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HIT LIST: PRESIDENT CARTER'S REVIEW OF RECLAMATION WATER PROJECTS AND HIS IMPACT ON FEDERAL WATER POLICY

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By
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HIT LIST: PRESIDENT CARTER'S REVIEW OF RECLAMATION WATER PROJECTS AND HIS IMPACT ON FEDERAL WATER POLICY

A DISSERTATION APPROVED FOR THE
DEPARTMENT OF HISTORY

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For Stephanee

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Abstract

This dissertation investigates changes in funding of federal water projects and the development of new water policies during the administrations of Presidents Jimmy Carter and Ronald Reagan. I conclude that these events precipitated a shift in the Bureau of Reclamation's mission. Carter's proposed recommendations to terminate funding on several large federal water projects, dubbed the "Hit List," as well as proposed water policy changes—specifically local cost sharing, increased conservation, acreage limitation, federal reserved water rights, and rules pertaining to sections 208, 303, and 404 of the Clean Water Act—significantly shaped regional and national politics including the Sagebrush Rebellion and anti-environmentalism. While President Reagan sympathized with the Sagebrush Rebels rhetoric during his campaign, his administrations budgets and proposed local cost sharing requirements were more extensive that Carter's. The contrast and similarities between the two administrations are best seen in case studies of the two largest Bureau of Reclamation projects initially included on Carter's "Hit List," the Garrison Diversion Unit and the Central Utah Project.

Introduction

Historian Eric Foner described the 1970s as "the end of the golden age." The decade saw dramatic changes in American politics, economy, and culture. Slow economic growth, stagflation, high unemployment and the exportation of manufacturing jobs replaced a twenty-year period of prosperity and economic expansion. The oil embargo of 1973 sent shockwaves through the economy and led to an expansion of domestic energy supplies, mostly in the West. The weakening economy transformed the heart of industrial America into the Rust Belt, and fueled regional animosity as jobs and population continued to shift to Sun Belt states. These economic and demographic shifts weakened the strength of labor unions and the political coalition forged by Franklin D. Roosevelt. At the same time, economic change tarnished the golden age of capitalism, political scandal and socio-cultural changes also marked the end of a golden age of politics. The Vietnam War and Watergate scandal caused many to lose trust in the government. These issues also combined with social changes and the continued protest movements to end an age of consensus government. American politics became increasingly partisan and culturally divisive.[1]

It is within this historical context that James Earl "Jimmy" Carter became the President of the United States in 1977. Riding the wave of discontent following the Watergate scandal and President Gerald Ford's pardon of Nixon, Carter—who had never held federal office—found favor with the electorate. Carter promised to stimulate the economy, curb inflation, tackle the energy crisis, do more for civil rights,

[1] Eric Foner, *Give Me Liberty! An American History,* Second Edition (New York: W.W. Norton, 2008), 1022.

women's rights, and the environment while restoring Americans' faith in their government through increased public involvement.

To help meet these goals, Carter had included in his campaign pledge an idea that his predecessors had rejected as political suicide: he vowed to challenge the construction of federal water projects. As Governor of Georgia, Carter had battled with the Army Corps of Engineers over the Sprewell Bluff Dam and won. Carter had originally supported the dam, but an increased personal commitment to the environment led him to question the dam on the Flint River. Educated as an engineer, Carter also reviewed the Army Corps of Engineers general plan and discovered the agency had manipulated the dam's economic justification and understated its environmental impacts. If he won the election, Carter vowed to review the economic and environmental record of federal water development projects. After the collapse of the Teton Dam during the campaign on June 5, 1976, Carter also vowed to include safety in the review criteria.[2]

President Carter kept his campaign promises to take decisive steps to slash the federal budget by proposing within a month of taking office to eliminate funding for nineteen water projects. His actions sparked a reaction that tapped into growing feelings of discontent building on both sides of the debate. Within weeks a newspaper correspondent dubbed the projects slated for review the "Hit List." The vehement reaction of project supporters, especially to the lack of consultation prior to the

[2] Marc Reisner, *Cadillac Desert: The American West and Its Disappearing Water, Revised Edition* (New York: Penguin Books, 1993), 307-308. For the Carter campaign's pursuit of the environmental vote, and more see Jeffery K. Stine, "Environmental Policy During the Carter Presidency" in *The Carter Presidency: Policy Choice In The Post-New Deal Era*, edited by Gary M. Fink and Hugh Davis Graham (Lawrence: University of Kansas Press, 1998), 180-3.

announcement, resulted in claims of Carter exacting vengeance on the West, a region that had failed to give him a single electoral vote.

The projects on his list represented monumental structures that had already been authorized by Congress. Influential members of both parties had endured protracted political battles to secure authorization and in many cases annual construction appropriations, as many of the projects were already under construction. The projects epitomized what historians have termed the era of big dams or era of high dams that had begun with the construction of Hoover Dam. The construction of Hoover and other large federal dams during the New Deal inaugurated an extended period of construction by the Bureau of Reclamation, Tennessee Valley Authority, and the Army Corps of Engineers. By the end of the 1960s every major river in the United States and many of their tributaries had been dammed. Additionally, the construction of Hoover Dam began a shift in the Bureau of Reclamation's mission beyond irrigation to include hydropower generation and urban water supplies.[3]

By the time that President Carter took office the Bureau of Reclamation's 230 major dams and reservoirs provided 511 billion gallons in municipal water supplies for 17.8 million people, nearly one-third of the population in the seventeen states along or West of the 100th meridian. The agency's fifty hydroelectric plants

[3] The use of these two terms increased in popularity as it became more apparent that the federal government was ending or had ended its role in constructing large scale water development projects. Among the more notable uses are John R. Ferrell, *Big Dam Era: A Legislative and Institutional History of the Pick-Sloan Missouri Basin Program* (Omaha: U.S. Army Corps of Engineers, Missouri River Division, 1993); Donald C. Jackson and David Billington, *Big Dams of the New Deal Era: A Confluence of Engineering and Politics* (Norman: University Press, 2006) and Donald C. Jackson, David Billington, and Martin Melosi, *The History of Large Federal Dams: Planning, Design, and Construction in the Era of Big Dams* (Denver: U.S. Department of the Interior, Bureau of Reclamation, 2005); Donald Pisani, "Federal Reclamation in the Twentieth Century: A Centennial Retrospective," in *The Bureau of Reclamation: History Essays from the Centennial Symposium*, Volume 2 (Denver: U.S. Bureau of Reclamation, 2008) 611. For an early use in the popular press, *New York Times* environmental writer Philip Shabecoff used the term in a 1987 headline "After 85 Years, The Era of Big Dams Nears End," January 24, 1987.

associated with those dams and water projects produced nearly 40 million megawatt hours of electricity. The Bureau also fulfilled it primary purpose by delivering irrigation water through over 7,000 miles of canals to 146,000 farms producing 58.2 million tons of food, fiber, and forage. The value of those agricultural products exceeded $4.4 billion ($18.5 billion in 2012 dollars).[4]

The projects on the Hit List, authorized by Congress between 1944 and 1968, represent the backlog from this period of expansive construction. However, this was not a case of leaving the best for last. Most of the projects Carter selected to halt were among the most expensive, or those with the most complicated engineering. In most cases they were projects that had been conceived and dreamed of at a time when technology and economics combined to make them infeasible. The post-war development of new, larger, more efficient machines—large earth machines and tunnel boring machines—facilitated construction while at the same time new repayment schemes allowed hydropower revenues within an entire river basin to subsidize construction of water works. But while these new machines reduced the time and complexity of moving mountains of earth and rock, they also increased the cost of construction. Increased expenses complicated the legislative histories of these massive projects. They slowed the initial authorization and the need to spread costs

[4] For 1975 figures see, *Federal Reclamation Projects, Water and Land Resource Accomplishments, 1975 Summary Report* (Denver: Bureau of Reclamation, 1976), 1-9, 43. Current figures on the Bureau of Reclamation's website (http://www.usbr.gov/facts.html) show similar trends. Due primarily to population growth the agency now provides municipal water to nearly twice the number of people, approximately 31 million. Hydropower generation remains at an average of about 40 million megawatt hours a year. While there has been a decrease of approximately 6,000 farms served to 140,000, the total number of acres remains approximately the same at 10 million. These farms—20% of all farms in the West—account for 25% of all fruits and nuts and 60% of all vegetable production in the United States. Calculation to 2012 dollars is a straight inflation calculator (www.westegg.com), and is not based on actual commodity prices. Websites accessed March 16, 2013.

over many years slowed the pace of construction, increased project overhead, and opened doors to further debate over annual appropriations.

Increasingly, the debate in Congress, as well as in public and in the courts, came to include not only concern over the rising economic costs, but also the environmental costs. The 1970s were a time of mounting national awareness. Pitched environmental battles over proposed dams in or near notational monuments and parks—Echo Park, Bridge Canyon, Marble Canyon—during the preceding decades not only raised awareness, but led to the nationwide growth of the Sierra Club and other environmental groups. The passage of the National Environmental Protection Act (NEPA)—signed by President Richard Nixon on January 1, 1970—provided a new weapon for these increasingly powerful groups which now had legal teams. Additional legislation passed in the 1970s, particularly the Endangered Species Act and the Clean Water Act, became weapons to stop projects deemed too destructive or too expensive.

Environmental groups scored few victories even with their new legal weapons. The few victories they did win, combined with the expense and delays of the extensive litigation, threatened many traditional natural resource users. Also leading to a growing backlash were new federal laws and rules placing further restrictions or prohibitions on traditional natural resource uses, such as the Federal Land Policy Management Act (FLPMA) enacted by Congress in 1976. With a few minor exceptions the law ended the policy of selling the remaining government lands. While maintaining the principal of multiple use of the public lands, the law also allowed protective restrictions, including the designation of Wilderness areas. Further fueling

the ire of those favoring traditional land uses was the federal government's attempts to deal with the energy crisis. Federal/state conflict erupted over the siting of coal-fired power plants, the opening of coal leases, and the continued development of nuclear power. Water played a central role in many of these debates as new power plants needed water from cooling; new coal fields needed water to utilize slurry pipelines proposed to transport the coal; and a massive oil shale development on the Colorado Plateau needed enormous quantities of water to refine the rock into oil. The conflicts over land use, resource development, and water fueled by the policies of the Carter administration boiled over into the short-lived Sagebrush Rebellion.[5]

While the rhetorical goals of the rebels came to naught, the feelings of resentment toward Carter and toward Washington helped sweep Ronald Reagan into office in 1980. Further, the perception of environmental extremism by Carter combined with moral backlash stemming from the Democratic Party's stand on abortion, the Equal Rights Amendment, and other moral issues weakened support for Carter and the Democratic Party. As a result voters swept many Democratic governors, senators, and congressmen from office as an increasing number of Democrats in morally conservative Western states fled the Democratic Party.

Within this context it seems that the Hit List helped to end a decade of non-partisan cooperation that had begun the "environmental era." But when viewed beyond the short term, the Hit List controversy had further impacts on the history of large federal water projects. While Carter's water policies were not as successful as he

[5] The complaints are visible in the contemporary writings of Sagebrush Rebels such as Colorado Governor Richard D. Lamm and Michael McCarthy, *The Angry West: A Vulnerable Land and Its Future* (Boston: Houghton Mifflin, 1982). The best history of the Sagebrush rebellion remains R. McGreggor Cawley, *Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics* (Lawrence: University of Kansas Press, 1996).

had hoped, he did succeed in cutting several projects. Further, the Hit List combined with Carter's policy initiatives and the continued efforts of his allies ended the Era of Big Dams.

Historians have argued that there are multiple factors, not necessarily mutually exclusive, that led to the end of large federal reclamation projects. First, they argue that the growing environmental movement shifted public support from large dams by helping publicize their impacts. Others point out that in an era of increased spending on social programs, coupled with high inflation and interest rates, large water projects became uneconomical. Finally, some argue that the dam builders simply ran out of "good" sites to build dams and water projects.[6] All of these factors contain elements of truth, but they do not fully explain the process that ended the U.S. practice of building large water projects. For example, the NEPA complicated the construction of authorized projects. It did not, however, stop any of these projects. And while the best dam sites had been used, or declared off limits, engineers for the Bureau of Reclamation were still evaluating feasible sites for dams into the 1980s. President Carter's efforts to cut funding to *authorized* water projects, and his proposed policies to change the evaluation criteria for new dams served as a catalyst that when added to existing environmental and economic factors created the formula that ended the Era of Big Dams.

[6] The argument that the end of construction came as a result of the exhaustion of good sites is made by Marc Reisner, 396-7. David Billington, Donald Jackson, and Martin Melosi argue that it was likely a combination of these factors that ended construction of large dams. However, they do not include in the book any discussion of the actions taken by the Carter administration. See, *The History of Large Federal Dams: Planning Design, and Construction* (Denver: U.S. Department of the Interior, 2005). 410-1.

Despite the apparent importance of the Hit List, there has been relatively little serious scholarly attention directed towards Carter's water policy initiatives. The aspect of Carter's actions that has received the most scholarly attention is the effect of the Hit List controversy on the president's relationship with Congress. Political scientists studying these events have concluded that Carter's proposals to cut water projects burned bridges with Congress, and crippled the balance of his presidency.[7]

A recent book which breaks this trend is *Jimmy Carter and the Water Wars* by political scientists Scott Frisch and Sean Kelly. While they do provide some discussion of the original conflict over the water project review, their book's focus is presidential influence. They use the debates over water projects, primarily on Carter's veto of the appropriations bill in 1978, to explore the interaction of veto strategy, and presidential influence over Congress and the Pork Barrel. They devote considerably more attention to Carter's veto which normally has not garnered much attention. Like the other works by political scientists, its audience is narrowly focused and its analysis is driven by political theory. While it contains useful facts and historical information garnered from oral interviews, it does not place Carter's actions within the broader historical context of the events that preceded or followed Carter's presidency. It also does not engage the significant work by historians of the 1970s and 1980s, the environmental movement, or water policy.[8]

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[7] For examples of the treatment of the events by political scientists see Charles O. Jones, Keeping Faith and Losing Congress: The Carter Experience in Washington," *Presidential Studies Quarterly* 14 (Summer 1984): 437-445, Paul E Scheele, "President Carter and the Water Projects: A Case Study in Presidential and Congressional Decision Making," *Presidential Studies Quarterly* 8 (Fall 1978): 348-364, and Tim R. Miller, "Politics of the Carter Administration's Hit List Water Initiative: Assessing the Significance of Subsystems in Water Politics" (Ph.D. Dissertation, University of Utah, 1984).

[8] Scott A Frisch and Sean Q Kelly, *Jimmy Carter and the Water Wars; Presidential Influence and the Politics of Pork* (Amherst, New York: Cambria Press, 2008).

The best histories of the Hit List to date have been written by non-historians. The most complete and accurate description comprises part of one chapter in *Empires in the Sun* by Robert Gottlieb and Peter Wiley. While Wiley has an M.A. in history and Gottlieb is now a professor of Urban Studies at Occidental College, they wrote the book in journalistic style. At the time the two co-authored a syndicated column titled "Points West." So, while the narrative in the book does a good job of providing a brief overview of the Hit List controversy and the water policy debates, it lacks source citations and appears to have a few factual errors.[9]

Marc Reisner's *Cadillac Desert*, is the second book which offers a history of the Hit List. Reisner was a journalist and this book also lacks source citations. There are discrepancies between these two books, and the research for this dissertation has uncovered several errors in Reisner's narrative. Further, Carter's water project and policy reviews compromise a very small part of the book. Reisner casts Carter's reform efforts as a failed attempt against the entrenched system of Congressional pork. While this interpretation has some merit, it dismisses the real, though limited success Carter did enjoy. Further, Reisner's narrative does not provide the historical context or meaning that can come from placing Carter's reforms in the context of the legacy the President inherited and also the fate of water projects and reforms under Reagan.[10]

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[9] Peter Wiley and Robert Gottlieb, *Empires in the Sun: The Rise of the New American West* (New York: Putnam, 1982). The hit list is discussed on pages 54-62.

