Chron File (06/18/1985-06/30/1985)
Box: 65

To see more digitized collections visit:
<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:
<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

Withdrawer

DLB 8/30/2005

File Folder CHRON FILE (06/18/1985-06/30/1985)

FOIA

F05-139/01

Box Number 65

COOK

11DLB

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FRED FIELDING, RE: U.S. INSTITUTE OF PEACE (PARTIAL)	5	6/28/1985	B6	881

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]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

COPY - Reagan Presidential Record

THE WHITE HOUSE

WASHINGTON

June 18, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order Entitled "Reimbursement of
Federal Employee Relocation Expenses"

Counsel's Office has reviewed the above-referenced proposed Executive Order. In line 7, "subsection 7(c)" should be changed to "Section 1(7)(c)." There is a Section 7 in Executive Order 11609, and the reference to "subsection 7(c)" may be taken to mean a subsection (c) of Section 7, instead of the intended subsection (7) of Section 1. There is also a subsection (7) of Section 9, and there is no reason to refer to Section 1 rather than Section 9 when cited to "subsection 7(c)." In short, the only accurate citation is to "Section 1(7)(c)."

THE WHITE HOUSE

WASHINGTON

June 18, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS, JR. 

SUBJECT: Talking Points

David Chew has asked for comments on the attached talking points as soon as possible. The points cover two areas: agriculture and affirmative action. The agriculture points emphasize that we are providing subsidies and loans to farmers now but that the long-term solution is more open markets. The affirmative action points focus on the City of Indianapolis police and fire quota system, and the Justice Department's efforts to reopen that consent decree on the basis of the Stotts decision. The points emphasize the President's disapproval of quotas, and look to the Stotts decision to support Justice's efforts.

I would change the last bullet item to read: "Despite the fact that the Memphis decision (Firefighters Local Union 1984 vs. Stotts) directly involved only lay-offs, we believe the reasoning of the opinion applies to all employment actions." This is clearer than saying, as the current draft does, "despite the fact that the decision refers only to lay-offs, we believe it refers to all employment decisions."

THE WHITE HOUSE

WASHINGTON

June 18, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Talking Points

I have reviewed the proposed talking points on agriculture and affirmative action. I would change the last bullet item on affirmative action to read as follows: "Despite the fact that the Memphis decision (Firefighters Local Union 1984 vs. Stotts) directly involved only lay-offs, we believe the reasoning of the opinion applies to all employment actions."

FFF/JGR:jmk
cc: FFFielding
JGRoberts
subject
chron.

THE WHITE HOUSE
WASHINGTON

June 18, 1985

Dear Mr. Hunter:

Thank you for your letter of April 18, 1985, advising that you had received a request from the Chairman of a Congressional Subcommittee concerning discounts offered to those using diplomatic passports. The inquiry asked whether the practice was legal, what regulations or guidelines were applicable, whether a discount available only to some Federal employees was proper, whether the discount constituted a gift, and whether any National Highway Traffic Safety Administration officials received such a discount. You added an inquiry concerning whether any White House employees sold foreign cars acquired at discount for profit prior to March 19.

As I noted in my March 19 Memorandum for White House Staff, it is our opinion that there is nothing per se illegal or unethical in the acceptance of a discount offered by a foreign manufacturer to the class of individuals holding a diplomatic or official passport. No guidelines had been issued to the White House staff on this specific question prior to the March 19 memorandum. The Department of State will provide citations to regulations governing the issuance and use of diplomatic passports. Those regulations do not prohibit the acceptance of discounts offered by foreign manufacturers to government officials.

In our opinion, the fact that a discount may be offered to some Federal employees but not others -- e.g., Government attorneys, Government physicians, employees from a particular department -- does not, in and of itself, render the discount illegal or improper. In light of possible appearance problems, however, I have taken the precaution of precluding the acceptance of discounts offered only to members of the White House staff.

