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DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. note	Ralph Stanley to Jim re attached paper, 2p incl. notes on back [Item is still under review under the provisions of EO 13233]	7/8/83	
2. memo	Legislative Strategy Group to Elizabeth Dole re maritime regulatory reform, 2p [Item is still under review under the provisions of EO 13233]	4/25/83	
3. report	re Alaskan oil export (for 10/20/83 Cabinet Council meeting), 4p [Item is still under review under the provisions of EO 13233]	n.d.	

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B-7f Release could reasonably be expected to endanger the life or physical safety of any individual [(b)(7)(F) of the FOIA].
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B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

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1 DOT memos

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE ADMINISTRATOR

October 21, 1983

IN REPLY REFER TO:
HCC-40

The Honorable Mario M. Cuomo
Governor of New York
Albany, New York 12224

Dear Governor Cuomo:

Thank you for your September 26 letter to the President about the Westway project. You discussed recent funding decisions by the Federal Highway Administration (FHWA) on Westway and the decision of the U.S. Army Corps of Engineers to require further studies of the possible effects of the project on fisheries in the lower Hudson River. The President's Special Assistant for Intergovernmental Affairs, Mr. Andrew H. Card, Jr., acknowledged your letter on September 30 and forwarded copies to this Department and to the Corps for consideration. Secretary of Transportation Elizabeth Hanford Dole forwarded your letter to me for response.

You were concerned that the extent of FHWA's funding indicated a reduced level of commitment to the Westway project. This is not the case. We support the State's and New York City's efforts to advance the project, but at the same time are conscious that we have a responsibility to manage Federal funds prudently. We will continue to make Federal funding available for those elements of work which are reasonably necessary to complete the supplemental environmental impact statement and to protect the substantial Federal investment already made. However, since the U.S. District Court has enjoined the project pending its reevaluation by the FHWA and issuance of a section 404 permit by the Corps under the Clean Water Act, we believe we should make further funds available only as they are needed to protect the $200 million already invested in Westway.

The New York State Department of Transportation asked the U.S. District Court to permit funding of $37 million worth of work during the coming 15 months. I believe you have already seen a copy of the FHWA's September 26 memorandum (copy enclosed) indicating that only about $3.9 million of these projected expenses would be considered eligible for Federal participation at this time. We have excluded costs which cannot be reconciled in a fiscally responsible manner with the status of the project. We believe that costs such as $11.4 million for management engineering (double the $5.7 million expended on these services during the past 15 months), $4 million for utility relocation design, $5.4 million for land acquisition, etc., are inconsistent with the court's decision to revoke the section 404 permit and order us to reconsider our approval of the project.

not sent

In our view, the court-ordered reconsideration of Westway can best be carried out in an atmosphere free of continually escalating public expenditures for the project. We will therefore continue examining applications by the State for funding of further activities, to the extent allowed by the court, on a case-by-case basis and consistent with our concern for prudent stewardship of Federal funds.

You also mentioned the FHWA's decision to stop participating in legal counsel fees " . . . on the eve of a major trial." We do not believe that such a major trial is likely to start in the near future. This is an excellent time to consider whether Federal funds should participate beyond the nearly $2 million made available to the State already. The cost to the Federal Highway Trust Fund for State legal representation in the Westway lawsuit has far exceeded the costs of any other environmental case in which the FHWA participated in counsel fees. The special circumstances which led us to participate in these costs have long since disappeared. Thus, we cannot justify Federal participation in outside counsel expenses any longer. This is especially true because the Westway litigation is inactive, enough so that the State recently changed law firms.

As you may know, we have supported your efforts to obtain a review of the decision by the Corps of Engineers' New York office which would require an extensive restudy of the effect of the Westway project on the fisheries. I wrote to Mr. William R. Gianelli, Assistant Secretary for the Army (Civil Works), on September 23 to urge him to approve your request for a review of the need for further fish studies. I am enclosing a copy of my letter. I followed up this letter by meeting with Mr. Gianelli to express personally our concern about the restudy. To be clear, we have not taken any position on the value of the fisheries which could be affected by the Westway project. We merely question whether a study lasting up to 2 and a half years and costing as much as $10 million is needed before a decision can be made to approve or disapprove the project under title 23, United States Code, or to issue the section 404 permit.