[10] Three other authors have errors in their treatment of the Hit List. Garland Haas in his version of events runs the story of the 1977, and 1978 votes together, getting it a little muddled in the process. The way he explains the events makes it sound as if Carter singled out 18 projects at the February 18, 1977 meeting and then announced the cuts. In other words, all the research and decision-making was done on that day. Haas, a few lines later moves the story quickly along by concluding:

> Incensed senators quickly handed Carter the first serious legislative defeat of his new presidency by simply adding the water projects as an amendment to the Public Works Job Bill, which the Congress expected the president to sign. Despite a threat by the president to veto the bill, the amendments went through the Senate by a vote of 65 to

My dissertation seeks to create a conversation among these political scientists and the political historians, environmental historians, journalists, economists, and environmentalists who have approached the various aspect of this story in some form, or whose works explain the context of Carter's Presidency. This dissertation builds upon the extensive work of historians who have explored the origins of the modern environmental movement, its politics, and its policies. The best example of this type of work is Samuel Hay's seminal *Beauty, Health, and Permanence.* But while Hays does an excellent job detailing environmental politics over a thirty-year period, Carter's environmental policies, of which water policy comprised a major part, only

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24." He then skips forward, "on October 5, 1978, Carter carried out his threat to veto the Public Works Appropriations bill…

As discussed previously, the vote on the public works bill was in March 1977, and was not the final vote on the budget that came in July. There is no indication that Carter ever threatened to veto the public works bill passed in March. By skipping ahead to 1978, Haas does not discuss the intervening year, or like most scholars, the extensive amount of work invested in crafting comprehensive water policy reform. Haas also ends his story there, leaving out any discussion of the subsequent events after the veto. Garland A. Haas, *Jimmy Carter and the Politics of Frustration* (Jefferson, N.C.: McFarland & Co., Inc., 1992), 76.

In his book, *Jimmy Carter*: *American Moralist*, Kenneth Morris makes similar errors. He uses the water projects to demonstrate how Carter made passing his number one agenda item, energy, difficult. But, in making this point Morris gets the details wrong. He states, "having vetoed the bill for federal funding of 19 water projects in 17 states... Carter alienated many of the representatives and senators who had already promised the federal plums to their constituents." But Carter did not veto the bill. He revised Ford's budget and deleted the proposed appropriations for the project. While many of Carter's opponents complained that he vetoed their projects, this is not really what he had done. Carter did not veto a bill funding water projects until October 1978. Kenneth E. Morris, *Jimmy Carter*: *American Moralist* (Athens: University of Georgia Press, 1996), 255.

Yet another example is Peter Bourne, who in his biography gets the numbers wrong. First he says, "The Ford budget had proposed the construction of 320 dams and other water improvement projects." The number is correct but the budget did not propose the construction of that 320; technically it proposed funding 320 projects or proposed continued construction of 320. Ford's budget did not include any requests for new construction starts. Bourne then moved on to incorrectly state that Carter cut "all but nineteen" of the 60 projects identified by the transition team. Specifically Bourne wrote, "After he took office, all but 19 were axed at a savings of $5.1 billion to the taxpayers." Bourne should have stated that all but 19 were funded, or 19 were axed.

Bourne then incorrectly states, "His inexperienced congressional staff failed to warn him of the vehement reaction his proposed cuts would generate…" This is obviously inaccurate, and based on the discussion in Chapter 1, a gross error. All of his staff did warn him, and Carter made the cuts knowing what the consequences would be. Peter G. Bourne, *Jimmy Carter: A Comprehensive Biography from Planes to Post Presidency* (New York: A Lisa Drew Book/Scribner, 1997), 373.

receive scant attention.[11] Environmental historian, Brooks Flippen, has written two books on the environmental movement and the development of government policy in the 1970s. Like Hay's work, both speak to the context of Carter's reforms, but do not take up the Carter period in detail.[12]

In addition to histories of the environmental movement, this study also draws in the voices of many historians who have dealt with the history of water and specific water projects. The conditions underlying the original formation of federal water policy and the development of large dams as multi-purpose water projects forms an important part of ending an era of construction.[13] Marc Harvey's *Symbol of Wilderness* does an excellent job showing how water projects inside the national parks system proposed after World War II helped to inaugurate the modern environmental era.[14] Many historians have looked at individual projects or the history of water in specific states. Most of these studies do not go beyond a brief mention of Carter's efforts to stop the projects.[15] One book, Martin Reuss' *Designing the Bayous* does not

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[11] Samuel Hays, *Beauty Health and Permanence: Environmental Politics in the United States, 1955-1985* (New York: Cambridge University Press, 1987). Additional studies include Hal Rothman, *The Greening of a Nation? Environmentalism in the United State Since 1945* (New York: Wadsworth, 1998). For a journalistic approach see Philip Schebecoff, *A Fierce Green Fire: The American Environmental Movement* (New York: Hill and Wang, 1993).

[12] Brooks Flippen, *Nixon and the Environment* (Albuquerque: University of New Mexico Press, 2000) and *Conservative Conservationist: Russell E. Train and the Emergence of American Environmentalism* (Baton Rouge: Louisiana State University Press, 2006).

[13] The best history of the Bureau of Reclamation's early period is Donald Pisani, *Water and the American Government: The Reclamation Bureau, National Water Policy, and the West, 1902, 1935* (Berkeley: University of California Press, 2002).

[14] Mark W. T. Harvey, *Symbol of Wilderness: Echo Park and the American Conservation Movement,* Reprint (Seattle: University of Washington Press, 2000).

[15] For example see Jeffrey K Stine, *Mixing the Waters: Environment, Politics, and the Building of the Tennessee-Tombigbee Waterway* (Akron: University of Akron Press, 1993) and Douglas E Kupel, *Fuel For Growth: Water and Arizona's Urban Environment* (Tucson: University of Arizona Press, 2003). Norris Hudley, Jr. provides an encyclopedic history of water development in California. But because of the scope of his project, he does not provide much detail for the battles over projects during the Carter years. For example, discussion of Carter, the Auburn Dam which was on the hit list, and of policy battles over acreage limitation and the lawsuit involving the Westlands Water District, comprise only a few pages of the book.

even mention the project was on the Hit List or reviewed by the President.[16] The one exception is Peter Carrels' *Uphill Against Water* which does an excellent job of showing how local opposition to the Oahe Project in South Dakota made it one project Congress could agree with the President to cut.[17] The one notable attempt to tell the entire history of water development in the West, Donald Worster's *Rivers of Empire* essentially ends at the point that Carter challenged traditional water development. [18] Finally, this study also brings into the conversation the voices of many politicians, including President Carter, who published books and memoirs in the years since these events unfolded.[19]

This study also seeks to fill an important gap by exploring the overlooked significance of the Carter Administration's water policy proposals that became its focus after the initial compromise over the Hit List in 1977. Carter sought to establish uniform policies to evaluate projects of the four different federal agencies building dams—the Bureau of Reclamation, the Army Corps of Engineers, the Tennessee Valley Authority, and the Soil Conservation Service. Further, to further prevent the manipulation of calculations to justify questionable projects, Carter proposed establishing an independent review function within the existent Water Resource Council. Other policies included encouraging non-structural options for flood control

[16] Martin Reuss, *Designing the Bayous: The Control of Water in the Atchafalaya Basin, 1800-1995* (Alexandria, Virginia: Office of History, U.S. Army Corps of Engineers, 1998)
[17] Peter Carrels, *Uphill Against Water: The Great Dakota Water War* (Lincoln: University of Nebraska Press, 1999).
[18] Donald Worster, *Rivers of Empire: Water, Aridity & the Growth of the American West* (New York: Pantheon, 1985). Carter is mentioned only in one paragraph on the last page of the last chapter of the book. The major battle over acreage limitation and the Westlands Water District receives a little more attention, comprising about five pages.
[19] Jimmy Carter, *Keeping Faith: Memoirs of a President* (New York: Bantam Books, 1982) and *White House Diary* (New York, Farrar, Straus and Giroux, 2010); Burt Lance, *The Truth of the Matter* (New York: Summit Books, 1991); Cecil Andrus and Joel Connelly, *Politics Western Style* (Seattle: Sasquatch Books, 1998); and Richard D. Lamm and Michael McCarty, *The Angry West: A Vulnerable Land and Its Future* (New York: Houghton Mifflin, 1982).

and regulations promoting water conservation practices in all government agencies and programs.

While the administration continued to work on policy proposals through the balance of Carter's presidency, Congress refused to accommodate the president. The administration did take action on policy changes that did not require congressional action. For example, Carter pushed for enforcement of the 160-acre limitation on existing Bureau of Reclamation projects and for recognition of federal reserved water rights. These actions further enraged members of Congress and many in the West who believed that the President was acting unilaterally against long standing water uses in the West and over state control of water rights. These are important areas that have been largely ignored by both political scientists and historians.

This study also seeks to fill a gap by tracing the histories of the projects on the list that Congress voted to continue funding. This seems to be a valid test of the long-term impact of Carter's actions. While it seems fair to judge his efforts to cancel projects and initiate policy change as largely unsuccessful, historians have not explored the long term implications of his water projects review. A review of the largest Bureau of Reclamation projects on his list confirms Carter's role in bringing the era of large dams to an end and shaping broader environmental policy.

Environmental groups had previously won significant battles to prevent the authorization of the Echo Park, Marble Canyon, and Bridge Canyon dams. But they had limited success in halting authorized projects, especially once construction had begun. Both grassroots and national environmental groups had sought to use the NEPA and other laws to stop large water projects in the courts to no avail. Seen in this

light, the Carter administration and the environmental groups that it cooperated with made significant progress in halting environmentally damaging projects by halting several authorized projects, on which construction had already begun. Further, when viewed over the long term, one finds that several of the other projects that Congress funded in 1977 over Carter's objections were later stopped or modified by the continued efforts of environmental activists and other opponents of the dams.

This study also seeks to make an original contribution by illuminating the connections between Carter's water policies and public attitudes about environmentalism broadly. The Carter presidency played a prominent role in polarizing environmental debate. At the beginning of his term, most involved with the environmental movement in the United States had high expectations. During his campaign, Carter highlighted his pro-environmental record as governor, and promised to address many environmental concerns, including ending destructive federal water projects. The way in which the administration handled the announcement of the Hit List, and Carter's capitulating compromise left many environmentalists frustrated. Further compromise by the administration and mainstream environmental groups on environmental issues, such as the Forest Service's second Roadless Area Review and Evaluation (RARE II), contributed to the birth of "radical environmentalism." At the same time, Carter's efforts to cut water projects, rewrite water policy and regulations helped to strengthen public support for water projects, particularly in the West, and to fuel emotions among a growing number of political conservatives that federal environmental laws had gone too far. This is best exemplified by the battle over the Tellico Dam and the snail darter, a fish threatened with extinction because it was only

known to inhabit the waters to be inundated by the reservoir. The prospect that "a little fish" could halt a multimillion dollar dam that was 90% complete shocked and perhaps scared the proponents of other large federal construction projects. Ironically, as we shall see, the fact that a bipartisan congressional review determined that the government would actually save money by not completing the project and that President Carter chose not to intervene to veto the bill that exempted the project from the Endangered Species Act did not seem to alter their perception.[20]

Public support for dams had been slipping during the 1970s as their environmental and true economic costs became more widely known. Evidence of this is seen in the support of California Governor Jerry Brown's opposition to the Auburn and New Melones dams. It is also seen in a much publicized letter signed by several dozen members of Congress, including Congressman Morris Udall of Arizona, supporting the concept of cutting the budget by trimming unnecessary water projects. Udall held the powerful chairmanship of the primary committee that approved all water projects. But both Brown and Udall changed their positions after the announcement of the Hit List. Water districts and developers contrasted Carter's cuts against the severe drought to strengthen public support for continued water projects in the West.[21]

Further, for many in the West, Carter's actions not only strengthened support for more water projects, they helped fuel the frustration and anger that sparked the

[20] For high expectations see Stein, 183. For RARE II and the formation of Earth First! see Hal Rothman, *The Greening of a Nation? Environmentalism in the United States Since 1945* (Belmont, CA: Wadsworth/Thompson Learning, 1998), 181-6. Rothman actually sees a positive benefit to the the creation of more radical fringe as it lent an air of credibility to more mainstream environmental groups (185).
[21] Reisner, *Cadillac Desert*, 315.

"Sagebrush Rebellion." Westerners not only loathed Carter's cuts of projects they believed were vital, but also feared shifts in water policies that Carter announced at the same time as the cuts. They saw the policy changes as a federal power grab and feared they would lose control of water supplies. Most scholarly work on the Sagebrush Rebellion has focused on the FLPMA as the primary catalyst in provoking the rebellion. This is logical given the stated goal of the rebels was the transfer of federal lands to the states. However, in the West, control of water is often more important that control of land, and there were many who recognized this. For example, Senator Jake Garn (R-UT) introduced a bill in Congress during the initial days of the Hit List controversy—two years before what is commonly accepted as the beginning of the rebellion—which proposed the transfer of all federal lands in Utah to state control. This was a move in part to thwart efforts to create a wilderness area in the Uinta Mountains that would have blocked the completion of the Central Utah Project. [22]

Thus, Carter's water policy reforms, within the context of his environmental policies broadly had a polarizing effect; effectively driving a wedge into what historian Hal Rothman called the "bipartisan proenvironment consensus." But for all the bluster of the sagebrush rebels and their talk of Carter's "War on the West," those claims were far from representative. The calls to stop so many dam projects, and the call to enforce acreage limitation laws and curtail subsidies to agribusiness did not originate with Carter, or even East coast environmentalists; they had originated years before with strong grassroots efforts of people living in the West. These individuals

[22] Dorothy Harvey to Family, March 3, 1977, Special Collections, University of Utah Marriott Library, Dorothy Harvey Papers, Accession 2232, Box 3 Folder 1. Harvey played an important role in organizing grassroots opposition to the Central Utah Project during the Carter years.

continued their efforts during the Carter years, and continued after he left office. The strong reaction against Carter's efforts did not dissuade his allies, but emphasized that much more the need to continue to work for the changes he had attempted.[23]

After Carter left office, his allies continued to press for a resolution to the issues he had attempted to address. Congress succeeded in passing compromise legislation to increase acreage limitation in 1982, and as previously mentioned, to reauthorize two projects that had escaped cuts during Carter's years. At the center of each of these compromise measures was Congressman George Miller of California. Miller (D)—who came to Congress on a wave of reformers in the wake of Watergate—had been intent on reforming western water projects and was a strong supporter of Carter. During the 1980s, Miller employed as his legislative aide Daniel Beard, who had preciously served as an assistant to Guy Martin, the number two man in the Department of Interior over water projects. Beard's experiences in the Carter Administration shaped his attitudes and opinions. Like Miller, he was intent on reforming water policy and stopping the worst of the large water projects. Miller later helped Beard become President Bill Clinton's appointment to head the Bureau of Reclamation. As commissioner, Beard helped to complete a process that had really begun with Carter's efforts and had continued through the Reagan and Bush administrations, changing the mission of the Bureau of Reclamation from water development to water management. The Hit List controversy played a critical role in motivating both Beard and Miller to seek the significant reforms they later helped to pass.

[23] Rothman, 184. Dorothy Harvey for example worked for several years after Carter left office in an attempt to build opposition to the CUP. Her efforts, discussed in chapter 6 culminated in an opposition campaign leading up to the 1985 vote to approve an amended repayment contract.

Thus, while the Hit List controversy provided a short-run boost to water project advocates, and to Sagebrush Rebels, in the long run the controversy helped to motivate dam opponents and led to further shifts in opinion. Environmental activists continued to oppose the projects and Miller, Beard, and others helped secure change through the legislative process. Another individual influenced by the Hit List who had a significant and direct long term impact on public opinion was Marc Reisner, author of the well known exposé, *Cadillac Desert.* Reisner wrote his best seller in response to his experiences during the Hit List controversy when he served as the communications director for the Natural Resources Defense Council (NRDC). NRDC had been actively involved in supporting the administration's efforts to cut water projects and in attempts to educate both members of Congress and the public about the projects on the Hit List. In his book, Reisner was critical of the press coverage during the Hit List controversy. As someone who worked to get accurate information about the true impacts of the projects to the media, the negative response in Congress and the press to the Hit List motivated him to embark on his efforts to expose the worst of the West's water problems. In the preface to Cadillac Desert's sequel Reisner wrote, "Watching Carter blown over backwards by the reaction [of Congress to the Hit List] it seemed to me that the West's, and Congress's, infatuations with water projects would never end. So, *Cadillac Desert* was conceived as a work of history with a warning attached." [24]

While Carter's water policies were not as successful as he had hoped, he did succeed in cutting several projects. His success in getting Congress to cut funding to

[24] For the criticism of the press coverage of the Hit List, see *Cadillac Desert,* 315-316. The quote is from Marc Reisner and Sarah Bates, *Overtapped Oasis,* (Washington, D.C., Island Press, 1990), xv.

authorized water projects, and his proposed policies to change the evaluation criteria for new dams served as a catalyst, which added to environmental and economic factors, created the formula that ended the Era of Big Dams. While in the short term, Carter's efforts fueled a backlash in much of the West, the reaction in Congress and in the press motivated environmentalists and other dam opponents, including George Miller, Dan Beard, and Marc Reisner, to continue to push for reforms that completed the process started by Carter.