Further, we do not believe that discounts of the sort at issue constitute a gift. The Ethics in Government Act of 1978 defines "gift," for purposes of the executive personnel financial disclosure requirements, as "a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor." Manufacturers of foreign automobiles do not offer these discounts out of selfless benevolence but because, in their view, they receive "consideration of equal or greater value." For example, in this case a spokesman for BMW was quoted as saying "it's sort of a PR gesture by the company. We like to have opinion leaders driving

our cars." It is believed that this is merely an instance of what is generally true of commercial discounts: they are offered for an underlying commercial reason, either to increase sales volume or some other reason. The fact that the company derives a benefit does not, of course, mean that the recipient of the discount is rendering a service of any sort for the company in exchange for the discount. It does, however, mean that the discount is not a gift. Although such discounts are not gifts, it seemed appropriate to me, in the interests of avoiding even the appearance of impropriety, to direct that members of the White House staff treat them as if they were gifts for purposes of our standards of conduct. See 5 C.F.R. § 100.735.14.

I have no information that any officials of the National Highway Traffic Safety Administration received a discount from a foreign automobile manufacturer, nor am I aware of any instance in which White House employees sold foreign cars acquired at a discount for profit. My March 19 memorandum specifically prohibits the latter, noting that the practice would result in dismissal from the White House staff and possible criminal prosecution.

I hope the foregoing is helpful.

Sincerely,

Fred F. Fielding
Counsel to the President

Robert H. Hunter, Esquire
Assistant General Counsel
U.S. General Accounting Office
Washington, D.C. 20548

bcc: Judy Kaleta
Nat'l. Hwy. Traffic Safety Adm.

FFF/JGR:jmk
cc: FFFfielding
JGRoberts
subject
chron.

THE WHITE HOUSE
WASHINGTON

June 19, 1985

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR OF SPEECHWRITING

FROM: JOHN G. ROBERTS, JR.,
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Address: International
Lions Club Convention

Counsel's office has reviewed the above-referenced proposed address, and finds no objection to it from a legal perspective.

cc: David Chew

THE WHITE HOUSE

WASHINGTON

June 19, 1985

MEMORANDUM FOR FREDERICK J. RYAN, JR., DIRECTOR
PRESIDENTIAL APPOINTMENTS AND SCHEDULING

FROM: JOHN G. ROBERTS, JR. 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Request For Scheduling Recommendation

You have asked for our recommendation on a scheduling request from Congressman Wolf that the President "kick off" the efforts of the D.C. Baseball Commission by throwing the first pitch at a White House ceremony on June 24. I recommend that the President punt. Many cities across the country (and even Vancouver in Canada) are competing to win a major league baseball franchise, and as President of all the people the President should not endorse the efforts of one city to the detriment of others. Certainly those in Miami or Tampa or Birmingham who are also seeking a major league franchise would object to any support from the President for the District's campaign.

THE WHITE HOUSE

WASHINGTON

June 20, 1985

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY

FROM: JOHN G. ROBERTS, JR. 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: State Draft Testimony on S. 397, the "Foreign
Trade Antitrust Improvements Act of 1985"

Counsel's office has reviewed the above-referenced proposed testimony. On page 10, the witness suggests that "Congress might reasonably decide to rule out the use of [treble] damages against foreign entities..." The proposed Department of Justice testimony on this same bill details, at pages 13-14, the problem with such an approach. The two sets of testimony should be made consistent.

THE WHITE HOUSE

WASHINGTON

June 20, 1985

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY

FROM: JOHN G. ROBERTS, JR. 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOJ Draft Testimony on S. 397, the Foreign
Trade Antitrust Improvements Act of 1985

Counsel's office has reviewed the above-referenced proposed testimony, and finds no objection to it from a legal perspective.

THE WHITE HOUSE

WASHINGTON

June 20, 1985

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF SPEECHWRITING

FROM: JOHN G. ROBERTS, JR.
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Insert for Address to International
Lions Club - Dallas

Counsel's office has reviewed the above-referenced proposed insert, and finds no objection to it from a legal perspective. In line 9, "never" should be deleted (it appears in the next line). In the second line of the third paragraph, "and" should be deleted. In the last line on page 1, "what" should be inserted between "of" and "President."

Finally, I am concerned that the last sentence could be misinterpreted, since the phrase "let us put this incident behind us" is often used to the effect of "forget about it." I would substitute "let us resolve this matter now" or "those holding them should free the hostages now" or something along those lines.

cc: David Chew

THE WHITE HOUSE

WASHINGTON

June 21, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOT International Aviation Decisions: Action
Air Cargo Corporation and Air Express
International Corporation

Our office has reviewed the above-referenced Department of Transportation International Aviation decisions, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the Secretary of Transportation prepared by OMB.