I was gratified when the Army announced on October 18 that the Chief of Engineers had been directed to examine the decision to do further studies. I understand this review is to be completed within 60 days and that studies already underway are continuing in the interim.

We recognize that the Westway project is now at a most difficult stage. We will be as helpful to the State as we can, consistent with the court directive to reconsider the Westway project, in as fiscally responsible a manner as possible.

Senator Alfonse M. D'Amato has called Secretary Dole regarding your letter and about the FHWA's funding memo. I am therefore sending him a copy of this letter so that he might be aware of my comments.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

2 Enclosures

cc:
The Honorable Alfonse M. D'Amato
United States Senate

September 30, 1983

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We appreciate your contacting the Administration on this matter.

Sincerely,

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Special Assistant to the President for
Intergovernmental Affairs

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Governor of New York
State Capitol
Albany, New York 12224

#16 9512

STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

MARIO M. CUOMO
GOVERNOR

September 26, 1983

Dear Mr. President:

As you know, the Westway project in New York City has enjoyed the active participation and support of four successive national administrations, four New York Governors, and three Mayors of New York City. Your personal visit on September 7, 1981 to present the check for $85 million represented a key milestone in the efforts to advance this project.

Some recent interrelated Federal actions have raised grave concerns about the continued participation and support of the national administration for the project. My purpose in writing is to respectfully request your review of these actions and ask for clarification of the Federal position on the project.

The actions which have caused concern are:

-- discontinuance of Federal aid funding participation by the Federal Highway Administration (FHWA) for legal counsel in defense of the current Westway lawsuits on the eve of a major trial (Enclosure #1);

-- a decision by the district engineer of the U. S. Army Corps of Engineers requiring extensive new fish studies over the next two winters, thereby extending a final Corps decision by as much as three and one half years from now. This decision by the district engineer was contrary to the recommendation of his own staff, and contrary to any rational view of the need for additional information on which to base a decision on a dredge and fill permit for which the application was first filed in January of 1977 (Enclosure #2); and

-- a unilateral decision by the regional director of the FHWA to severely curtail and reduce Federal aid participation and funding in the ongoing Westway work, pending resolution of the ongoing dredge and fill permit and other issues (Enclosure #3).

We believe the Corps erred in reaching this decision and have asked that the matter be elevated to the Secretary of the Army. We respectfully request your assistance in seeing to it that this appeal is considered promptly and that an immediate decision is made by the Secretary concerning this critical issue of the dredge and fill permit.

Your administration has committed itself to the streamlining of regulatory decision making processes. Surely the Corps of Engineers can deal with the relatively narrow issues before it in a more timely fashion and, hopefully, the FHWA can be prevented from undercutting the long term commitment of the Federal government to the project.

While we attempt to reach accommodation with the Corps over the timing of the dredge and fill permit decision, it is particularly important that the Westway work authorized by the court continue if the entire project is not to be further delayed.

We are very anxious to have your views of these developments.

Respectfully,

Mario M. Cuomo

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Enclosures

DOT memo

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Mario M. Cuomo

The President
The White House
Washington, D. C. 20500

Enclosures

U.S. Department of Transportation

Special Assistant to the Secretary

July 8, 1983

Jim,

This paper provides needed background on tariff filing. You should keep in mind the following:

1) It is highly probable this will be our only major maritime legislation;

2) To signal a veto now, after it has passed the Republican Senate would embarrass the Senators on our side (i.e. Gorton, Packwood, et al);

3) There will be other chances to go after tariff issue, such as sunset of FMC;

4) House Democrats will blame the President for failure of bill

Ralph Stanley

(1) Flak over min contracting reqs

(2) tariff filing

(3) SG

DOT memo

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

APR 25 1983

MEMORANDUM TO: LEGISLATIVE STRATEGY GROUP

THRU: CRAIG L. FULLER

FROM: ELIZABETH HANFORD DOLE

SUBJECT: Maritime Regulatory Reform

BACKGROUND: The President made a major commitment to revitalize the merchant marine during the 1980 campaign. The passage of the maritime regulatory reform legislation currently before the Congress is an important step in meeting this commitment. In 1981, the Cabinet Council on Commerce and Trade presented the President with an options paper, outlining courses to achieve maritime regulatory reform. Based on the President's decision, Secretary Lewis sent letters to the House and Senate outlining the Administration's position on regulatory reform.