"Hit List: President Carter's Review of Reclamation Water Projects and His Impact on Federal Water Policy" is divided into six chapters. The opening chapter details the development of the administration's decision to cut funding to water development projects. It explores efforts to block federal water projects in the years before Carter took office as well as the origins of his own opposition to large federal water projects. This chapter also examines the preparations of several different proposed lists of projects, as well as the debates within the White House about the extent and timing of announced cuts. The chapter concludes by assessing the President's personal involvement in the decision to move forward with the proposals to cut water projects from the budget.

Chapter Two follows the development of the political battles after Carter announced the preliminary lists of projects. The chapter explains how the administration reacted to the inevitable uproar and ultimately reached a compromise solution with Congress in 1977. Rather than treating the outcome as a foregone

conclusion, the chapter places events within the broader context that helps to explain why Carter made the decision to compromise.

From the beginning of the controversy over the water project review, the administration indicated that the proposed cuts were to be accompanied by a more thorough water policy review. Chapter three focuses on the administration efforts to review and review federal water policy. It also examines the concurrent efforts to deal with a court ordered mandate to enforce or revise the portion of the 1902 Reclamation Act which limited farms receiving federal subsidized water to 160 acres. This chapter also argues that understanding the controversy surrounding the policy review and acreage limitation is critical to understanding appropriations battles in 1978. In part reacting to the administrations efforts on water policy and acreage limitation, members of Congress sought to reinstate funding for the projects cut in 1977. The resulting battle resulted in Carter's veto of that year's public works appropriation bill.

While Carter scored a temporary victory, his actions made members of Congress even more defensive. As a consequence, a coalition formed in Congress and among western governors who continued to block and fight his reform efforts. Chapter Four examines the Carter administration continued efforts to implement policy reforms, acreage limitation, portions of the Clean Water Act, and federally reserved water rights. These efforts, I argue, played a key role in stoking Western anger and are important in the development of the Sagebrush Rebellion. Chapter Four concludes by investigating how the Reagan administration responded to the rebellion in the context of critical water issues. Despite the rhetorical differences between Carter and Reagan, the practical result of reforms and budgetary restraints produced

strikingly similar results. However, the nuanced differences between the two help illuminate the contours of the broad political landscape shaping the debate over natural resources, energy development, and regional growth.

Finally, to assess the long term success and significance of the Hit List and Carter's water policy review, particularly the subsequent action of congressional allies, the final two chapters present case studies of the two largest projects that Congress funded over Carter's objections—the Garrison Diversion in North Dakota and the Central Utah Project. Examining the fate of these two projects during the Reagan years and beyond provides an opportunity to not only compare Carter and Reagan's actions, a close examination of both projects helps to understand how Carter's broad water reforms fit within larger historical contexts. In both cases the President's supporters in Congress ultimately succeeded in forcing reforms that marked the end of the road for large scale water development in the West. Yet, the differences in the way reforms came to both projects also explains a great deal about the historical changes that ended the federal government's long career of building monumental engineering works.

Chapter 1
The Hit List Controversy, or The Road Paved With Good Intentions.

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I then broached the concept that was to prove painfully prescient and politically unpopular: limits. We simply cannot afford everything people might want. Americans are not accustomed to limits "We have learned that "more" is not necessarily "better," that even our great nation has its recognized limits."
—Jimmy Carter commenting on his inaugural address.[1]

Everybody has warned me not to take on too many projects so early in administration, but it's almost impossible for me to delay something that I see needs to be done.
Jimmy Carter[2]

It was an unusually mild day during an unusually mild winter. The lack of any significant snowfall worried farmers, ranchers, and water officials throughout the West. Western governors had scheduled a meeting with newly appointed Secretary of the Interior Cecil Andrus to discuss the problem, and the need for federal drought assistance. However, when Andrus's plane landed in Denver that balmy February morning, the governors' moods had grown confrontational; that morning's newspapers carried reports of President Jimmy Carter's proposed budget cuts for some of the biggest water projects under construction in the West.

In the West, where water users faced increasingly limited water supplies due to the severe drought, the announced cutbacks felt like direct retribution for the President's failure to carry a single state in the West. Politicians, news outlets, and water groups responded with rhetorical bluster. For example, in its first issue after the

[1] Jimmy Carter, *Keeping the Faith: Memoirs of a President* (Toronto: Bantam Books, 1982), 21.
[2] Ibid., 65.

announcement, the newsletter of the Colorado Water Congress contained the banner headline, "White House Declares War on Water Users." The story went on to decry the fate of the three Colorado projects "axed in the White House massacre."[3] Congressman Morris K. Udall, a Democrat from Arizona and head of the House Interior Committee, noting that the president's official message to Congress announcing the cuts was dated February 21, and called the announcement the "Washington Day Massacre" at a congressional hearing.[4]

The move to cut several of the largest Reclamation projects ever undertaken, after construction had already begun, during one of the worst droughts of the century, angered more than the governors gathered in Denver that morning.[5] The announcement angered politicians and water users across the country. It angered members of congress of both parties, but particularly Democrats whose projects had been slated for cuts. To use an ironic expression, the president's move was like throwing a bucket of water on Congress. It ended the normal hundred day "honeymoon" on day thirty-one. But the proposal did more than start a political war over water. It was a fight between the Washington outsiders and insiders. It was a pitched battle for power between the executive and legislative branches over control of the purse and the pork barrel. Contrary to a popular caricature, President Carter was not duped by naive environmental idealists; nor did he stumble inadvertently into this political battlefield. He personally, consciously, and deliberately launched a campaign

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[3] "White House Declares War on Water Users," *Colorado Water Congress Newsletter,* Vol 20. No 2. (March 1977), 1.

[4] Felix Sparks to Colorado Water Conservation Board and Colorado Water Congress Executive Committee, March 1, 1977, Colorado State Archives, Governor Lamm Papers, Box 65182, Folder "Background material…"

[5] Grace Lichtenstein, "Western Governors Upset by Plan to Cut Funds for Western Projects," *New York Times,* Feb 21, 1977.

to end what he sincerely believed amounted to wasteful spending on environmentally disastrous water projects.

The decision to move forward with the budget proposal cutting water projects rests squarely with Carter. He knew it would stir up a hornet's nest. He was advised by some staff not to take action. Vice President Mondale and others warned of the high political costs. Yet, despite the warnings he believed it was the right thing to do and the right time to do it. He had promised to balance the budget within his first term. He had promised to cut wasteful spending. He believed strongly about the need to stop costly and environmentally destructive water projects. Despite some improvement in the economy and signs of recovery from the severe recession of 1974-75, the economy was still struggling. As we shall see, Carter believed that cutting wasteful spending on dams would not only help his goal of a balanced budget in the long run, but would allow for short term investment in economic stimulus—particularly in the "rustbelt" where unemployment remained at abysmal levels. But beyond these motivations to act quickly, Carter held a strong conviction that it was time for the federal government to get out of the dam building business. This conviction stemmed from his own experience battling federal water bureaucracy as governor of Georgia.[6]

Sprewell Bluff Dam

As governor Carter fought a tough political fight to stop an Army Corps of

[6] In a July 1975 in a campaign press release Carter stated, "I personally believe that we have build enough dams in this country and will be extremely reluctant as president to build any more." Quoted in Jeffery K. Stine, "Environmental Policy During the Carter Presidency" in *The Carter Presidency: Policy Choice In The Post-The New Deal Era*, edited by Gary M. Fink and Hugh Davis Graham (Lawrence: University of Kansas Press, 1998). 182.

Engineers (ACOE) dam at on the Flint River at Sprewell Bluff.[7] Understanding the battle over the last free-flowing river in Georgia is essential to understanding Carter's later actions as President. While his efforts did garner some national attention during a period when he was unknown to most people living outside of Georgia, the true significance lies in the effect that the fight had on Carter himself.[8] The experience completely converted Carter's faith in the Army Corps of Engineers, and cemented his environmental convictions. Carter himself pointed to his experience to prove his personal commitment to cutting the Hit List projects at a meeting with Senators and Members of Congress early in the fight. The White House used the story to remind the public of Carter's first hand knowledge of the ACOE and commitment to cut unnecessary projects. Consequently, some writers have included the Sprewell Bluff story to varying degrees in their narratives of the Hit List. [9]

In many ways Sprewell Bluff is representative of a great many water projects under, or awaiting construction during Carter's presidency and certainly all of the projects on his Hit List. Proposed during what writer Marc Reisner famously termed

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[7] Discrepancies exist in the spelling of the proposed dam at Sprewell Bluff. The Army Corps of Engineers misspelled the name as "Spewrell Bluff" in their original proposals for the dam. Thus government documents and many other accounts from that period thus carry this alternate spelling. As Governor, Carter corrected the spelling by executive order in March 1974. See Kenneth K. Krakow, *Georgia Place Names* (Macon, GA: Winship Press, 1975), 210. Despite this change some have continued to use the old spelling. For consistency the corrected spelling is used here throughout.

[8] The primary example of national coverage of Governor Carter's battle over the Flint appeared in *Readers Digest*, see, Eugene H. Methvin, "The Fight to Save the Flint," (August 1974), 17-26.

[9] Of the various histories of the Hit List, the Sprewell Bluff is prominent in the accounts of Marc Reisner, *Cadillac Desert* (New York: Viking Penguin Books, 1993), 307-308, but he does not provide many specific details. The best rendering is in Tim Palmer's *Endangered Rivers* (Berkeley: University of California Press, 1986, 100-102. The shortest reference is Peter Wiley and Robert Gottlieb, *Empires in the Sun* (Tucson: University of Arizona Press, 1982), 55, in which the dam is not even named but referred to as "a dam on the Flint River." Gottlieb does not include it at all in his brief discussion of the Hit List in *A Life of Its Own* (San Diego: Harcourt Brace Jovanovich, 1988). Historian Jeffery K. Stine considers Sprewell bluff essential in his analysis of Carter's environmental policies, but also does not explain the events in any great detail; see "Environmental Policy during the Carter Presidency" in *The Carter Presidency: Policy Choice in the Post-New Deal Era*, ed. Gary M. Fink and Hugh Davis Graham, 179-201 (Lawrence: University of Kansas Press, 1998), 181.

"the go-go years" of the early 1950s when federal water agencies, and the vast majority of politicians and the public thought there was no such thing as a bad dam project. With such a long list, Congress normally found it easiest to give priority to the best projects—those with the most justifiable needs, the best dam sites, and (at least on paper) the best return on investments. They were what some would call 'the low hanging fruit." Sprewell Bluff and the majority of the other projects on the list waited years and decades for authorization *and* appropriations to initialize construction. Most faced opposition for economic, environmental, safety concerns, or a combination of the three.

Congress authorized the Army Corps of Engineers to construct the Sprewell Bluff Dam in 1963. But construction of the project was not scheduled until 1974. According to Marc Reisner's account, Carter supported the project as a state legislator and chairman of the Middle Flint River Planning and Development Council.[10] However, strong lobbying from friends and from environmentalists and outdoor recreationists after he became governor in 1970 convinced him that he needed to take another look at the proposal.

In 1970 the Georgia Natural Heritage Council, a part of the state government, surveyed fifty- three rivers for possible preservation under the National Wild and Scenic Rivers Act. The council's report noted that the Flint was the last major river in the state whose fall line remained undammed, and assigned it their top recommendation for preservation. The Council provided Carter with the results of their study and urged him to suspend the project. At the same time Ron Miles, an archeology student who enjoyed spending time on the Flint, formed a grassroots

[10] Reisner, 107.

effort, the Flint River Preservation Society. Miles quickly found allies in the Georgia Conservancy, the Audubon Society, the League of Conservation Voters and others who mounted a campaign to petition Carter. Author Eugene Methvin reported Carter received over 6000 letters and more than 50 visits. This overwhelming response motivated Carter to personally investigate the situation. He began by making a weekend inspection where he visited the site, camped overnight, and canoed the Flint River. Joe Tanner, his commissioner of the Department of Natural Resources accompanied him on the trip. After taking in all that the area had to offer Carter told Tanner, "If we are going to destroy all this natural beauty we better make sure that what we get in return is worth the price." [11]

Carter returned to Atlanta determined to learn everything he could about the proposed plans. Carter reported later that launching an investigation infuriated dam proponents such as former Congressman Jack Flint, who had shepherded the dam's initial authorization. Carter's reaction to Flint would mirror his later reaction to Congress; he simply stated, "I was impervious to that displeasure." Having made the decision to investigate the project, Carter explained later that:

> My next step was to ascertain the accuracy of the facts and figures of the Corps of Engineers, which I didn't have any reason to doubt. I considered the Corps an element of the military. I presumed that the officers of the Corps of Engineers were telling me the truth.[12]

But as Carter began investigating the project, according to Methvin's account, he "encountered only obfuscation and delay" when dealing with the Army Corps of Engineers. When he finally received a copy of the NEPA statement for Sprewell Bluff

[11] "Destroy Natural Beauty," in Methvin, 18.
[12] Jimmy Carter, "Preface: Preserving a Georgia Treasure," in *The Flint River: A Recreational Guidebook to the Flint River and Environs,* by Fred Brown and Sherri Smith (Atlanta: CI Publishing, 2001), 14.

Dam, Carter found it "little more than promotional literature supporting dam construction." The governor pushed for a revised statement from the Corps of Engineers. Faced with possible court action from either the governor's office or the Flint River Preservation Society, the Corps reluctantly determined to restudy the project. No longer willing to take the Corps research at face value, Carter ordered his own review conducted by "geologists, archaeologists, hydrologists, historians, and park and wildlife experts" overseen by Commissioner Tanner. At the same time, Senator Herman Talmage (D-GA), a project supporter, pressed the General Accounting Office (GAO) to conduct their own independent review.[13]

As these studies unfolded, Carter continued to investigate the project. By the time he was finished he explained "The decision on whether Sprewell Bluff Dam should be built is one of the most difficult I've had to make," and he said it was the second most time-consuming after his key objective of reorganizing the state government. Describing the amount of time spent researching he explained that "I have personally read all the written reports and transcripts of oral testimony made available to me. I have consulted with more than 50 delegations. I have analyzed several thousand letters and telegrams and numerous petitions and resolutions." In addition to his initial trip he revisited the area for a second canoe trip, and made two additional tours by helicopter.[14]

When he finally received a copy, the Corps' revised impact statement came as a shock to Carter. Although the National Environmental Policy Act required a

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[13] Methvin, 20-1.
[14] Jimmy Carter, "Statement on Sprewell Bluff Dam, October 1, 1973" in Frank Daniel, comp, *Addresses if Jimmy Carter (James Earl Carter), Governor of Georgia, 1971-1975* (Atlanta: Georgia Department of Archives and History, 1975), 14.

detailed discussion of alternatives, the report "brushed aside" all other options to meet the project's stated goals. Armed with the data from the independent reports, it became obvious the Corps intentionally manipulated their accounting in an effort to justify the project. Carter announced, "The Corps of Engineers reports and analysis are strongly biased in favor of completion of their proposed projects." The Corps' report claimed the project benefits would outweigh the costs, but Carter's personal analysis revealed computational shenanigans that omitted significant costs, wildly inflated benefits, manipulated data, and broke the Corps' own accounting rules.[15]

In his official statement Carter spent considerable time—despite noting it was impossible to catalog all the complicated and constantly changing issues surrounding the project—detailing several other of the most egregious examples. During the few months spent redrafting the dam's environmental statement, the Corps had inexplicably "quadrupled the economic benefit assigned to recreation" claiming the new reservoir would provide nearly $4,000,000 in annual recreation benefits. However, this figur appeared grossly inflated given the independent analysis which found the new lake would compete with nine others within 50 miles, one of which was already facing bankruptcy due to under use.

Carter also noted that the planned flood control benefits were in conflict with the recreation benefits. Carter explained that drawing the water down by 10 feet to create room for floodwaters would coincide with times of maximum recreation demand and periods of peak power need would leave a substantial portion of the shoreline and shallow flat bottoms exposed reducing both the quantity and quality of recreation available.

[15] Ibid.

Not only was more lake recreation not needed, Carter noted the recommendations against the dam by the Georgia Natural Heritage Council as noted above. Further, almost all state agencies responsible for recreation strongly opposed the project as did the US Bureau of Sport Fisheries and Wildlife. Carter concluded that a better investment could come from providing better access to natural river areas through easements, lease, purchase, or other acquisitions of riverbank properties which could be accomplished at a fraction of the cost of dam projects.