THE WHITE HOUSE

WASHINGTON

June 21, 1985

MEMORANDUM FOR MAX L. FRIEDERSDORF
ASSISTANT TO THE PRESIDENT AND
LEGISLATIVE STRATEGY COORDINATOR

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Senator Helms' Bill - a Legislative Restriction
on the Appellate Power of U.S. Supreme Court

You have asked if we can support a rider Senator Helms proposes to append to the Small Business Administration authorization bill, restricting Supreme Court appellate jurisdiction. I have not seen a copy of the bill and so cannot give a definitive legal opinion. I assume, however, that the bill is one of the standard court-stripping proposals. The Administration is on record as opposing such bills, as they apply to the Supreme Court, as unconstitutional. In 1982 Attorney General Smith announced the Administration's view in a letter to Senator Thurmond, concluding that Congress may not constitutionally divest the Supreme Court of appellate jurisdiction in constitutional cases.

The question of the constitutionality of such proposals has sharply divided legal commentators, and many agree with Pat and Senator Ervin that they are constitutional. The Administration, however, has formally taken the other view. Assuming Senator Helms' rider is such a court-stripping bill, we accordingly not only could not support it, but would be compelled to oppose it, unless we were willing to reverse the Administration's position.

THE WHITE HOUSE

WASHINGTON

June 24, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Prospective Nomination of John Blane
to be Ambassador to Chad

I have reviewed the SF-278 and related materials submitted by John Blane in connection with his prospective nomination to be Ambassador to Chad. Ambassador Blane is a career Foreign Service Officer, and was confirmed in 1982 as Ambassador to Rwanda.

The only issue raised by his materials concerns his decision to join Amnesty International in 1983. My concern was not that this organization issues reports highly critical of the United States Government, but, more significantly, that it could well issue reports critical of Chad during Mr. Blane's tenure there as our ambassador. I would think such an eventuality -- having our ambassador listed as a member of an organization criticizing the host country -- could be very embarrassing to our envoy and prejudicial to the effective representation of the President and the United States. I raised this concern with Mr. Hauser, who suggested I share it with Ambassador Wes Egan in the Office of the Deputy Secretary of State. Egan, in turn, expressed his view that the matter should be raised with the State Legal Adviser's Office.

I thereupon shared my concerns with Bill Gressman of the Legal Adviser's office, stressing that we were not interested in the private affiliations of Foreign Service Officers, but that this particular affiliation might give rise to a conflict of interest. Gressman discussed the matter with Knute Malmborg, who concluded that State should do nothing. Malmborg noted that Blane was a member only and not an officer, and that established rules precluded use of his title in organizational listings. I was not particularly satisfied with this response, but am not inclined to pursue the matter directly with Blane if State will not do so. There is too great a danger that Blane will perceive the White House as trying to inhibit his rights of free expression, which is not at all the case. I told Gressman that we would rely on the judgment of his office that nothing should be done. This will afford us some security in the event of an embarrassment.

THE WHITE HOUSE

WASHINGTON

June 24, 1985

MEMORANDUM FOR THE FILE

FROM: JOHN G. ROBERTS 
SUBJECT: Rosey Grier's "Build America Rally"
June 17 -- Waco, Texas

I declined to approve the proposed message to the "Build America" rally because of insufficient information about Rainbow International and Donald Dwyer. It appeared to me that the "Build America" program was too closely linked to the commercial activities of Rainbow International. There was no separate and distinct charitable entity, certainly no 501(c)(3) organization. It seemed that the "Build America" rallies were means of promoting the franchise business of Rainbow; indeed, the Rainbow stationery bears the slogan "Build Rainbow, Build America!"

I explained the foregoing both to Claudia Korte and a member of Jim Rosebush's staff.

THE WHITE HOUSE

WASHINGTON

June 26, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

Nomination of Malcolm Wilkey to be
Ambassador to Uruguay

I have reviewed the SF 278 and related materials submitted by Malcolm Wilkey in connection with his prospective nomination to be Ambassador to Uruguay. Judge Wilkey has taken senior status pursuant to 28 U.S.C. § 371(b), and will retire from the judiciary altogether pursuant to 28 U.S.C. § 371(a) upon confirmation as ambassador. I have no objection to this nomination.