97th CONGRESS: Both the House and Senate introduced bills in the 97th Congress to bring about regulatory reform of international ocean shipping. The House overwhelmingly passed its maritime reform bill 350 to 33. The Senate bill was not brought to the floor because of a threatened filibuster by Senator Metzenbaum during the lame duck session.

RECENT LEGISLATIVE DEVELOPMENTS: This year the Senate introduced and passed a maritime regulatory reform bill by a vote of 64-33. The House Merchant Marine and Fisheries Committee unanimously reported out its bill, which has been referred to the House Judiciary Committee until July 1. Hearings are expected in mid-May.

MAJOR ISSUE: The original Administration position included a number of provisions to strengthen the conference* system to make carriers more efficient and less costly. Within this context, the elimination of the current practice of tariff filing and enforcement by the Federal Maritime Commission was included to serve two major objectives: one was to act as a counterbalance to conference power by introducing more market forces into the industry; the other was to keep the government from further propping up the conference system by enforcing their prices.

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*/ A conference is an association of ocean common carriers which organize for the purposes of agreeing on rates and other conditions of service in specific trades.

DOT testimony on the current Senate and House bills has continued to advocate the elimination of tariff filing and enforcement. We would note, however, that as a result of considerable compromise and cooperation among ocean liners and the shippers who use the conferences , we believe both objectives of the tariff filing provision have been met by other means in both bills. Both include fewer measures to strengthen the conference than did the original Administration position. In addition, both bills include measures to introduce more competition into the industry, thus further limiting the strength of the conferences. Finally, provisions in both bills allow a high degree of pricing flexibility so that conference rates are but one of several options to shippers. The elimination of tariff filing and enforcement needed to meet the original policy objectives is no longer a necessity.

In addition to the substantive reasons why we believe elimination of tariff filing and enforcement is no longer necessary, we must look at the political realities:

* Elimination of tariff filing and enforcement has virtually no support outside the Executive Branch. It has been raised a number of times and rejected.

* The trend in the rest of the world is actually moving toward instituting tariff filing and enforcement requirements. The argument that the U.S. is the only country to require tariff filing and enforcement is no longer true.

* The Congress and the industry do not understand why the Administration continues to push for elimination of tariffs when satisfactory competitive substitutes have been included in both bills. They fear that the issue has been exaggerated by opponents of the bill in order to back the President off his commitment.

LEGISLATIVE STRATEGY RECOMMENDATION: The Department will continue to actively advocate elimination of tariff filing and enforcement before the House Judiciary Committee and the House as a whole. In addition, we will continue to look for further pro-competitive measures which might be included in the legislation. However, given (1) that the elimination of tariff filing and enforcement is no longer critical to the "competitive balance" of the bill, (2) the concerns of the industry and the shippers over the elimination of tariffs, and (3) the political reality that the Congress will probably never pass a bill that eliminates tariffs, we do not believe that a Presidential veto should be threatened or recommended over this issue.

_____ _____

Approve Disapprove

The House Merchant Marine and Fisheries Committee and the House Judiciary Committee are expected to reach agreement within the next few days on a final version of the Shipping Act of 1983 for floor action. This legislation has been under active consideration by the Congress since the Administration first proposed a program for long overdue regulatory reform of the ocean shipping industry on February 5, 1982. The Administration expressed its support for legislation which ultimately passed the House at the end of the last Congress, but which failed to obtain Senate floor consideration. This year, the Senate has already approved its version of the legislation.

It is possible the compromise version of the legislation offered by agreement between the two House Committees will be more pro-competitive than any other version of the legislation to receive floor consideration. The Administration's continuing insistence on elimination of tariff filing, however, may prevent such a compromise, resulting in a collapse of the effort to pass legislation, or in much less competitive provisions in the bill ultimately passed by the House.