The Corps had underestimated the project costs by using present costs rather than future costs which took into consideration inflation. They used the old discount rate 3 3/4% as opposed to the current rate of 6 7/8%. They calculated the loss of 24,500 acres of forest as $248,000—the net value of the raw timber—ignoring "an annual loss to the state of $12 million in jobs and other income." The Corps claimed a $127,000 "wildlife" benefit from reservoir fishing permits while ignoring the impact of the reservoir on the existing environment and the loss of the deer, wild turkey and osprey.[16]

The Corps of Engineers estimated flood control benefits of $127,000 annually with an additional $1.1 million accruing from increased use of floodplain areas. But Carter noted that the Corps did not consider that for far less money land-use planning could be used to reduce future flood damage. The Corps claimed 82% of flood control benefits would come from flood plain farmland being more highly utilized but noted this "benefit" did not account for the loss of the 25,000 acres of woodland and 11,000 acres of cropland to be inundated by the dam.

[16] For computations see "Statement," 17. The examples here come from Methvin, 20-22.

The state's electric utility projected that the power generated by the dam was not needed; by the time the project would be completed the grid would have a 17% power reserve without the dam. Additionally, Carter concluded that the power plant likely could not even pay for itself. To show the plant could make money, the Corps had to overstate the capacity of the generators. In making his evaluations of the project data, Carter did not rely on his own staff. His training as an engineer gave him the skills and curiosity to look carefully at the Army Corps of Engineers claims. Joe Tanner, Carter's director of Natural Resources explained to reporter Dicken Kirschten that when Carter challenged the Corps estimates of the generators capacity, the engineers insisted that their figures were correct. Unwilling to accept their numbers, Tanner continued, "Carter demanded a letter of verification from the manufacturer, 'when the letter came back from General Electric, it said the turbines would burn themselves out in five minutes if run the way the corps proposed'" [17]

Carter found more mistakes and a violation of the Corps' own rules when he studied their calculations of economic redevelopment benefits. Only one of the nine counties considered in their computations had been designated by the Economic Development Agency as required by the Corps' own regulations. Further, analysis at similar dams previously constructed in the state showed none of the surrounding rural counties had seen the type of economic growth the Corps claimed they anticipated for Sprewell Bluff.

[17] "Statement," 16, and J. Dicken Kirschten. "Draining the water projects out of the porkbarrel" N*ational Journal*, 9:15 (April 9, 1977), 541.

Governor Carter concluded his official announcement by vetoing the construction of the dam and ordering the development of a state-run river park to protect the area. But Carter did not end there, he officially recommended:

> That the apparent bias of the Corps of Engineers in favor of dam construction be assessed by the General Accounting Office, by the Congress, and by other responsible agencies—in this project and other similar projects now planned or to be considered in the future. The construction of unwarranted dams and other projects at public expense should be prevented. Establishment of priorities and providing for recreation, power generation, economic development, and water quality should be entrusted to those professionally able and motivated to make fair and objective judgments, solely for the benefit of those people to be served and the taxpayers to pay the cost.[18]

"In my mind there is no doubt that I have made the correct recommendation or decision." Carter elaborated on his discussion with author Eugene Methvin, “It's important for the entire nation to understand where this kind of planning technocracy goes wrong and what we must do about it."[19]

Carter’s battle with the Corps of Engineers over Sprewell Bluff Dam was pivotal to both Carter personally and to the broader fight against water projects. Environmental author Tim Palmer observed that Carter’s actions were “one of the best examples of a dam stopped by a governor.” Palmer also declared that the fight over the Flint vulcanized “Carter’s commitment to river protection.”[20] Environmental Historian Jeffrey Stine concludes, "by the vetoing a Corps dam project that had already been authorized, studied, and scheduled for construction, Carter had taken a highly unusual step as a governor, won major national media coverage and gained him

[18] Statement, 18.
[19] “For “no doubt” see “Statement, 15.” Methvin, 26.
[20] Tim Palmer, *Endangered Rivers*,102.

near-celebrity status among environmentalists critical of large-scale federal water projects."[21]

While Carter made his decision purely on the merits of the case, the national attention gained was definitely an important side benefit. Biographer Peter Bourne stated that vetoing the dam gave Carter "instant name recognition with environmental activists as far away as California."[22] This was important, Borne explains, because the environmental community was the first constituency Carter would look to for support of his presidential bid. Carter recruited Georgia environmental leaders Jane Yarn, Barbara Blum, and Landon Butler. The three arranged a meeting in Washington D.C. for Carter with environmentalists from around the country. At the meeting Carter revealed his plans to run for president and solicited their help. "It was the first group outside Georgia to whom he had made an open statement of his intentions."[23]

During the Hit List controversy, some of Carter's opponents had claimed the president had opposed Sprewell Bluff Dam in a move to gain favor among environmentalists in advance of his presidential campaign. This statement distorts the facts. Carter had taken steps to study and ultimately cut the dam prior to making his decision to run for president. But, as historian Jeffrey Stine points out in his article, Carter sought to distinguish himself as a "conservationist-oriented reformer." Seeking to capitalize on his personal beliefs and his record as governor, Carter attempted to attract supporters from the environmental movement that "favor[ed] the protection

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[21] Stine, 181.

[22] Peter G. Bourne, *Jimmy Carter: a Comprehensive Biography from Plains to Post-Presidency* (New York: A Lisa Drew Book/Scribner, 1997), 251. It should be pointed out here that Bourne's discussion of Carter's decision to veto the Sprewell Bluff dam is brief and limited. Further, Bourne misspelled the name of the dam Spruell.

[23] Jane Yarn was the Georgia director of SAVE (Save America's Vital Environment) and later head of Environmentalists for Carter. Barbara Blum had led the fight to preserve the Chattahoochee River. See, Bourne, 251.

and restoration of America's rivers, especially the scores of grassroots organizations throughout the country fighting the damming, channelization, or other structural alterations of their favorite rivers and streams." Stine argues that Carter's efforts were engineered "to resonate with certain segments of the environmental movement and to reinforce his image as an anti-Washington, outsider candidate." For example, Carter declared in July 1975 that "the Army Corps of Engineers ought to get out of the dam building business."[24]

The battle over the dam marked a key transition for Carter and an important victory for a growing percentage of the public whose attitudes about dams had been shifting. More and more people recognized the important aesthetic value of free flowing rivers and recognized that replacing those values—as well as fishing and stream recreation with a lake—was not an equal trade. Public sentiment had been shifting, as is evident by the fight over the proposed dams in the Grand Canyon and by the passage of the Wild and Scenic Rivers Act in 1968. But the growth of that sentiment can be seen clearly in the events of 1973. Not only was Carter fighting with the Corps, but grassroots efforts around the country, aided by the national environmental movement, attempted to block other projects—such as the Central Utah Project and the Garrison Diversion in North Dakota discussed in chapters five and six—by filing lawsuits over NEPA compliance. While environmentalists lost these cases, they succeeded in slowing their progress and called attention to the problems with these projects.[25]

[24] Stine, 181-2.
[25] For the shift in the "aesthetics of water" see Tim Palmer, *Endangered Rivers*, 134.

In addition to Carter's veto of the Sprewell Bluff Dam, three other key events that helped broaden discussion of U.S. water policy and set the stage for Carter's Hit List also took place in 1973. All three involved publications critical the water development agencies and their big water projects. The first of these was Disasters in Water Development published in the spring, followed by, second, the release of the National Water Council's final report and third, the publication of a book blasting the Bureau of Reclamation by Ralph Nader's study group.

Environmental Policy Center

In April 1973, a coalition of environmental groups, led by Brent Blackwelder of the Environmental Policy Center (EPC), joined together in the publication of a booklet detailing the worst projects then under construction or in the planning stages. The organization of the Environmental Policy Center is an important part of the environmental movement in the United States. This includes Brent Blackwelder's role in fighting water projects which is also a important part of this history.

David Brower founded Friends of the Earth in 1969 after he left his leadership role at the Sierra Club. One of the organization's key staff figures in the early days was Joseph Browder. Browder emerged as the leader of the staff faction wishing to focus on environmental policy and processes—legislative and administrative—in Washington DC. David Brower increasingly saw the staff as overly focused on policymaking in Washington. This dispute eventually led to the majority of the East Coast staff breaking away to create the Environmental Policy Center. This Washington DC-based organization was a "quasi-lobbying, quasi-research and advocacy group of policy experts" narrowly focused on environmental protection

using the legislative, administrative, and political processes. Robert Gottlieb argues that this break marked an important step in the United States environmental movement. The creation of EPC complemented a "parallel shift towards professionalization based on the use of law and science occurring within other parts of the movement."[26]

Of the many issues taken up by EPC, Brent Blackwelder's efforts made fighting water development one of their key successes. This also made Blackwelder the first lobbyist to work full-time on river protection. Blackwelder, began his environmental career as a volunteer with Friends of the Earth in 1970 while living in Washington and earning a doctorate in philosophy. He worked for the League of Conservation Voters in 1970 to help defeat House Public Works Committee chairman Fallon. This success led Blackwelder to target electoral opposition at other members of Congress supporting questionable projects.[27]

Tim Palmer explains that unlike many who became involved in fighting water projects, "Blackwelder had not been an avid canoeist or fisherman." Merely seeing pictures of the damage caused by channelization motivated his actions. He became zealous in fighting the destruction of "special places" "for no good reason and at public expense." As Robert Gottlieb noted, EPC was one of the few Washington DC-based environmental organizations to form effective ties with local grassroots organizations. Blackwelder was perhaps the best staff member at EPC to accomplish this. He was instrumental in the formation of the American Rivers Conservation Council in March 1973, the first national organization focused on river protection.

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[26] Robert Gottlieb, *Forcing the Spring.* 144.
[27] Palmer, 131.

Thanks to Blackwelder, "dam fighters who were flailing away on their own began to find each other to form coalitions." [28]

The Environmental Policy Center along with American Rivers Conservation Council and other groups published the following month "Disasters in Water Development" written by Brent Blackwelder. The booklet documents the reasons why thirteen of the nation's worst water projects should not be built. All of the projects posed serious environmental consequences and had questionable economic justifications. The majority of these projects also faced significant local opposition as well as court challenges. Tim Palmer argues, called people to action "as no single publication has ever done." [29]

Table 1 Projects listed in 1973 "Disasters in Water Development"

Central Arizona Project	Arizona	BR
Central Utah Project	Utah	BR
Garrison Diversion	North Dakota	BR
Nebraska Mid-State	Nebraska	BR
Teton Dam	Idaho	BR
Cache River Channelization	Arkansas	ACOE
Meremac Park Dam	Missouri	ACOE
New Melones Dam	California	ACOE
Oakley (Springer) Dam	Illinois	ACOE
Sprewell Bluff Dam	Georgia	ACOE
Trinity River Canal	Texas	ACOE
Duck River Dams, (Columbia and Normandy)	Tennessee	TVA

Although they had not been deauthorized, four of the thirteen projects—Nebraska Mid-State, Sprewell Bluff, Oakley Dam and the Trinity River Canal—had been stopped by the time Carter took office. A fifth, the Teton Dam had been completed and catastrophically failed. Blackwelder had not questioned the safety of

[28] For Gottlieb see, *Forcing the Spring*, 144. For "canoeist" and "dam fighters see, Palmer, 131; for Blackwelder's role in AARC see 150-1, and for "special places," and "no good reason"see page 132.
[29] Brent Blackwelder, "Disasters in Water Development"(Washington D.C.: American Rivers Council, 1973). For "no single" see, Palmer, 132.

the dam site, but instead had objected to the inundation of the canyon behind the dam. Of the remaining nine projects, the administration would recommend that all but the New Melones Dam be defunded or modified. A second, the Cache River Channelization was subsequently cleared by the administration.

National Water Council

The work of Blackwelder at the Environmental Policy Center and the American Rivers Conservation Council was an important step in facilitating grass-roots efforts to block water projects and in keeping national attention on the nation's worst water projects. Blackwelder's was not the only voice attracting national attention. Two other organizations attracted national attention in their criticism of federal water policy and water projects. The first of these was the National Water Council (NWC).

During the political battle in 1968 over the authorization of the Central Arizona Project critics won some important concessions. The best-known are the removal of proposed dams from the Grand Canyon and a ban on studying water transfers from the Pacific Northwest to the Colorado River Basin. A lesser-known concession was the creation of the National Water Commission "to review issues of water development and come in, it was hoped, and set the terms for the future water agenda." Differing from its previous attempts, Congress designed the NWC to be more inclusive in its review. The commission selected staff from a growing pool of academics and multiple disciplines—such as political science, economics, and resource planning—studying water related issues.[30]

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[30] *A Life of Its Own*, 56-7.

The NWC published its final report in 1973. It did not receive much attention, especially from the water industry, its intended audience. However, as Robert Gottlieb explained, "the report provides an interesting commentary on the state of water policy and its shifting focus." The commission's analysts strongly criticized interbasin transfers and advocated non-construction-oriented solutions. They highlighted numerous issues previously ignored by water developers and their congressional allies such as environmental concerns, water quality, and inefficiencies in both existing projects and regulations. The report called for "a shift in national priorities from development of water resources to restoration and enhancement of water quality."[31]

Ralph Nader's Study Group

Following on the heels of the National Water Commission report came the second voice critical of federal water projects and policy to gain national recognition, the latest in a series of exposes written by "Nader's Raiders." *Damming the West* was largely an economic critique of the Bureau of Reclamation's economics. Similar to Carter's discoveries of the Corps' practice of cooking the books to favor construction, the Nader report exposed to a broad public view a similar practice in the Bureau of Reclamation—overstated benefits, underestimated costs and "an unjustifiably low discount rate." Efforts had been made to reform the process under virtually every president since Truman. As the study's authors, Kip Viscuisi and Richard Berkman, explained, those efforts ultimately resulted in the passage of the Water Resource Act of 1964 and the creation of an oversight organization, the Water Resource Council. While the idea seemed sound, according to Nader's group, the influence of the water

[31] Gottlieb, *A Life of Its Own*, 57-58; "a shift in national priorities" quoted in Wiley and Gottlieb, 55.

agencies—particularly the Army Corps of Engineers—resulted in governing principles "so misguided that [they were] beyond repair."[32]

Throughout *Damming the West*, the authors consider environmental concerns, but primarily through an economic lens. That is, the authors argued that the costs of environmental damage—both real and intangible—were not included in current cost-benefit accounting. As an economic indictment, the book also noted the enormous subsidies given to irrigators, which due to the lax enforcement of acreage limitation laws fell to a small group. Viscusi and Berkman concluded that more farm land was not needed in the United Sates; and that by putting more land under irrigation in the West, farmers in the East are forced out or cost the taxpayer through increased use of USDA farm surplus.

In the chapter on "the analytical deception" of the Bureau's cost benefit analyses, the authors note the problematic practice of setting minimum discount rates for Bureau projects rather than using the true cost. They advocate that the discount rater should be "standardized across government agencies." They note for example that the Department of Defense used a ten percent discount rate for its construction program. Using such a rate would render most water development projects economically unjustifiable.[33]

In many ways *Damming the West* advocated for the type of reshaping of the Bureau of Reclamation that Carter pushed as president, and that ultimately came gradually a decade later. "Although the Bureau of Reclamation should cease its

[32] Richard Berkman and W. Kip Viscusi, Damming the West: Ralph Nader's study group report on the Bureau of Reclamation (New York: Grossman Publishers, 1973). For "unjustifiably" see 210, for discussion of governing principles see 201-208, for "misguided" see 208.
[33] Ibid, 88-9. The rate being used by the Bureau of Reclamation in 1970 was only 4 7/8%.

irrigation activities, there is no reason why it should cease to exist. It must still operate and maintain its existing dams and other facilities. More important, the Bureau should apply its seasoned expertise in a saner way to the West's modern water resource needs." In words close to those used by Governor Carter regarding the Army Corps of Engineers, the book concludes, "Until such time as the Bureau of Reclamation is ready to scrap or revamp its destructive new activities and concentrate on constructive ones, we call upon Congress and the President to freeze all Bureau of Reclamation construction."[34]

Carter's Presidential Campaign

Stuart Eizenstat noted that candidate Governor and President Carter felt deeply about environmental protection, pointing out his opposition to block the Sprewell Bluff Dam.[35] Throughout his campaign Jimmy Carter promised to cut the federal budget, and to cut funding for dams. Tim Palmer wrote that at a Los Angeles fundraiser at the beginning of his campaign in October 1974 Carter spoke at length about his experience battling the Corps of Engineers over Sprewell Bluff Dam. Because of the distorted data used to justify that project he advocated for a GAO review of every Corps of Engineers project just as they had done on the Sprewell Bluff Dam. He continued, stating that the corps had distorted their analysis of the New Melones Dam in the early phases of construction on California's Stanislaus River. He

[34] Ibid. For "cease" see page 209. For "until such time" see 211.
[35] Stuart Eizenstat, "President Carter, the Democratic Party, and the Making of Domestic Policy," in *The Presidency and Domestic Policies of Jimmy Carter*, 5.