THE WHITE HOUSE

WASHINGTON

June 27, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Judge Gasch Letter

Attached is the draft letter from the President to be read at the dinner for Judge Gasch this Saturday. I have no objection to the letter, but you indicated that you wanted to see it. The obscure reference in the letter is explained at the clipped section of the attached memorandum; I did not consider it inappropriate for the occasion.

Attachment

THE WHITE HOUSE

WASHINGTON

June 28, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: U.S. Institute of Peace

The statute establishing the U.S. Institute of Peace, enacted on October 19, 1984, specified that the President should submit nominations to the Senate for the eleven non-Government members of the Institute Board of Directors by April 20, 1985. 22 U.S.C. § 4605(e) (3). The Office of Presidential Personnel submitted for clearance the names of ten prospective nominees on April 29, 1985, and the name of an eleventh nominee on May 2, 1985.

I began reviewing the statute and the prospective nominees, and in the course of my review was advised that the Administration was seeking to change the statute, including the provisions governing the composition of the Board. I wrote you a memorandum dated May 8, 1985 (copy attached), detailing the requirements of the current law, and the effort to change it. I prepared for your signature a memorandum for Robert Tuttle, advising him not to await passage of the Administration's proposed changes, and also advising him that we must have a list of those who would be filling the four ex officio slots, since under current law the bipartisanship requirement applies to all members of the Board, not simply the non-Government nominees. See 22 U.S.C. § 4605(c). The memorandum noted that, given the current list of non-Government nominees (six Republicans and five Democrats), only two of the four ex officio members could be Republicans. This memorandum was signed on your behalf by Mr. Hauser and sent on May 8 (copy attached). Dianna called Presidential Personnel several times to follow up.

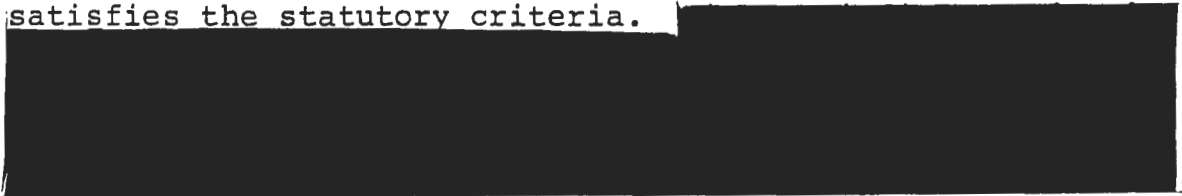
I called Tuttle's office yesterday and Nancy Perot returned my call. I described the various problems with this Board to her. After checking she replied that (1) they were working on the ex officio members, and hoped to have names early next week, (2) they were aware that no more than two of the ex officio members could be Republicans (and that no more than three could be Democrats), and (3) the two non-Government members who have not returned forms (Wendy Borchardt and Allan Weinstein) have been contacted and will return forms as soon as possible.

Nine of the eleven non-Government members have returned forms. These members are to "have appropriate practical or academic experience in peace and conflict resolution efforts of the United States." 22 U.S.C. § 4605(d)(1).

1. W. Bruce Weinrod, a Republican, is Director of Foreign Policy and Defense Studies at the Heritage Foundation. He has a masters degree in international relations and a law degree. He was until recently Legislative Director and Counsel to Senator Heinz. He satisfies the statutory criteria, and his PDS reveals no problems.

2. Dennis Laistner Bark, a Republican, is a Senior Fellow at the Hoover Institution, with a doctorate in history and political science. He has written extensively on east-west relations. He satisfies the statutory criteria, and his PDS reveals no problems.

3. Richard John Neuhaus, a Democrat, is a prominent Lutheran theologian, currently serving as Director of the Rockford Institute Center on Religion and Society. He is active in international affairs and state-church issues. he satisfies the statutory criteria.



66

4. Sidney Lovett, a Democrat, is Senior Minister of the First Church of Christ in West Hartford, Connecticut. He has a bachelor's degree from Yale and a masters from the Union Theological Seminary. Though not as prominent an academic theologian as Neuhaus, Lovett's 30 years as a minister, with leadership positions in the Church of Christ, would appear to satisfy the statutory criteria. His PDS reveals no problems.

5. William Roscoe Kinter, a Republican, is Professor of Political Science at the University of Pennsylvania. He is affiliated with numerous foreign affairs study groups, serving on the boards of several. He satisfies the statutory criteria, and his PDS reveals no problems.