The Administration was successful in obtaining favorable House Judiciary Committee action on measures to improve price competition in the industry, such as a mandatory right of independent action and the elimination of tariff filing and enforcement. Nevertheless, two Judiciary Committee amendments in particular are unacceptable to the industry and the Merchant Marine Committee, and their deletion is expected in the intercommittee negotiations. These are the sunset of antitrust immunity and the elimination of tariff filing and enforcement. In exchange for obtaining the deletion

of these amendments, the Merchant Marine and Fisheries Committee is expected to agree to the following revisions to the legislation:

1) A mandatory right of independent pricing action for all conferences subject to a specified notice period (either 10 or 20 days).

2) The elimination of conference tying devices known as loyalty contracts (which historically have been used by conferences to enhance their market power).

3) The preservation of a general standard under which the FMC could seek judicial action to set aside unnecessarily anticompetitive agreements.

These revisions would increase substantially the pro-competitive aspects of the legislation when compared to other versions which have passed either the House or Senate. For example, the House-passed version of the legislation which obtained the Administration's endorsement at the end of the last Congress preserved loyalty contracts and limited mandatory independent action to conferences utilizing loyalty contracts (subject to a 45 day notice period), while preserving the tariff filing and enforcement requirements. Similarly, the version of the legislation passed by the Senate earlier this year preserves loyalty contracts, limits mandatory independent action to conferences utilizing loyalty contracts or operating in an OECD trade (with no specified notice period), while preserving tariff filing and enforcement requirements.

Although the House Judiciary Committee included the elimination of tariff filing in the bill it has just marked up, recent history on this issue gives little cause for optimism that the provision will appear in any bill finally passed:

- o A Senate floor amendment to eliminate tariffs failed by a 2-1 margin on March 1, 1983, 61-31;

- o For the second year in a row, Mr. Gene Snyder (R-KY) did not bring a tariff amendment to a vote in the House Merchant Marine and Fisheries Committee because he knew there was no support for the amendment;

- o The carriers are opposed to tariff elimination, primarily because they fear uncontrollable rebating;

- o The shippers are opposed to tariff elimination, primarily because they fear discriminatory treatment by the carriers.

The version of the bill expected to be offered in the House within the next few days would clearly be the most pro-competitive reform legislation for this industry ever to emerge from either house of Congress. In the absence of a quiet signal that the failure to eliminate tariff filing alone will not result in a veto, the opportunity to obtain reform of the outdated scheme now embodied in the Shipping Act of 1916 is likely to be lost. This would deprive the industry and the shippers of many of the other elements common to all versions of the bill (and endorsed by the Administration) that

both are pro-competitive and simplify current regulatory procedures. These include service contracts and time volume rates, expedited FMC procedures, and more precisely worded prohibitions against the abuse of conference power. It would also deprive the Administration of what it has described as a "critical" element of its effort to revitalize the U.S. merchant marine industry.

Finally, if tariff filing is not eliminated in this bill, there will be an excellent opportunity to pursue this issue again if and when legislation is proposed to sunset the FMC.

DOT memo

U.S. Department of Transportation

Office of the Secretary

October 19, 1983

Jim -

Enclosed is the materials we discussed. There are two bills in Congress, not reported out yet, H.R. 1197 and S. 1159, which have 235 and 44 cosponsors respectively, which ban any oil exports.

Ralph

You are scheduled to participate in the meeting of the Cabinet Council on Commerce and Trade (CCCT), to be chaired by the President, this Thursday, October 20, at 2 p.m. One of the two subjects on the agenda is whether the Administration should support modification of the statutory ban on export of Alaskan oil. We will be meeting with you to discuss the subject at 5 p.m. on Wednesday.

You will recall that you participated in a meeting on this subject of the Senior Interagency Group (SIG) on International Economic Policy on April 28, 1983. At that meeting, it was decided not to seek a lifting of the ban, at least in part because of the strong Congressional opposition.

As you know, the Department has opposed seeking to lift the statutory ban on export of Alaskan oil for the reasons summarized below (and spelled out in more detail in Wood Parker's attached briefing note and in Frank Willis' memo to you for the April SIG meeting, also attached):

- The purported benefits of export, e.g., increased profits and taxes, will be smaller than predicted by DOE (we have differences with DOE's analysis on this subject).