"strongly urged California voters to support Proposition 17," the ballot initiative to halt construction of the dam.[36]

Proposition 17 failed by a narrow margin, but the vote demonstrated strong public opposition to the dam. Opponents continued to fight the project and during a primary campaign stop in Los Angeles in June 1976, Carter again told supporters in California that he opposed the controversial New Melones Dam. During the campaign at a Missouri rally, Carter also told a crowd that he opposed the Meremac Dam in that state.[37]

For those paying attention, the Carter campaign continued to issue statements regarding his pro-environmental agenda. Curtailing water projects was important to Carter, but was only part of an array of issues he felt needed attention. Further, the press continued to report on his environmental credentials. For example, in October the New York Times editorial board published a piece laying out the two candidates' environmental records. The piece was motivated in part by a press release from the League of Conservation Voters. The Times noted that while there had been many similarities between the candidates; their environmental records were as different as night and day. As proof of his environmental credentials, the paper specifically noted Carter had stopped the Sprewell Bluff Dam. Also that month, a similar article appeared in the journal *Environment* contrasting the environmental positions of the two candidates based on their record and on their responses to a questionnaire.[38]

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[36] Tim Palmer, *Stanislaus: The Struggle for a River* (Berkeley: University of California Press, 1982), 102.
[37] Robert A. Jones, Ecology Groups Hold High Hopes for Carter: Expect Support for a Variety of Environment Goals," *Los Angeles Times,* December 6, 1976.
[38] Gladwin Hill, "Conservationists Give Carter High Marks and Ford, Low Ones" *NYT,* August 22, 1976; "The Environmental Issues," *NYT,* October 19, 1976. Arnold W. Reitze Jr. & Glenn L. Reitze, "Law: Where the Candidates Stand," *Environment: Science and Policy for Sustainable Development,*

After the election, the *Times* ran an article entitled "Conservationists Expecting Carter to Open New Era for Environment." The article once again pointed out that Carter had promised in his campaign "a great reduction" in stream channelization and dam building and added, "The government's dam-building era is coming to an end." In December the Los Angeles Times ran a longer though similar story. Reporter Robert Jones interviewed officials from several environmental groups and described how they had made wish lists of environmental priorities they hoped would be "transformed into an environmental agenda for the Carter administration." Jones went on to cover several of the agenda items in detail, including the ACOE. He quipped, "With the arrival of Jimmy Carter, the Army Corps of Engineers will be facing its single greatest test…[as it] is faced with a President who has said he wants it out of the dam business altogether."[39]

Environmentalists were not the only ones taking note of Carter's stance on dams or his past experience with Sprewell Bluff. Supporters of projects also began to take note of the prospect of a new form of opposition to water projects. For example, in Maine, the *Bangor Daily News* ran an editorial by its Washington Correspondent Donald Larrabee reporting on Carter's campaign record. Larrabee reiterated for his readers Carter's statement during the campaign that "the federal government dam building era has come to an end." Larrabee then asked rhetorically, "Would Carter go so far as to kill a project on which several million dollars have been spent for planning? No one knows for sure but his record on water resource projects as

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18:8, 4, 40-41. For water policy and discussion of Sprewell Bluff see specifically page 40.

[39] Gladwin Hill "Conservationists Expecting Carter to Open New Era for Environment" *New York Times,* Nov 5, 1976; Robert A. Jones, Ecology Groups Hold High Hopes for Carter: Expect Support for a Variety of Environment Goals," *Los Angeles Times,* December 6, 1976.

governor can only give proponents of the Dicky-Lincoln dam a few quivers of uncertainty." Larrabee noted that the Ford Budget included funding to complete the studies for the dam. While noting that Carter would be submitting revisions to the Ford budget, Larrabee concluded "it is doubtful, however, that the Carter administration will focus immediately on the individual water resource projects. There are greater priorities."[40]

As it turned out, Larrabee underestimated the President-elect. Carter entered office with plans to move quickly on a multitude of priorities. As indicated by his diary entry quoted at the beginning of the chapter, Carter found it difficult to delay moving on an issue when he saw something that needed done, and he saw a great deal that needed to be done. The overriding concern was to boost the economy. The nation had just begun to recover from the worst economic downturn since the Great Depression. At the end of 1974 unemployment had risen to 7.1%, inflation ran at 12% and real economic growth was negative 5%. Unemployment continued to climb peaking at 9% in May 1975.[41]

President Gerald Ford, who is perhaps best remembered for his gimmicky and ineffective "Whip Inflation Now" scheme, actually had succeeded in ending the recession of 1974-75 prior to the election by restraining spending while providing tax cuts to stimulate economic growth. However, while economic growth had returned and inflation had fallen to 4% in 1976, the recovery had slowed just before the election, and unemployment remained high hovering around 8%. To keep the country from falling back into a recession, upon taking office Carter proposed a jobs creation

[40] Donald Larrabee, "Carter and Dicky Dam," *Bangor Daily News*, November 19, 1976.
[41] Yanek Mieczkowski, *Gerald Ford and the Challenges of the 1970s* (Lexington: University Press of Kentucky, 2005), 99-100, 146-7.

bill and a tax rebate plan. Additionally, Carter recognized that excessive deficit spending during the Vietnam War had been part of the cause of the economic downturn of the 1970s and he had campaigned on a promise to balance the budget by the end of his first term in office. Thus, Carter believed that moving quickly to cut large water development projects not only fulfilled his campaign promise to do so, but also would demonstrate his commitment to his promise of working toward a balanced budget.[42]

Thus it turned out that while Larrabee editorialized that there was "no pressing need" for Carter to make a decision on the Dickey-Lincoln Dam, he was justified in worrying about Carter's actions and too easily dismissed the president elect's potential for moving quickly. The Dickey-Lincoln project had already appeared on a list of questionable projects prepared by Carter's transition team. [43]

Transition Document

Feeling confident they had a chance to win the election, Carter actually set up his transition office prior to the election. This allowed a head start on developing goals and strategies. In early May 1976, not long after the Pennsylvania primary victory on April 27, Carter agreed to a proposal by Jack Watson, who had been his head of the Georgia Department of Human Resources "to create a policy planning organization to prepare for his transition from candidate to president should he win in November." While it began as a small operation of volunteers, the organization had grown to include a small paid staff as the campaign prepared for the convention and

[42] Ibid, 193-4.
[43] Donald Larrabee, "Carter and Dicky Dam," *Bangor Daily News*, November 19, 1976.

then transitioned to the national campaign. As the campaign entered its final weeks, Watson's group produced a series of briefing books and option papers on the issues most likely to confront an incoming Carter administration which they delivered to Carter at the end of October.[44]

Environmental policy was an important part of the transition team's agenda. Joesph Browder, a cofounder of the Environmental Policy Center (EPC), began to work for Carter very early in his campaign by preparing memos on resource and environmental issues. In the summer of 1976 Browder left EPC and joined the Carter campaign to coordinate environmental planning.[45] Carter had enlisted the help of several environmental activists during his campaign. Many of these individuals found mid-level positions in his administration.

The transition team outlined ambitious goals for the administration, as they moved forward. The decision to attack the water projects within the first month of the administration was a reflection not only of the president's personal conviction that these water projects were wrong, but of his desire to deliver on promised fiscal responsibility by revising Ford's budget for fiscal 1978. Traditionally, new presidents accepted the budget of the outgoing president for their first year in office. Rather than accept President's Ford's budget for fiscal 1978, Carter was determined to keep his campaign promises to work for a balanced budget by using his prerogative to submit a revised budget to Congress.

One of the quirks of the US government is its fiscal calendar and budgeting policies. Beginning with the budget ending in 1977, the federal government ends its

[44] Burton I. Kauffman and Scott Kauffman, *The Presidency of James Earl Carter Jr.* 2nd ed, revised, (Lawrence: University of Kansas Press, 2006), 28.
[45] Gottlieb and Wiley, 55.

fiscal year on September 30. Thus, when Carter took office the budget for FY 1977 had already been set. Further, the Budgeting and Accounting Act of 1921 stipulated a deadline by which the president must submit their proposed budget to Congress. While there is no deadline for the non-incumbent president to submit budget revisions, the Congressional Budget and Impoundment Act of 1974 stipulated that Congressional committees must provide their respective budget committees with suggested budget estimates by March 15. Thus to be fully considered, President Carter's revised budget request needed to be submitted no later than late February or early March.

Carter determined that if he was to keep his campaign promise of a balanced budget by the end of his first term, he would need to begin cutting immediately. If he opted not to revise the budget, no significant budget changes would take effect until October 1978. Additionally, Carter's team also saw the revised budget as a way to maximize a much needed economic stimulus. As a consequence, prior to the inauguration in December 1976 the president's transition team had identified mid-February as their deadline to submit the budget revisions to Congress.[46]

The transition team had been organized into major blocks, such as domestic policy, then further divided into teams. The team working on natural resource issues consisted of Kitty Schirmer, Kathy Fletcher, and Dan Beard. By early December, the three had drafted an extensive document outlining critical issues and major policy goals. Appropriate material was collated into a briefing document for the yet unnamed cabinet members. The packet for the Secretary of the Interior designate filled a three

[46] Fritz Mondale, Stu Eizenstat and Jack Watson to Carter, no date, Legislative Agenda, page 11. JCPL, Domestic Policy Staff Papers-Stu Eizenstat, Box 119, Folder 4 "12/1/76-12/6/76. Also see , Eizenstat to Carter, Mondale and Secretaries-designates, December 27, 1976, box 119, folder 7.

inch binder.[47]

Of the three involved, Kathy Fletcher was the individual on the transition team, and later the White House staff with the most involvement in the water projects review. Fletcher had a degree in biology. After graduation she spent four years in Denver working first for the Rocky Mountains Center on Environment before becoming the staff scientist for the Environmental Defense Fund. Fletcher was deeply involved in a number of environmental battles over Western energy development issues. She appeared as a witness at various congressional and other government hearings. In August 1976 on the advice of Joe Browder, she was hired by Carter aide Jack Watson to work on advanced planning for the transition team.[48]

The transition document was both extensive and ambitious in its scope. Under the tab "Critical Issues" the team identified more than twenty urgent problems spanning the responsibilities of the entire department—"Public land and resource management, Indian Affairs, parks, wildlife, and recreation"—that needed immediate attention. The list identified broad concerns such as "the critical need for leadership." The second issue recognized the growing tension between states and the federal government over development and regulation of natural resources, an issue that would only become more tense and problematic during the Carter Administration. Among the major concerns were proposals for reorganization, including the creation of the new Department of Energy. But, the transition team also recognized the creation of the DOE could also open an opportunity for the creation of a Department of Natural

[47] Dan Beard Oral History Interview with author July 2010. A copy of the transition document is available in BSU, Cecil Andrus Papers, MS 140.1, Box 12, Folders 3. Hereafter cited as Transition Briefing.
[48] J. Dicken Kirschten, "Carter picks experienced environmental team," *National Journal* Vol 9 No 11 (March 12, 1977): 384.

Resources, and recommended that the secretary designate be prepared to consider "optimum organizational patterns."[49]

The transition document shows that the team crafting the domestic policy placed significant emphasis on water resource reform. They anticipated making reforms in two critical ways. The initial thrust would be to make recommendations to modify the Ford budget for Fiscal Year 1978. But beyond the immediate cuts to questionable water projects, Carter's transition team saw water policy reform as part of Carter's broader desired effort to make government more efficient through reorganization and more responsive to environmental protection in line with other critical issues. These included federal strip mine legislation, coal and oil shale leasing reforms, the implementation of the Federal Land Management Policy Act, rangeland improvement, and resolving Indian claims to land, water, fishing rights and other issues on reservations. But of all these, water resource reform was literally near the top of the list.

The Honeymoon is Over

Part of the reason that Carter expected to be able to consider so many reforms was that the administration hoped for good relations with congress. Democrats held a two-thirds majority in Congress and sixty-one senate seats. But rather than harmony, the president and Congress quickly became frustrated with each other. Political scientist Garland Haas explained that part of the problem was a large number of Democrats elected in the 1974 election were independent-minded and disinclined to

[49] Transition Briefing, for the reorganization see "Critical Issues," 12-15, for reorganization of water development agencies see pages 22-23..

submit to party discipline. "They had raised their own money and run their own campaigns, and they felt little debt to the national Democratic Party, its congressional leadership, or its president." The second major reason was a restructuring of power in the House of Representatives took power from the chairmen of the twenty-two standing committees and parceled it out to 172 subcommittees.

> Now, suddenly, relatively junior Democrats could be elected subcommittee chairs, from which position that could become policy entrepreneurs, after the administration, bargain with high officials, or simply grab publicity. Since they were no longer under the thumb of full committee chairs, several of them became aggressive and freewheeling.[50]

Finally many Democrats, especially liberals, were against Carter because they were convinced that he was trying to lead the party and the nation in the wrong direction. Authors Burton and Scott Kauffman share a similar view that Carter faced considerable obstacles with Congress. They add that in his dealings with Congress, strong personal rivalries among congressional leaders were problematic. They note that at the beginning of the Congress, Representatives Phillip Burton and Jim Wright engaged in a bitter battle for House Majority Leader. In the Senate there was an ongoing conflict between Henry Jackson Chairman of the Energy Committee and Russell Long of Louisiana Chairman of the Finance Committee. These conflicts among party leaders often made it difficult to rally votes purely along party lines.[51]

But the Kauffmans note that Carter's difficulties extended beyond Capitol Hill. They observed that the coalition of voters that had backed Carter's presidency was diverse and the "different constituencies expected different things from the president-

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[50] Garland A. Haas, *Jimmy Carter and the Politics of Frustration*, (Jefferson, N.C.: McFarland & Co., Inc., 1992), 63-5.
[51] Burton I. Kauffman and Scott Kauffman *The Presidency of James Earl Carter Jr.* 2nd ed, revised, (Lawrence: University of Kansas Press, 2006), 22-23.

elect." They also point out that the election had been close and Carter lacked a clear political mandate. Further, a record low voter turnout suggested Carter would have a difficult time claiming the majority of Americans were behind him.[52]

Also problematic for Carter was his image. Carter had to battle a widely held perception that he was inexperienced. The press had become more aggressive in investigating politicians after Watergate. Carter inadvertently antagonized the press during the campaign by remaining vague on specific policy proposals and by tailoring his message to different audiences. This "discernible hostility" carried over after the election. Shifting demographics also posed a problem as a relocation trend toward the Sun Belt exacerbated regional politics and eroding it had been the traditional power base of Democrats. They note urban centers of the North and East had maintained or lost population; and the 15 fastest-growing metropolitan areas were in Florida, Texas, Arizona, and Colorado.[53]

But all was not bad, the Kauffmans note that there were some things going well for Carter. The middle-class was better educated and better paid. Despite the political scandals, Americans look forward to the Carter presidency in terms of "feeling good about things." Perhaps most significantly, Carter was not ignorant to the changes and challenges he faced as president. His advisers, particularly his pollster Pat Caddell, warned the president about these issues.[54]

Carter quickly ran into another problem with Congress. He overwhelmed the political system by submitting reforms on many fronts simultaneously. Carter explained in his memoirs that he wanted to be a good president. He defined that as

[52] Ibid, 22.
[53] Ibid, 25-26.
[54] Ibid, 27-8.

maintaining peace and successfully meeting the country's challenges. He explained, "so the major thrust of my transition effort was toward inventorying the country's problems and determining what should be done about as many of them as possible. At least for me, it was natural to move on many fronts at once."[55]

Burt Lance, Carter's friend and his first head of Office of Management and Budget (OMB) explained,

> The sheer speed with which the Carter administration moved ahead simultaneously with the many complex programs on energy and other issues in January 1977 was due to Jimmy's acute intellect. His is probably the most intelligent chief executive the country has ever had. Jimmy is a gifted serial, multisubject (sic) thinker, able to discuss in minute detail any one of his complex programs and to shift fluidly to another without hesitation. [56]

The responsibility to move forward with recommendations to cut water projects from the revised Ford budget fell to Burt Lance. In early December Carter was briefed by the transition team which had been divided into "Policy Development and Agency Liaison Clusters." Kathy Fletcher briefed the president-elect on water resources development reform. It is assumed that Carter provided a green light to move forward with budget revisions and the transition team passed their information to the Office of Management and Budget and the Council of Environmental Quality.[57]