6. Martin Colman, a Democrat, is in the retail fashion business in Beverly Hills. His principal qualification for this Board is his role as Chairman of the Human Rights and Security Committee, which sponsored and secured passage of "Proposition A" in Los Angeles County in June of 1984. The Committee had no purpose beyond Proposition A, and is now largely defunct. Proposition A directed the Board of

Supervisors to tell the leaders of the United States and the Soviet Union that:

The risk of nuclear war between the United States and the Soviet Union can be reduced if all people have the ability to express their opinions freely and without fear on world issues including their nations' arms policies; therefore, the people of Los Angeles County urge all nations that signed the Helsinki International Accords on Human Rights to observe the Accords' provisions of freedom of speech, religion, press, assembly and emigration for all their citizens.



b6

7. Evron Kirkpatrick, the husband of Jeanne Kirkpatrick, is President of the Helen Dwight Reid Educational Foundation and a resident scholar at the American Enterprise Institute. He holds a doctorate from Yale. He is still a registered Democrat, not yet having followed his spouse into the G.O.P. He also serves on an advisory committee to U.S.I.A. The position is unpaid, and I do not think his service on such a purely advisory committee makes him an officer or employee of the United States Government whose appointment would be barred by 22 U.S.C. § 4605(d)(2). He satisfies the statutory criteria, and his PDS reveals no problems, [REDACTED]

b6

8. W. Scott Thompson, a Republican, is Professor of International Politics at the Fletcher School. A former Rhodes Scholar and White House Fellow, he was until February of 1984 Associate Director at U.S.I.A. He has been active in the Committee on the Present Danger and Americans for An Effective Presidency. His education and experience satisfy the statutory criteria.

Thompson currently serves as a consultant to the Department of Defense one day per week. He advised me that this arrangement was only temporary, for the summer, and that he

was willing to terminate it if necessary. Thompson is a consultant to numerous clients, and I do not think he can be characterized as an "employee" of the United States Government by virtue of this temporary arrangement, any more than a private attorney would be a Government employee if he represented an agency on a retainer. The issue is closer than that described with respect to Mr. Kirkpatrick, however, but Thompson has offered to end the arrangement if anyone (such as a Senator on the confirmation committee) objects, so I do not view it as a bar to nomination. In any event, the consultancy is for the summer only, and I think the leaves will be turning before this Board is confirmed and begins work.

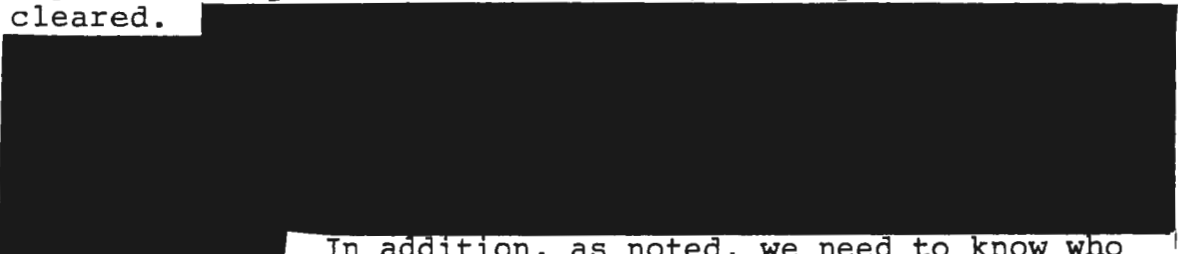
9. John Norton Moore, a Republican, is a widely-respected law professor at the University of Virginia, and a recognized authority on international law. There is no question that he is qualified by virtue of "practical or academic experience" for service on the Board.

resurface if Professor Moore is again retained by the State Department for a significant period on a full-time basis.

10. Allen Weinstein, a Democrat: no forms.

11. Wendy Borchardt, a Republican: no forms.

We have not yet received FBI background investigation reports on any of these individuals, so they cannot be cleared.

 In addition, as noted, we need to know who the ex officio members are before clearing the entire Board.

66

THE WHITE HOUSE

WASHINGTON

June 28, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Annual Reporting Requirement Under the Soil
and Water Resources Conservation Act of 1977

Counsel's Office has reviewed the above-referenced proposed report, required to be transmitted by the Secretary of Agriculture to Congress, through the President, 16 U.S.C. § 2006(c), and finds no objection to it from a legal perspective.