- The adverse impacts on the domestic tanker fleet would be severe if the ban were completely lifted.

- The proposal would run counter to the President's commitments to strengthen the merchant marine, and counter to the spirit of the Administration's reaffirmation of the sanctity of the Jones Act.

- The result would place as much as $750 million of Title XI federally guaranteed loans at risk, with substantial negative budget effects.

- Each barrel of oil exported would have to be replaced by a barrel of imported oil and, if the exports are carried on foreign bottoms, the result would be an overall negative impact on the U.S. balance of payments.

- The Japanese have not indicated that they would provide any quid pro quo for the major U.S. domestic political effort that would be involved in attempting to lift the ban.

- It would take a major political effort to change the current statutory prohibitions and inhibitions against export of oil, and a complete lifting of the ban is probably not achieveable.

At this writing, we just received the paper which will be discussed at the Thursday CCCT meeting (copy attached). It contains four options (Option 3 is a combination of Options 3 and 4 of the April SIG paper), as follows:

1. Complete removal of all existing statutory restraints on the export of U.S. oil.

2. Allow export of a designated amount of oil (e.g., 200,000 barrels a day) from current production, plus export from new fields.

3. Allow export of Alaskan State royalty oil (currently about 200,000 barrels a day), plus production from new fields.

4. Allow export of production above current levels of Alaskan production (1.65 million barrels a day), i.e., no exports unless new production more than offsets declines in production from existing fields.

Option 4 is the option DOT supported at the SIG meeting, and which we recommend you support at this meeting. There may be a compromise proposed to permit export of 50,000 barrels a day from current production -- we believe such a small level of export would not have any adverse impact, and recommend that you not oppose this proposal if it is made. However, any proposal to export all production from new fields should be opposed, in our view, since production from existing fields will begin to decrease within the next 3-5 years.

Attachments

Cabinet Council Meeting
October 20, 1983

Alaskan Oil Export

Background

Several current statutes contain a number of restrictions which effectively preclude export of Alaskan crude oil. Thus, all Alaskan oil distribution is restricted to the U.S., and the oil transported via shipping is required to be carried by U.S. flag tankers because of the Jones Act. Currently about 55 percent of Alaska's 1.65-1.70 million barrels per day (B/D) production is shipped to the West Coast with the remainder going to the Gulf and East Coasts via the Panama Canal or the Trans-Panama Pipeline. The Administration has reaffirmed its support for the Jones Act on numerous occasions.

Maritime Effects

The Alaskan crude trade currently employs about 65 U.S. flag tankers manned by approximately 3,900 U.S. citizen seafarers. This represents about 30 percent of the U.S. domestic tanker fleet and 60 percent of domestic tanker capacity. Exports of Alaskan oil would cause the loss of business for many of those vessels and loss of jobs for the U.S. citizen seafarers employed aboard those vessels.

The simple fact remains that foreign vessels can offer lower freight rates. Thus, exports of Alaskan oil would not be carried on U.S. vessels unless some form of cargo reservation is imposed. The Administration has also consistently opposed cargo preference schemes. Even if some form of cargo reservation were utilized, U.S. vessels which would carry exported oil would be very large crude carriers (VLCC) built with subsidy for the foreign trades rather than Jones Act tankers. Assuming export of 200,000 B/D, only three such VLCCs would find employment over the relatively short route to Japan.

Should current bans be lifted, the Alaskan oil that would be exported would be the oil currently flowing to the U.S. Gulf and East Coasts. The transportation cost-saving for that shift would result in the largest increase in producer profits. Therefore, the U.S. vessels idled by exports would be those now carrying oil through the Panama Canal and those delivering oil from the Caribbean terminus of the Trans-Panama Pipeline to the Gulf and East Coasts. These vessels are the small tankers with coated tanks which the military would require for carriage of fuels in wartime. Because there are no other trades in which these vessels can participate, the ships would be idled, their crews would be laid off and, eventually, owners without business would be forced to default on their federally guaranteed ship mortgages. Although Jones Act tankers receive no construction or operating subsidies from the government, a large number of these tankers do have mortgages secured by the government under the Federal Ship Financing Guarantee Program (Title XI of the Merchant Marine Act, 1936).