Leaked Briefing Book

The week before Christmas, Jack Watson, the head of Carter's transition team mailed Secretary of the Interior designate, Idaho Governor Andrus copies of the

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[55] *Keeping Faith*, 66.
[56] Burt Lance with Bill Gilbert, *The Truth of the Matter: My Life In and Out of Politics* (New York: Summit Books, 1991), 117.
[57] Eizenstat to Carter, December 8, 1978, JCPL, Box 119, Folder 6 "12/8/76-12/20/76

briefing book prepared by the "Interior/Energy Cluster." The book was bound in a three- inch, three-ring binder. Governor Andrus had given a copy to his assistant, Joe Nagel, to review. After Christmas, Nagel met with Dave Clemens, an AP writer based in Boise. Clemens saw the book on Nagel's desk and out of curiosity asked what it was. Nagel explained about the book and Clemens asked to see it. Nagel, who was accustomed to Idaho's open records law which stated that any document written with public funds was open to review, did not think twice about letting Clemens look at the book.[58]

Clemens' subsequent AP story began appearing in papers on December 29. Different versions of the story ran in many papers the following two days. The story discussed many of the key reforms the transition team outlined, but the bulk of the story discussed the proposed funding cuts for water projects. Some papers published a longer version of the story that included a complete list of projects. Other versions mentioned only that forty-four Army Corps of Engineers projects had been listed, completely failing to mention the sixteen Bureau of Reclamation projects.[59]

Clemens' story stirred some controversy; some treated it as speculation more than fact. During Andrus's confirmation hearing a few weeks later, several senators asked about the proposed cuts. Andrus downplayed the issue, offering assurances that he would be looking at projects from a safety standpoint given ongoing concerns after

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[58] Jack Watson (Transition Coordinator) to Cecil Andrus, December 18, 1976, Cecil Andrus Papers, MSS 140.1, Secretary of the Interior Box 12 Folder 2; Guy Martin interview with author, July 27, 2010.
[59] For examples of stories appearing on December 29, 1976 see "Staffers List Possible Action for New Interior Secretary," *Bend* (Oregon) *Bulletin* and "Andrus Receives 'New Directions,'" *Salt Lake Tribune.* The latter article did not mention any cuts to any BuRec projects, even though the CUP was on the list and in other stories. A long version of the story appeared on December 30, 1976 as "New Interior Policies for Andrus Shape Up," in the *Idaho State Journal*, and a long version with a complete list appeared as "Carter Transition Team Studies Water Reforms," the same day in the *Greely* (Colorado) *Tribune.*

the failure of the Teton Dam the previous June. He also stated that he had just begun to read the briefing book himself when he read about it in the papers, and subsequently stopped reading so he could report in his confirmation that he had not formed any preconceived ideas about projects that needed cut. Perhaps convinced that Carter would not act on the recommendations, or sure that he could talk the president out of making cuts, Andrus continued after his confirmation to offer assurances to members of Congress in public, and to them or their staff in private.[60]

In January, perhaps unknown to Andrus, OMB and CEQ began reviewing the list. Fletcher and the transition team had identified 60 projects as candidates for defunding. They compiled their list based on previous lists of questionable projects prepared by OMB for the Nixon and Ford administrations. In addition, the team coordinated through Joe Browder with EPC and Brent Blackwelder. Working collaboratively, OMB and CEQ cut that list to thirty-five.[61] Lance moved the process forward, despite some reservations about the decision. He wrote later in his memoirs that, "To the President, this was a case of a campaign promise that needed to be kept. To me, it was a case of a campaign promise that could have been kept later—in a second term. Jimmy promised to cut out pork-barrel spending, and he aimed to do it right then."[62]

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[60] For an example of treatment of the list as speculation see the comments of Utah Governor Calvin Rampton, see "State Scans Tribe's CUP Plan," *Salt Lake Tribune,* December 31, 1976. For Andrus's confirmation hearing see, "Interior Nomination, Hearings before the Committee on Interior and Insular Affairs, United States Senate, ninety-fifth Congress, January 17 and 18, 1977 Publication 95-4. (Washington:GPO, 1977), in particular his exchange with Senator Johnston, 26-7, and Senator Hansen, 62. Andrus reportedly gave assurances to Rep Dan Marriott (UT) at a hearing; and to Gunn McKay, see Larry Weist, "Carter to ask $32 million Bonneville unit fund cut," *The Daily Herald,* February 20, 1977.
[61] Dan Beard, Oral History interview with author, July 27, 2010; Bert Lance, *The Truth of the Matter,* 117.
[62] Bert Lance, *The Truth of the Matter,* 117.

In his discussion of Lance's treatment of the list, authors Peter Wiley and Robert Gottlieb in their book, *Empires in the Sun,* insinuate that the preparation of the list had been somehow fraught with controversy. They wrote that the final decision meeting on the list, discussed below, "came after three months of bureaucratic infighting between the Bureau of Reclamation, the Army Corps, OMB, and the Council on Environmental Quality over the funding of water projects." This statement is flawed for three different reasons. First, OMB and CEQ had reviewed the document in less than a month, not three. Second, CEQ and OMB worked together and there is no evidence to suggest any controversy or "infighting" between them in narrowing the list. One might expect infighting between these two and the Bureau or Reclamation or the Corps of Engineers. But, there is also no evidence that either agency had any consultation or input into the lists at this point. The evidence, as demonstrated below, is quite the opposite. Thus the authors' final flaw is including the latter two agencies in his statement at all.[63]

By early February, CEQ had completed its review and identified 22 water projects with environmental or economic problems and another eight projects with environmental problems. Staff director Steve Jellinek explained to Lance that they had cut the down the list "primarily because they are either substantially complete or are scheduled for little or no funds in FY 1978 as a result of environmental opposition or other factors." Jellinek concluded his memo by noting support for the president, "The Council believes that a clear statement is needed from President Carter of his intent to base water resource funding priorities on sound consistent economic and

[63] Wiley and Gottleib, 54.

environmental policies. The 1978 budget revisions provide a major opportunity for such a statement."[64]

With the input from CEQ, Lance passed his recommendations to Stu Eizenstat and the Domestic Policy Staff. Eizenstat prepared a briefing memo for Carter's review to make the final decision on the budget recommendations. This is another area of the historical narrative that needs correcting. In perhaps what is the most-read version of the Hit List controversy, author Marc Reisner made a serious error in his narrative in *Cadillac Desert*. In essence, without giving a date, Reisner states that the president flew to Georgia on a working weekend. He returned having decided to move forward. Reisner wrote "He called up his chief lobbyist, Frank Moore, and told him to put Congress on notice that he wanted to cut all funding for nineteen water projects. That same day, Cecil Andrus, who knew nothing of this, stepped on a plane and flew off to Denver for a western governors' conference on that year's severe drought."[65]

Reisner then presents another version of the story, that "according to one of Carter's own legislative aides, however, the source of the news was none other than Carter himself. 'He told Frank Moore to put the Hill on notice that he wanted those projects cut. The projects had been selected at a meeting attended by Andrus, but he didn't know they were actually going to go ahead with the idea. He was opposed to it from the start."

While it makes for a good story, it is questionable if the President actually sat aboard the plane "smoldering" over the report and "imagining himself running an

[64] Steven D Jellinek (Staff Director CEQ) to Thomas B Lance, February 2, 1977, White House Central File, Subject File, Natural Resources. Box NR 14, Folder NR 7-1 1/20/77-3/15/77
[65] Reisner, 314.

incinerated nation from an airplane." Carter, joined by Georgia Senator Sam Nunn spent part of the short flight (1:45 minutes) trip in a briefing over the airplane with Gen. AW Atkinson, Joint Chiefs of Staff. It is questionable how much time Carter would have had to read a memo during the flight. A more significant error is that Carters' trip to Georgia took place over the second weekend in February. He flew to Georgia on Friday February 11. It would not have been possible for Carter to make the decision on the flight to Georgia the same day that Andrus boarded his flight for Boise—prior to his Sunday meeting with western governors in Denver—on February 18.[66]

It is possible that Carter made a decision to move forward with removing the projects from the proposed budget sometime during the weekend trip to Georgia. Monday morning following their return, February 14, Carter included the proposals on the agenda for the weekly cabinet meeting. According to Christopher G. Farrand, acting assistant interior secretary—a holdover from the Ford administration—Carter asked Andrus and Army Secretary Clifford L. Alexander Jr. for their advice on the lists at the cabinet meeting. Alexander had been sworn in earlier that day. Andrus recommended against moving forward, stressing the "political sensitivity of the *proposed decisions* on certain public works projects. The President asked for Mr. Andrus' analysis of all such projects now being evaluated by OMB." According to Farrand, the president requested Andrus's response by five o'clock that afternoon.[67]

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[66] For "smoldering" and "imagining" see *Cadillac Desert*, 314. The dates and some details of the Carter's trip home aboard E4A, the National Emergency Airborne Command Post are in "The Daily Diary of President Jimmy Carter," February 11, 1977, JCPL. Another small correction is that Reisner stated Andrus boarded a flight for Denver.

[67] For Farrand see, J. Dicken Kirschten. "Draining the water projects out of the pork barrel" N*ational Journal*, 9 no 15 (April 9, 1977): 542. For Andrus quote see JCPL, "Cabinet Meeting Minutes", Feb 14, 1977, 4; emphasis added.

After the cabinet meeting adjourned at 10:20, Andrus returned to his office and with Farrand's help spent the balance of the afternoon poring over project documents before crafting a memo providing the analysis of the Bureau of Reclamation (BuRec) projects as requested by the President. In the memo Andrus wrote that many of the projects were of "dubious merit" and he supported the cuts. However, he argued that the final decision to "terminate or modify" should only be made after a review of the projects. He stressed that the focus should be shifted away from cutting individual projects toward a comprehensive policy review.[68]

Turning his attention to specific BuRec projects, Andrus provided a ranking for which most deserved the ax. The Garrison Diversion project topped the list because of concerns lodged by the Canadian Government. Andrus noted the Central Arizona Project (CAP), because of its scope, expense, and environmental degradation was identified as "one of the least meritorious" BuRec projects. He also noted that the Congressional authorization of the CAP had involved the authorization of other projects in the upper basin as a political trade off. If the CAP was cut, there would be "no reason whatsoever to pursue the Upper Basin Projects in Colorado."

> The strategy of water reform is a complicated one, given the powerful political forces behind the traditional authorizing system. An Administration strategy should not be confined to individual projects or groups of projects, but to develop a more rational water development system involving improved planning, current discount rates, and more equitable cost-sharing responsibilities.
>
> He concluded:
>
> Mr. President let me stress again what I mentioned in the cabinet meeting this morning: If we attempt to alter any of these projects for

[68] Cecil Andrus to Carter, February 14, 1977, JCL, White House Central File, Subject File: Natural Resources,
Box NR 14 Folder "NR 7-1 1/20/77-3/15/77."

> whatever reason, our action will act as a catalyst to create political coalitions in the Congress. I discussed this with the Vice President and he concurs with this comment. I am not arguing against eliminating some of these projects—some definitely merit action—but, I want you to know that there will be political retaliation from the Congress when we do. [69]

Farrand told reporters that the White House called the Department of Interior the following day, February 15, asking for recommendations for more projects to cut. Farrand reportedly took the call, and told them to cut the three Colorado projects linked to the CAP. It's unclear if Farrand is being truthful about the phone call given that Andrus included the Colorado projects on his list. However, it is conceivable that Farrand simply reiterated that the Colorado projects made the most sense as Andrus had outlined in his memo.[70]

What is clear is that President Carter forwarded Andrus' memo to Stu Eizenstat soliciting his feedback. Eizenstat agreed with Andrus that policy reform should accompany action on specific projects. But, he disagreed with limiting the number of projects to cut. Eizenstat argued that the best strategy was to recommend against funding all thirty-five projects identified as controversial. He argued that deletion of some but not all would open the administration to charges of political favoritism, and would not "diminish the inevitable outcry."[71]

Presenting the president with other possible options, Eizenstat concurred that the four reclamation projects identified by Andrus were the most critical, adding that there were six Corps projects in the same critical category. He thus recommended

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[69] Ibid.
[70] "Draining the Water..," 542.
[71] Stu Eizenstat to Carter, February 15, 1977, JCPL, White House Central File, Subject File: Natural Resources,
Box NR 14 Folder "NR 7-1 1/20/77-3/15/77."

halting expenditure of FY77 funds for these ten projects, effectively suspending work on the projects immediately. Regardless of what action the president took, Eizenstat singled out three projects as deserving "special attention:" Garrison, Meramec River, and New Melones. He concluded his memo advising Carter "you should personally advise Congressional leaders prior to sending the budget" if he deleted project funds, and that he agreed with Andrus that it was important to back up any decision to delete funds with a commitment to veto. To remind the president that there was significant support for the cuts, Eizenstat attached the letter from the seventy-four members who supported his promise to cut.[72]

The following day Carter had still not made his final decision regarding the specific projects to cut. But he requested that Eizenstat's team move forward with preparations. Carter asked for a draft of a letter he could send to Congress announcing the cuts to the "questionable projects." Stu Eizenstat, Jim McIntyre, and Bo Cutter—the latter two both senior staff at OMB—completed the draft during the day. However, they left the exact number of projects blank in the draft to "leave some flexibility in the number of projects to single out at this point, the presumption being that the more projects chosen for deletion the more political heat we will face from Congress." [73]

In the memo, the three advisors again noted that Secretary Andrus was concerned with the difficulty in choosing all thirty-five projects. They stated that Frank Moore believed "that if we take this tiger on we should take as many as possible now rather than a few now with more to come." But, they noted that Moore also

[72] Ibid.
[73] Stu Eizenstat, Jim McIntyre, Bo Cutter to Carter February 16, 1977, JCPL, White House Central File, Subject File: Natural Resources, Box NR 14 Folder "NR 7-1 1/20/77-3/15/77."

believed that Congress would fund most, if not all, of the projects regardless of the president's recommendation.

They concluded the memo by discussing the alternate option proposed by Andrus. His recommendation was to select two or three of the worst projects to delete and curtail funding for the rest pending review. But they argued, this alternative "would raise almost as much potential heat" as deleting funds for a larger list.

Carter's Final Decision

Mondale supported Andrus's opinion. Andrus had indicated this in his Monday memo. Like the President, Mondale himself had impressive environmental credentials. Mondale was friends with Gaylord Nelson. The two had co-sponsored the Wild and Scenic Rivers Act. Mondale had also been a sponsor of the Clean Air Act and the Clean Water Act. In his recent memoir Mondale notes that early on in the environmental battles there was not widespread support (pre-Earth Day) but that was changing. "Americans had begun to abandon the old Wild West mind-set, the attitude that there was always an open frontier. The new conviction was that, acting together, we could do something to protest our air and water."[74]

Despite his environmental mindset and accomplishments, Mondale did not agree with the plan to push for cuts to a big list of environmentally damaging projects. He felt that moving forward with the cuts was simply bad politics. He recalled years later in his memoirs,

> "My advice was that we should pick two or three of the most egregious projects and go after those. I thought we were letting the politics get away from us, and that pretty soon we would face nothing but

[74] Walter Mondale with David Hage, *The Good Fight: A Life in Liberal Politics* (New York: Scribner, 2010), 42-43, quote from page 46.

> roadblocks on the hill. But Carter felt deeply about the matter. He had developed the veto list in consultation with environmentalists and budget experts whom he trusted, and he felt this was part of his promise to govern in a new way—to represent the broad public interest instead of cobbling together the special interests."[75]

President Carter now needed to make his decision. Secretary of the Interior Andrus, Vice President Mondale, and others encouraged the president to move slowly and only propose budget cuts to a few of the worst projects pending a completion of the review. Frank Moore, Carter's congressional liaison thought that there would be a strong reaction from Congress regardless of whether the number of projects was minimal or large. He thus recommended proposing immediate cuts to the entire list. Eizenstat and the OMB staff backed Moore's suggestion.

The conflicting advice to the president, and the strong concerns of Mondale and Andrus motivated Carter to bring those voices together for another meeting before making his final decision. Late in the afternoon of Thursday, February 17, Carter met with Secretary of Defense Harold Brown, Cecil Andrus, Bert Lance, Cliff Alexander, Lt Gen John W. Morris, General Earnest Groves, Stu Eizenstat, and Frank Moore. There is some question if Mondale was present at the meeting. Andrus remembers Mondale being present, but the President's Daily Diary, compiled by the White House Staff did not note his presence. Andrus did not mention Mondale's presence when he described the meeting at the subsequent congressional hearing on Feb 23. Also, Lt. General Morris did not mention his presence in his oral history interview. Finally, Christopher Farrand did not mention Mondale being present in his account given to reporters in April 1977. Given that sources contemporary to the event agree that

[75] Ibid, 183.

