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United States Senate

COMMITTEE ON PUBLIC WORKS

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Center for
Transportation

March 28, 1966

MEMORANDUM

FOR: Jim Calloway

FROM: Ron M. Linton *RL*

Attached is a copy of an analysis done by our staff or Section 7(a) of S. 3010.

In addition to the information in this analysis, you ought to keep in mind that as long as individual projects must be authorized by the Congress the net effect of 7(a) is to insert another layer of review into executive consideration.

Since 7(a) also requires that the information upon which the project is developed come from an agency other than the one which will prepare the recommendation to Congress, a great deal of confusion can be expected.

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MEMORANDUM

TO: Mr. Ron M. Linton

FROM: Van

SUBJECT: Analysis of Section 7 (a) of S. 3010, "Department of Transportation Act", as it relates to navigation activities of the Corps of Engineers.

1. The provision in question as it relates to the Corps of Engineer's navigation program provides for the Secretary of Transportation to set standards and criteria for the evaluation of transportation facilities on which Federal funds are to be expended. In cases where the transportation features are part of a multiple-purpose development, the Secretary would consult with the Water Resources Council prior to developing criteria and standards for such features.

2. The policies, standards, and procedures presently followed by the Corps of Engineers for the formulation and evaluation of water resources projects, are set forth in Senate Document Numbered 97, Eighty-seventh Congress. These standards were developed by the Secretaries of Army, Interior, Agriculture, and Health, Education, and Welfare.

3. Senate Document 97 directed that the provisions set forth therein would govern with respect to the formulation and evaluation of water resources projects with the provision that any variation from the policies and standards thus established would be specified in the planning reports of the agency concerned and reasons given for such deviation.

4. President Kennedy approved the use of such standards in May 1962. Subsequently, the Water Resources Planning Act, Public Law 89-80, provided that the Water Resources Council would establish such standards and procedures in consultation with both Federal and non-Federal agencies.

5. The provision cited in paragraph one divests entirely from the Water Resources Council, of which the Secretary of the Army is a member, the responsibility for establishing navigation standards and procedures, and invests this responsibility in the Secretary of Transportation.

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6. Section 7 (a) in its present form would permit the Secretary of Transportation to establish policies and standards for the development of the Nation's navigation facilities. There is nothing in the proposed law that requires the Secretary to coordinate or consult with the Secretary of the Army or the Chief of Engineers in the development of such criteria.

7. The President in his message to Congress on a proposed Department of Transportation indicated with respect to the navigation program of the Corps of Engineers, that the Department of Transportation should not assume responsibility for construction of navigation projects, but should be involved in the planning.

8. Based on the language in Section 7 (a) and the statement contained in the President's message, it appears that the role of the Corps of Engineers as it relates to the Federal navigation program, if S. 3010 were to pass, would be reduced to that of a construction agency, since it would be stripped of its planning activities on navigation projects.

9. The cited provision is not only objectionable from the standpoint that it takes away from the Water Resources Council, the responsibility of formulating standards for the evaluation of navigation projects, but also from the standpoint that it fails to even require the Secretary of Transportation to consult with the Water Resources Council or with the Secretary of the Army on the matter of formulating such criteria, except where such features are part of a multiple-purpose development.

10. In order to assure that the Secretary of the Army and the Chief of Engineers retain a voice in the development of criteria for evaluation of navigation projects, it is recommended that the bill be amended as follows:

page 19, beginning on line 16, strike all after the period through the word, "projects", on line 22, and insert in lieu thereof, the following:

"the standards and criteria for economic evaluation of navigation projects developed by the Secretary, shall be approved by the Water Resources Council in consultation with the Chief of Engineers."