Proponents of Alaskan oil exports (particularly the Department of Energy) contend that by 1990 significant tanker and employment losses (up to 50 tankers and 3,000 jobs) would occur even if restrictions remain in effect due to the phase-out of the windfall profits tax. DOT disagrees with this estimate because progress toward achievement of the revenue goal that would trigger the phase-out of the windfall profits tax has not been sufficient to trigger phase-out before 1990. Additionally, we disagree with DOE's assertion that shipment of Alaskan oil to the Gulf is attributable primarily to the windfall profits tax (producers writing off transportation costs against revenue subject to the tax). Furthermore, we do not agree that the shipments to the Gulf will dry up when the windfall profits tax terminates. Therefore, DOT estimates that tanker and employment losses that may occur before 1990 would only result from a reduction in Alaskan production and would only be about five tankers and 300 jobs.

National Security

A removal of the export bans would result in the shrinkage of the U.S. flag tanker fleet. This, in turn, would reduce the militarily useful portion of the fleet. Such a decrease in military support capability would be unacceptable for national security reasons. DOT might choose to purchase idled tankers and place them in a reserve status. However, tankers in reserve status require time to reactivate and to locate crews. These delays, which could be crucial, would not occur if the tankers were actively employed in the commercial trade.

Economic Effects

The supporters of Alaskan oil exports indicate that restrictions on export of Alaskan crude create market distortions and interfere with efficient allocation of resources. Additionally, the supporters indicate that removing oil export restrictions would permit the economy to utilize petroleum at a lower cost because of savings in the transportation sector. Further, the savings would increase the wellhead value of Alaskan oil, making marginal oil fields profitable to develop. More labor and capital would be available. All of this would contribute to efficiency gains as well as enhance U.S. energy security by reducing the net demand for foreign oil.

However, any increase in U.S. oil exports will require an equal increase in U.S. imports of oil, thereby making the U.S. more dependent, rather than less dependent, on imported oil. Additionally, some of the purported benefits of lifting the export ban will not improve efficiency in economy but will only shift income from shipping and maritime sectors to the petroleum sector. Because of the windfall profits tax and other taxes, a large portion of the income will accrue to the federal government and Alaska.

Federal Budgetary Effects

To the extent that export of Alaskan crude would result in an increase in wellhead prices, they would generate increased revenues for the federal government through increased windfall profits tax payments plus increased

bids on new federal offshore leases. But these increased revenues are tempered by the default on Title XI loan guarantees and the outlays required to purchase and/or lay up of ships for the National Defense Reserve Fleet. In sum, the estimated budget effects will not have a significant impact on the deficit.

Trade Effects

Exports of Alaskan oil will produce a minor reduction in the current trade deficit with Japan, with the size of the reduction determined by actual demand and the ability/willingness of Japan to negate existing agreements in favor of imports from the U.S. However, because an equivalent amount of oil would have to be imported to replace exported Alaskan oil (at approximately the same price), the overall U.S. balance of trade position would not change significantly. Indeed, because imported oil is transported in foreign vessels, Alaskan oil exports would result in a slight worsening of the overall U.S. balance of payments. Although the general climate surrounding our international commercial relations would be improved, the export of Alaskan oil would not result in a major breakthrough in resolving U.S./Japan trade problems.

Foreign Policy

Lifting the restrictions on crude oil exports would provide added concrete evidence of the U.S. commitment to improving allied energy security by removing barriers to trade. Foreign investment in development of U.S. oil resources could be enhanced, and this would underscore the long-term nature of our interest in energy cooperation.

Analytical Differences

DOT has conducted an analysis of the expected results of Alaskan oil exports. They indicate that if the ban is lifted, the amount of oil exported will be 890,000 B/D in the first year and 1.1-1.3 million B/D by 1990. Additionally, DOE predicts large increases in oil companies' profits, U.S. tax revenues and considerable benefits to the general economy.

DOT disagrees with the DOE analysis for several reasons, including what we believe to be faulty inputs and flawed assumptions. Our view is that there wil be few if any significant benefits to the general economy.