Mondale was not present, it seems safe to assume that he was not at the meeting. While it is possible that Andrus intentionally distorted the facts in later interviews in an effort to distance himself from the president's decision; it is also possible that Andrus remembers Mondale supporting his position and with the passage of time simply forgot when and where that support was conveyed to the president.

Prior to the meeting, President Carter may have sought out additional input; he called Ralph Nader. Nader was not in, but returned the call an hour later. They talked for seven minutes. After the call he went to the meeting in the cabinet room. The meeting lasted almost 45 minutes, was over by 5:24.[76]

In his memoirs Andrus recalled,

> I argued that we should use a scalpel instead of a meat-ax. Pick one or two really bad irrigation proposals—projects in which taxpayers would shell out millions to benefit a few dozen already-wealthy farmers—and use them to bring new accountability to the Bureau of Reclamation. This way, nobody could accuse us of waging a 'war on the West.' If we ganged up on every project, opponents would put together a coalition that would kick our butts.[77]

It's clear from the memo cited above that Andrus gave an explicit warning about the backlash the president's decision would create. But it also seems equally clear that the exact language used in the memoir, particularly the 'war on the West' is a later addition. No doubt this is an embellishment due to the benefit of hindsight.

In an oral history interview Lt. General Morris stated that all present advising the president were opposed to moving forward with the big list. Others have reiterated this point; however, given Eizenstat and Moore's attitudes expressed in writing the day before, it seems that they would have supported moving forward with the cuts. In

[76] Daily Diary of President Jimmy Carter, February 17, 1977.
[77] Cecil D Andrus, *Cecil Andrus: Politics Western Style* (Seattle, Sasquatch Books, 1998), 48.

any event, according to Morris, after listening to the reasons everyone gave for restraint, Carter said, 'Thank you very much" but he was going to do it anyway. However, in light of their concerns Carter instructed the Army leaders at the meeting to stay after and work with Eizenstat on narrowing the list. Morris reported the list was 35 projects long and they narrowed it to twenty. They had removed Richard B. Russell dam from the list.[78]

After the meeting Carter had two short phone calls with Eizenstat and Moore. After dinner Carter spent about an hour and a half in the oval office that evening, not leaving until after 11:00. Sometime that night or the following morning, Eizenstat provided another draft of the official letter to Congress. Eizenstat's discussion with the Army official had led to the selection of ten projects. Carter reviewed the recommended list, and personally added the Richard B. Russell project in his home state in an effort to avoid the appearance of bias in his selections. He also considered for a time including the Narrows project in Colorado to the list, but ultimately decided against it. Thus Carter decided to completely cut funding to nineteen projects and planned to begin an official review of the 287 other water projects then under construction. [79]

[78] Oral history of Lt. Gen Ernest Graves by Dr. Frank N. Schubert, 1985, Research Collections, Office of History, U.S. Army Corps of Engineers, Alexandria, Virginia, 168. alternate title Engineering Memoirs, Lieutenant General Ernest Graves, Engineering Pamphlet 870-1-52 (Washington D.C.: Army Corps of Engineers, 1997)

[79] Presidents Daily Diary, Feb 17, 1977. On the draft letter to congress, Richard B. Russell had been written in by hand. Also added in the same handwriting was the Narrows Project, which did not appear on the final version. Jimmy Carter to Congress, [Draft] February 18, 1977, JCPL, Office of Congressional Liaison, Frank Moore Files Box 50 Folder "Water Projects, 2/15/77-4/16/77 [OA 6473]."

Table 2 The 19 projects included in the original February 22 list.

Auburn Dam	California	BR
Central Arizona Project	Arizona	BR
Central Utah Project	Utah	BR
Dolores	Colorado	BR
Fruitland Mesa	Colorado-Wyoming	BR
Garrison Diversion	North Dakota	BR
Oahe Unit	South Dakota	BR
Savery-Pot Hook	Colorado	BR
Atchafalaya River	Louisiana	ACOE
Cache River	Arkansas	ACOE
Dayton	Kentucky	ACOE
Dickey-Lincoln	Maine	ACOE
Freeport	Illinois	ACOE
Grove Lake	Kansas	ACOE
Lukfata Lake	Oklahoma	ACOE
Meremac Park Dam	Missouri	ACOE
Paintsville Lake	Kentucky	ACOE
Richard B. Russell Dam (trotter's Shoals)	Georgia& South Carolina	ACOE
Yatesville Lake	Kentucky	ACOE

The following morning, February 18, Carter toured the Department of Interior and spoke to 1,100 employees. It is presently unknown, but seems likely that he did speak further with Andrus about the Hit List. After returning to the Department of the Interior, Carter spent part of his afternoon calling Senators. In 2010, President Carter released a compilation of entries from his personal diary as president. His wrote in his entry for Feb 18 that they had begun to contact members of Congress about "deleting nineteen water projects" from the budget. He also wrote that he had been calling Senators about the confirmation of Paul Warnke to serve as director of the Arms Control and Disarmament Agency. This would probably explain at least some of the phone conversations shown in Carter's phone log. However, one wonders if, for example, he might have discussed the CUP with Senator Orrin Hatch while

discussing Warnke's confirmation? Or, did the Garrison Diversion come up in his conversation with North Dakota Senator Quentin Burdick?[80]

Since taking office, Secretary Andrus, along with other members of the president's cabinet, had been instructed to prepare a weekly update on the major issues in his office. Although he had visited with the president earlier in the day, Andrus prepared his memo at the end of the day as he prepared to leave town. He had planned a short visit to Idaho prior to flying to Denver Sunday morning to meet with Western governors about the ongoing drought. While the reaction Andrus received in Denver has been well reported, the contents on his memo that Friday are revealing. Andrus wrote "I believe that you made the right decision on the water projects. My list of deletions was expanded from four to eight. The people will get the message and although the political consequences will be considerable, they can be overcome."[81]

These few lines in the memo are significant because in his version of events in later years, Andrus has told others and published in his memoirs that he did not know a final decision had been made on the water projects prior to leaving Washington that weekend. In his own memoirs Andrus wrote that the February 17 meeting "ended without resolving the issue. I assumed that everyone would then make a case in writing to the president. Carter would go off alone, as was his want, and make up his own mind." It is difficult to know if the oversight is due to a faulty recollection of events many years later. The President had asked for Andrus' recommendation in writing earlier in the week. A more likely explanation is that the statement is part of

[80] Jimmy Carter, *White House Diary* (New York: Farrar Straus Giroux, 2010), 23. Presidents Daily Diary, Feb 18, 1977.
[81] Memorandum to the President for Secretary of the Interior, February 18, 1977. Andrus Papers, Box 8, Folder 4.

an effort to distance himself from an unpopular and controversial decision. What is absolutely clear from the evidence is that Andrus had clear knowledge that a final decision had been made prior to his departure.[82]

In Andrus' defense, what may not have been known was when that final decision would be made public. Perhaps he had assumed that the list would not be made public until the White House sent the official budget revisions to Congress, scheduled for Tuesday, after his visit to Denver. The revelation in Sunday's paper thus did come as a surprise. Having banked on avoiding a confrontation over cutting water projects at a conference on federal drought assistance, Andrus saw the publication of the list as a serious leak. He wrote in his memoir,

> My assumptions were those of a novice in the wars of Washington D.C. What the meeting did was set off alarms among hit-list proponents. They decided to force the issue. Worried that the sweeping proposal would be watered down, they leaked their briefing book with the list of targeted projects to the press. As the Carter administration's chief public lands manager, I stepped off a plane in Denver to be met by a reporter holding the wire copy in his hand and asking for my comment.[83]

But, here again there are discrepancies with Andrus' retelling of events and the evidence. First, as discussed above, the transition team's list and briefing book had already been "leaked" to the press inadvertently by Andrus' own staff weeks earlier, in late December. Further, the reporters and politicians meeting his plane were not the first to tell Andrus of the cuts. While it is true that he could have stepped off the plane knowing about the cuts and still have been met by the reporter, in a speech to the American Rivers Conservation Council's conference in 1980, Secretary Andrus told

[82] Andrus, 48.
[83] Ibid, 48-49. Andrus reiterated this point in his Oral History Interview with the Author, July 13, 2010.

the audience that “he did not know that the list had been announced when a reporter asked him for comments."[84]

But according to Keith Higgenson, who would later be named by Andrus as Commissioner of Reclamation, Andrus had learned about the publication of the list on the plane trip from Boise to Denver. The Governor of Idaho, John Evans who replaced Andrus, sent Higgenson as his representative to the meeting. Higgenson was on the same plane as Andrus.

> And I picked up the morning paper, and in the paper was announced President Carter's "Hit List" on western water projects I came down the aisle and I said, "Good morning, Secretary Andrus. Have you read the morning paper?" He said, "No, I haven't had a chance to read it yet." I said, "Well here, take mine. You'll need to read this because you're going to be met in Denver by eighteen angry governors." "What have they done?" he said. I said, "The President has announced a 'Hit List' on western water projects." His response was, "They told me they wouldn't do it this way, that they'd give me an opportunity to have a meeting with the governors to explain the rationale for the Hit List before they announce it." I said, "No, they've gone ahead and announced it. You're going to be faced with these governors who are going to want to know what's going on. That'll be more important to them today than the drought. [85]

If Higgenson’s account is accurate, then it proves that Andrus did actually know about the cuts briefly. In his defense, it is also true that he did not know about the list before he got on the plane. It is important that Andrus has told others since that he learned about it from a reporter, rather than the newspaper that morning. Both suggest that he was not expecting, nor did he know the decision had been made public. It seems here that Andrus has embellished the story to make it more dramatic. Another point that can be taken from Higgenson’s account is that Andrus had been

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[84] Palmer, *Endangered Rivers*, 200.
[85] Keith Higgenson, Oral History Interview conducted by Brit Storey, 53-5.

given some type of assurance from the White House that the decision would not be announced until after his trip. The two points are related in that they both reflect Andrus' desire to distance himself from Carter's controversial decision.

Regardless of when he found out, newspapers accounts of the drought meeting reported that Andrus "walked into a hornets nest" when he met with the governors. Andrus faced an onslaught of complaints from the governors present, most of whom had found out about the cuts from the morning papers. The newspaper story specifically noted reactions from Colorado Governor Richard Lamm and California Governor Jerry Brown. Lamm had already been in contact that morning with the state's two senators that morning.[86] When asked, Governor Lamm told the *New York Times* reporter Grace Lichtenstein that his reaction to the news was "controlled indignation." Like others, North Dakota Governor Arthur Link said that he learned the news from a reporter calling Saturday for a comment.[87]

[86] "Andrus to Request Carter Name Aide on Drought Relief" *Washington Post*, February 21, 1977.
[87] Grace Lichtenstein, "Western Governors Upset by plan to Cut Funds for Water Projects," *New York Times*, February 21, 1977.



Figure 1 Map of Hit List projects.

The experience with the governors left Andrus in a foul mood as well. Given that the announcement surprised and embarrassed him, Andrus felt sure that the information had been leaked. Not only was Andrus irate over the public embarrassment in Denver, he was also upset because he had been offering assurances for weeks that the cuts would not happen. In later years, Andrus would relate that the leaks came from environmentalists on the White House staff. In some instances, Andrus has specifically implicated Kathy Fletcher. But at the time, Andrus did not place blame on White House staff, but on western politicians. When Andrus discussed

his theory about the leak the following day at the cabinet meeting, he wrote in the margins of the agenda that they suspected it may have been the leak came from one of the members of Congress. He specifically wrote the names of Congressman Gunn McKay (D-UT), Senator Gary Hart (D-CO) or Congressman Frank Evans (D-CO).

In his diary that evening Carter wrote, "One of the most difficult problems we face is maintaining the confidentiality of memoranda and other discussions within the White House office structure, and at the same time having key staff members conversant with what issues are being assessed." While he does not disclose what the sensitive leak was about, one can speculate that it was in response to the publication of the "Hit List." In his 2010 commentary Carter noted, "Constant leaks of sensitive information—much of which was often distorted—were to plague us during the entire term. Government officials with special interests … were eager to use their knowledge of inside information to further their causes."[88]

Apparently there may have been some reason for Carter to suspect a leak from a staff member, but it is unclear if the accusation that Kathy Fletcher was the source of the leak is accurate. Andrus and others blamed her for leaks later as the administration moved forward with its review of projects. However, Stuart Eizenstat investigated the matter and assured the president that she had not been the source of the leak. Perhaps Eizenstat was not convincing, or Andrus believed that Eizenstat was covering for a member of his staff. In the ensuing battle over the proposed cuts, Fletcher became a scapegoat for administration officials—such as Andrus—who sought to distance themselves from the initial decision and members of Congress perturbed by the entire situation. Especially after leaving the administration, with an eye toward

[88] *White House Diary*, 25-26.

continuing his political career, Andrus has found it convenient to lay the blame and responsibility entirely at the feet of Fletcher.[89]

What is clear from the evidence is that the "leak" came from several sources. At least one newspaper, the *Scottsdale Daily Progress*, reported on the cuts in Saturday's paper before the story broke nationally. According to their story, Charles Thompson, aide to Representative Bob Stump, said he was contacted late Friday by "Tom Free" an assistant in the White House Congressional Liaisons' office who told Thompson of the recommended cut. While Thompson missed the name of Jim Free, the important note is that Stump's office received the information Friday night and then tipped off the paper. Because the *Daily Progress* was an afternoon paper, the story made it out ahead of most national coverage Sunday Morning.

The story also reveals that the Liaison's office was a bit haphazard in contacting members of Congress. The paper reported that while Stump's office had been contacted, Senator Barry Goldwater and Representative John Rhodes had not. When contacted by the paper, Rhodes, the House minority leader, was shocked at the news. He said "I don't have a thing to say. I haven't heard of it before. I don't believe it. It apparently came from a very low ranking official of the White House and until we get the word from President Carter himself I don't put much credibility behind it."[90]

Other papers ran independent stories, or localized the wire story. Several of these stories indicate members of Congress, or members of their staff, contacted newspapers upon learning the news. For example, the *Colorado Springs Gazette*

[89] Cecil Andrus interview with Author, July 10, 2010; for Eizenstat's investigation see Stu Eizenstat to Jimmy Carter, March 21, 1977, Handwriting file, Box 12, Folder 3/22/77 [1].
[90] "Carter Asks CAP Freeze," *Scottsdale Daily Progress*, February 19, 1977.

Telegraph, based its story on a press release from Frank Evans' office in Pueblo.[91] Papers in Utah ran stories about the proposed cuts to the Central Utah Project (CUP). Provo's newspaper reported Sunday that Utah Congressmen Dan Marriott (R) and Gunn McKay (D) said that Andrus had offered assurances within the last two weeks that there would be no cuts to the CUP. The paper also reported that the Bureau of Reclamation's project manager for the CUP said the proposal was a complete surprise to him.[92] The Salt Lake Tribune reported that Andrus not only assured Marriott the CUP would not be cut, but that Andrus promised to inform him before any action was taken.[93]

It is somewhat ironic that only a few weeks before the announcement Cecil Andrus sent a letter to every Western governor. Andrus explained that as a governor he had been critical of the federal government for failing to consult with the affected governor on the discussion and development of federal proposals. "To keep from making the same mistake" himself, Andrus told them he had designated Joe Nagel as his personal representative to Governors.[94]

As for the national story by Gaylord Shaw that ran in the *Washington Post* and the *Los Angeles Times*, he stated his information came from "White House officials." It is unclear if Shaw received "leaked" information from White House staff, official statements from the White House press office, or was reporting the information secondhand from members of Congress.

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[91] AP. "Carter Cuts 4 State Water Projects," [*Colorado Springs] Gazette Telegraph*, February 20, 1977.
[92] Larry Weist, "Carter to ask 32 million Dollar Bonneville unit fund cut," *The Daily Herald*, February 20, 1977.
[93] Angelyn Nelson and Diane Cole, "Carter trims CUP Unit, Irks Utahns," *Salt Lake Tribune, February 20, 1977.*
[94] Andrus to Lamm, February 1, 1977 (Identical letter sent to each governor.) Andrus papers Box 34 Folder 11

In an oral history interview, press office staffer Patricia (Pat) Barrio stated that the White House began receiving calls on Saturday while the White House staff was still in the process of notifying affected members of Congress. She stated, "I remember well because it was a Saturday, and I was press duty officer, and suddenly got all these irate phone calls about something we had not yet announced and I had not been briefed on. It was quite an interesting day."[95] Thus it is possible that Shaw may have been one of the calls received on Saturday; though it is unclear what if any information the press office provided that day.