Attachment (2) outlines the different analyses and highlights the differences between DOE and DOT.

Legislative Concerns

There has long been considerable Congressional opposition to the removal of restrictions on Alaskan oil exports, particularly in the House of Representatives. The controversial nature of the oil export issue would make any Administration proposal to relax the export restrictions very difficult.

(I attempted to determine whether the recent Supreme Court decision concerning the legislative veto was pertinent to the issue of Alaskan oil exports. Many of the applicable statutes could possibly be described as legislative veto, but my short investigation was fruitless.)

Options

The options that have been considered previously are: (a) retaining the present ban, (b) allowing export of Alaska production in excess of current levels of productions, (c) allowing export of Alaska production in excess of a specific amount, e.g., in excess of 1.5 million B/D, and (d) complete lifting of the ban.

Although we still have not received any formal correspondence delineating the options to be discussed at the CCCT meeting, we are told that a "new proposal" is to be presented. This proposal reportedly would permit exports of approximately 50,000 B/D immediately (only a quarter of the Alaskan royalty production), and exports of all new production in the future. The problem is not the 50,000 B/D but, rather, the idea of guaranteeing the export of all new production.

Recommendations

The supporters of lifting the ban on exports of Alaskan oil have still not demonstrated the desirability of changing government policy banning exports. The adverse impact on the U.S. tanker fleet and the increased unemployment in the maritime industry outweigh the potential benefits of relaxing the restrictions. Moreover, the Department believes that these potential benefits have been exaggerated and that the analyses of the proponents of Alaskan oil exports are faulty.

If, however, the decision is made to lift the ban, then it is recommended that exports be limited to oil in excess of current levels of production. Although this would remove opportunities for increased future employment by the Jones Act fleet, it would not remove current business from the fleet. Thus, the impact on the fleet would be minimized. If the "new option" mentioned above is considered, the decision should not allow the export of all new production in the future. Again, some limitation of exports in order to restrict the harm to the domestic tanker industry should be the course of action chosen. Finally, if exports are allowed, the Department's position has been and should continue to be that carriage should be in American bottoms.

October 18, 1983

Status of Legislation Extending the Export Administration Act of 1979

- Congress first restricted the export of Alaska oil when it enacted the Trans-Alaska Pipeline Authorization Act (P.L. 93-153). While a total prohibition on exports was not adopted, Congress required that before any Alaska oil could be exported (except for exchanges for similar quantities from adjacent foreign states), the President had to find that export: (1) would not diminish the total quantity or quality of oil available to the U.S.; (2) would be in the national interest; and (3) was in accord with the Export Administration Act.

- During House floor consideration of the Export Administration Act Amendments of 1977, an amendment was adopted by voice vote prohibiting the export of Alaska oil for two years. There was no similar amendment in the Senate. House and Senate conferees did not adopt the House amendment; however, they continued to permit crude oil exchanges and strengthened the 1973 Trans-Alaska Pipeline Authorization Act by requiring that the President find that exports: (1) would reduce refiner acquisition costs; and (2) could be terminated if U.S. oil supplies were interrupted or threatened.

- During consideration of the Export Administration Act reauthorization in 1979, Congress took the strongest position against exports by adopting the Senate's requirement that at least 75 percent of any refiner cost savings be passed on to consumers and the House provision that Congress must approve (rather than be able to veto) any export proposal.

- The authority granted by the Export Administration Act of 1979 expired on September 30, 1983. Prior to that date, Congress had not approved amendments to, or an extension of, the Export Administration Act. However on September 30, Congress did extend the Act until October 14, 1983. Since then, the President has exercised his power under the Executive Emergency Powers Act to extend the Export Administration Act until passage of pending legislation.

- Two bills which would amend and reauthorize the Export Administration Act of 1979 are pending before Congress. H.R. 3646 would extend the current restrictions on export of domestically produced crude oil until September 30, 1987. The House bill would also amend Section 7(d)(2)(B) of the Export Administration Act by requiring a joint resolution, rather than a concurrent resolution, approving exports on the basis of Presidential findings. S. 979 would extend the current restrictions on export until September 30, 1989.