One universal complaint in all the stories about the announcement of the proposed funding cuts was the lack of consultation by the White House with members of Congress and Governors affected by the cuts. Some were not notified before they found out from the press. Even those who were notified by the White House complained about the lack of consultation. Rather than seek any opinion or input on the decision, the decision was made unilaterally by the White House. When asked about the lack of notification, Congressional Liaison Frank Moore told *New York Times* reporter Martin Tolchin that "water projects were a deletion from the budget. I never knew it was the tradition to tell people what's going to be in the budget before it was being released."[96]

On Tuesday February 22, Carter signed and the White House submitted the official budget message to Congress. Carter described in his diary that day that the budget cuts were:

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[95] From the Miller Center Oral History interview with Jody Powell, quoted in *Jimmy Carter and the Water Wars*, 73.
[96] Martin Tolchin, "Byrd Tells Carter Senate Is Angered By Unilateral Acts," *New York Times*, March 12, 1977

> A much more careful assessment of the long-range commitments on expensive projects, including military weapons, new social programs, the construction of dams and other water projects, and so forth. I may not win on all these deletions and revision from the budget this first time around, but I intend to be persistent about them. Many people who want to see the budget balanced before I go out of office don't want to have their own pet projects removed. I'm determined to go to the public with these issues if necessary in order to prevail.[97]

His diary entry shows, yet again, that he did not act out of ignorance. President Carter knew he faced significant opposition. The entry also demonstrates that he was not stumbling blindly into the abyss. He was not inept, but had made a calculated decision. Carter understood that—just as he had been advised by Mondale, Andrus and all the others—Congress ultimately would make the final decision, and the chances were that they would not follow his recommendation on every budget cut. Perhaps most important of all, he also believed he had made the right choice for the country, and that the public would see it the same way.

On the Defensive

With the official budget document in its hands, Congress reacted swiftly. The following day, Wednesday, February 23, the House Interior Committee summoned Andrus. Washington Post reporter Richard Lyons observed that members of the committee "complained bitterly." Powerful Arizona Congressman Mo Udall who chaired the committee stated he learned of the proposed cut to the CAP from a news reporter. He called the administration's actions "The Washington Day Ambush."

Andrus reported to the committee that Carter's actions should not have come as a surprise. "During the campaign last year, President Carter was going before the

[97] White House Diary, pg 26-27

American people and saying some of these projects would be looked at, that he would ask for a review." Andrus also emphasized that the administration was not seeking deauthorization of any project and that if a project can be justified after the review the president "would not object to having it put back into the budget."[98]

Already picking up the mantra of a "War on the West," Congressmen Eldon Rudd (R-AZ) and Teno Roncalio (D-WY) both accused Carter of penalizing the West for failing to vote for him. Many of those who spoke also complained about the process employed by the White House staff. To take unilateral action without consultation on projects that had already been scrutinized and approved by Congress on multiple occasions. Udall said, "It's like a murder case where the judge call the defendant in and says 'Your execution is set for May 10th and now we will have the trial."

Many histories of the Hit List have noted that Udall had signed the January letter to the president encouraging cuts to spending. When Andrus pointed this out to the complaining Congressman, Udall explained he had believed its authors referred to future water projects, rather than those already under construction and complained that he had been "mousetrapped" into signing.[99] Other accounts suggest that at least some of the others who signed the same letter later clarified that they supported cutting spending on any new projects, not cutting funding to existing projects.

The only thing that Andrus offered the committee was the commitment that open public hearings would be held on each project prior to a final decision being

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[98] Gaylord Shaw, "Andrus Tries to Reassure Congress on Dam Funds," *Los Angeles Times*, February 24, 1977.

[99] One history pointing out Udall's hypocrisy is Marc Reisner's *Cadillac Desert*, 315. For "mousetrapping" see, Richard Lyons, "An Unhappy Panel Calls Secretary Andrus, Complains about Plan to Cut Water Projects," *Washington Post*, Feb 24, 1977.

made in April. He also opined that he did not believe the president would impound funding for the projects should use its prerogative to fund the projects despite his recommendations. George Miller spoke at the meeting to support the administration. As he left the meeting Andrus told Lyons, "The message I got from it was that if a member had a project he didn't want it cancelled."

Gaylord Shaw, the reporter for the Los Angeles Times covering the hearing reported that after the hearing Udall commented he and the other supporters of the nineteen projects would "press efforts to save them. 'I think it is a fight we can win, even if it means voting appropriations over Carter's objections."

Conclusion

The battle lines were thus drawn. Vice President Mondale observed, "People forget how deeply Carter felt about wilderness and natural resources. He saw these dam and irrigation projects as cheap politics and bad environmental policy."[100] Thus motivated by a deep and sincere belief in environmental protection, and by his personal experience fighting the Army Corps of Engineers over the Sprewell Bluff Dam, Jimmy Carter decided to cut economically questionable and environmentally destructive water projects. His conviction coupled with his desire to cut federal spending led him to take action sooner than later. Faced with the short deadline to make any significant dent in federal spending during the first half of his presidency, the administration acted swiftly to revise President Ford's budget.

Many histories and commentators have accused the president of naïveté concerning either the decision or its timing. For example, Marc Reisner thought the

[100] Water Mondale, 182.

mishandling of the announcement "demonstrated a capacity for mind-boggling political naiveté." Lt. General Morris for another was extremely critical of Carter. In an interview he stated his belief that Carter had been operating under the supposed belief "that with the support of the environmental groups, he would steamroller Congress." Robert Gottlieb stated, "if he had known the ways of Washington better, Carter might have suspected that the Hit List would raise a hell of protest." However, the record clearly suggests that Carter was aware of the likely consequences of his actions. He wrote in his diary on Friday, February 18, "I know this is going to create a political furor, but it's something that I am committed to accomplish. These projects ultimately would cost at least $5.1 billion, and the country would be better off if none of them were built. It's going to be a pretty touchy legislative fight to get these projects removed permanently."[101]

Carter's diary entry clearly shows that Carter was not ignorant or naive about the political ramifications of his decision, nor the expected reaction of Congress to the announcement. Instead, his entry, as well as his actions leading up to the decision show that the decision was made because Carter believed that it was the right decision, and that doing the right thing was more important than making the wrong decision to get the politics right. Political scientist Charles Jones agreed writing about Carter's decision to reduce funding for water projects, "Perhaps more than any other issue, this one illustrates the trustee president's determination to do what is right, not what is political."[102]

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[101] For "mind-boggling" see Reisner, 314; Morris, 173; Wiley and Gottlieb, 60.
[102] Charles O. Jones, *The Trusteeship Presidency: Jimmy Carter and the United States Congress*, (Baton Rouge: Louisiana State University Press, 1988), 129.

Author Robert Gottlieb disagrees. He argues that the announcement was made for “political and media effect” as a demonstration of Carter's outsider status rather than as the "culmination of the political process.” He goes on to emphasize that this approach created problems for Carter because the White House did not “develop an educational and organizing effort” prior to the announcement in order to "combat long-standing biases about water development.” Instead his announcement prior to an effective media campaign allowed the opposite to happen. It allowed supporters of the water projects, “the water industry,” which had been losing support among the public to mobilize. “Now the hastily developed Hit List enabled the water industry to launch a state-by -state attack on the program, while revitalizing its own agenda.”[103]

In a sense, both authors are correct. Their statements are not mutually exclusive. Jones’s comment that Carter chose to do what was right, rather than what was politically expedient does not make the decision apolitical. Gottlieb is correct in noting that the decision conveys its own political meaning, reinforcing Carter's image as an outsider. More importantly, Gottlieb recognizes that Carter's decision did not just raise the ire of politicians, water developers, and water users. The timing and method of the announcement put the administration on the defensive, and allowed the water interests to quickly gain the high ground in a lengthy and vicious political battle, and a battle for public opinion.

[103] Gottlieb, *A Life Of Its Own*, 63.

Chapter 2
Dog Fight on a Political Minefield

> "The water projects were indeed outdated boondoggles, but if Carter had deliberately set out to alienate Congress he could hardly have done a better job."
>
> -John Farrell[1]

> "The confrontation with the Democratic leadership which probably best illustrates the divergence between Carter and Congress came in February 1977 over the president's decision to cut the water projects funds from the federal budget.
>
> -Garland Hass[2]

The die had been cast. Within the first month of taking office, Jimmy Carter made a hard decision: taking on Congress and challenging the deeply entrenched power system and political traditions of the pork barrel. He was confident he was doing what was best for America. He was keeping a campaign promise. With the decision made and his budget recommendations announced, the administration now faced an even greater challenge; amidst the noise of political reporting swirling around the new administration setting itself up in Washington and a dozen other major policy proposals, the Carter administration had to sell Congress and the public its plan. To do so would require convincing a skeptical public that these projects needed to be cut; and then in turn convince them they needed to pressure Congress to actually make the cuts. But because of the way the administration announced its budget revisions, the

[1] John Aloysius Farrell, *Tip O'Neill and the Democratic Century* (Boston: Little, Brown and Company, 2001), 458.
[2] Garland A. Haas, *Jimmy Carter and the Politics of Frustration*, (Jefferson, N.C.: McFarland & Co., Inc., 1992), 75.

Carter team found itself on the defensive. Rallying public support, and convincing Congress to swallow that bitter pill, would prove to be a long and challenging political battle. The "deep scars" of the ensuing political fight would color perceptions and opinions of the Carter presidency for the remainder of his term in office and hobble his reelection campaign. It also rallied and re-energized an old political lobby that had all but conceded its glory days were in the past and had confined itself to an active but mundane future. But the reaction of the water lobby and of the majority of Congress only convinced Carter and his supporters of the need for water policy changes.

Confident in his decision, and guardedly optimistic, Carter set his administration to take on the challenges that lay ahead. While virtually every one of the senior staff consulted by Carter had expressed concerns or reservations about his decision, Carter's team put those concerns aside and turned to their allies for support. One of the first was the veteran dam fighter, Brent Blackwelder, who worked at the Environmental Policy Center, headed the American Rivers Council, and had been helpful in the transition team's effort in selecting the water projects they had targeted.

Blackwelder had a long history at the center of efforts to stop numerous dam projects in the United States. He spearheaded efforts and created strong coalitions against some of the worst water projects. Some claim he had inspired and helped author the Hit List. Blackwelder told author Robert Gottlieb that he got a telephone call from the White House on Friday, February 18. They told him the president was recommending cutting off funding for 18 projects, and asked for help getting favorable press coverage. Wiley and Gottlieb retold the conversation in their book:

> 'How naïve,' Blackwelder thought. There was no way he could drum up press coverage over a weekend. 'They had jumped off the deep end,' he concluded. Blackwelder was surprised that Carter had taken such a precipitous step, even though it was a step advocated by the Environmental Policy Center.[3]

Despite the reservations he remembered in later years, Blackwelder certainly did try to help "drum up" some press. It is unclear at this point what role Blackwelder played in informing Gaylord Shaw's Times article which broke news of the list to a national audience. If Shaw called Blackwelder after he was tipped off by another source, or if Blackwelder was Shaw's source is a question that still needs answered. However, there was some communication between them as Shaw quoted Blackwelder in his article. For the press he hid any surprise or criticism and instead praised the President for action Blackwelder had long endorsed. "Carter has a lot of guts. He is doing what is right, eliminating these projects that have no economic justification or have safety problems or have horrendous environmental impacts."[4]

Blackwelder also played a role in securing more positive press the following week. A press release issued February 28 indicated that Blackwelder had done what he did so well; he helped to rally a coalition of environmental groups to support the president. Twenty-one major environmental groups joined together in a campaign to raise citizens' support for Carter's decision. The coalition organized a news conference to accompany the announcement. Once again Blackwelder's voice appeared in print to support the President, joined by John Burdick, executive director of the Citizens Committee on Natural Resources.[5]

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[3] Wiley and Gottlieb, *Empires in the Sun*, (Tucson: University of Arizona Press, 1982), 57.
[4] Gaylord Shaw and Paul E Steiger, "Carter Seeks to Halt 18 Water Projects: California Dam Is One," *Los Angeles Times*, February 20, 1977.
[5] Philip Shabecoff, "Citizens' Support is Sought for Plan to Cut Dam Funds," *New York Times*, March 1,

Brent Blackwelder also quickly took action to update his pamphlet entitled, *Disasters in Water Development.* The revised pamphlet contained updated information on the original 13 projects noting three had been stopped and a fourth, the Teton dam, had catastrophically failed. The updated report contained detailed descriptions of fifteen water projects, six of which were from the original 1973 list. Nine of the projects described in the report were also on the Hit List. One Hit List project, the Trinity River Canal had been in the 1973 version but not in the 1977 re-release. Like the original, a coalition of environmental organizations, including Blackwelder's Environmental Policy Center and the American River's Council, funded

Table 3 Projects included in Disasters in Water Development II

Auburn Dam	California	BR
Central Arizona Project	Arizona	BR
Central Utah Project	Utah	BR
Garrison Diversion	North Dakota	BR
Narrows Dam	Colorado	BR
Oahe Unit	South Dakota	BR
O'Neill Unit	Nebraska	BR
Cache River	Arkansas	ACOE
Dickey-Lincoln	Maine	ACOE
Lock and Dam 26	Upper Mississippi River	ACOE
Meremac Park Dam	Missouri	ACOE
Russel Dam (Trotter's Shoals)	Georgia& South Carolina	ACOE
Susitna River (Devil Canyon) Project	Alaska	ACOE
Tennessee-Tombigbee Waterway	AL & MS	ACOE
Trinity River Canal	Texas	ACOE

1977.

the publication. The coalition featured *Disasters in Water Development* in its press conference and the environmental organizations used it to help generate citizen support. They also used it to lobby Congress, delivering a copy to each member.

Despite Blackwelder's quick efforts, additional support for the President was slow to appear in the press, mostly because the White House had been—to use a newspaper metaphor—scooped. The proponents of the cut projects had made it to the press first, and cast the story to fit their needs. To dig out of the hole, the administration needed to launch a media barrage of its own. Surprisingly, despite the magnitude of the announcement, the Carter administration seemed ill-prepared to get its story out, especially given the speed and bitterness of the attacks before the White House made its official announcement. For example, it took until late Wednesday, February 23 for CEQ "to get out a hastily pulled together press release sketching the questionable features of the 19 projects."[6]

But the efforts of Carter, his staff, and his allies seemed to amount to the little Dutch boy with his finger in the dike, or maybe in this case, a dam. The proponents of the cut projects poured out the press releases and the stories. They cast themselves as victims, and Carter and his staff as misinformed amateurs—or worse.

Making matters worse, the project proponents outnumbered the president. Political scientists have long used the concept of an Iron Triangle to describe the alliance between members of congress, the agencies building water projects, and their local booster—businesses who benefit from construction of the projects or the subsidized water and benefits. Other descriptions of the concept are more nuanced.

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[6] J. Dicken Kirschten. "Draining the Water Projects Out of the Porkbarrel," N*ational Journal*, 9 no 15 (April 9, 1977), 546.

They create polygons with a few more points. But the principle is the same, multiple vested interests working together to push for water development projects. Carter was now up against them all. The press releases and attacks came from members of Congress in Washington, from state legislatures, governors, mayors, water districts, chambers of commerce, booster clubs. Each one pointing out how Carter's decision was the wrong one, at the wrong time, and for the wrong reasons.

One of the first demands made of the White House was for the justification, logic, and process behind the President's decision. For example, even as Carter was sending the official statement to the Hill calling for the cuts, the Colorado delegation was meeting with Andrus and his aid Charles Parrish "demanding" to see the paper trail. The Colorado delegation took their demands one step further threatening to file a Freedom of Information Act (FOIA) request to get the information. In other ways their reaction is representative. Both Senator Floyd Haskelll (D-CO) and Gary Hart (D-CO) worked together along with the bulk of the state's representatives, particularly Congressman Frank Evans (R-CO). Only Congresswoman Pat Schroeder (D-CO) supported the president. The delegations of other states, such as Arizona and Utah, worked unanimously to fight for their Hit List projects. As mentioned previously, the Colorado delegation also complained about the lack of consultation. They also felt the speed of the decision explained the president's behavior. They simply could not understand how the president could make a decision in a week's time to cut projects that had been studied and debated for years. Senator Hart stated in his press release, "How can it happen that in the span of one week, these projects were cut without consultation?" Finally, they are also representative of how project proponents kept the

story and their position in the news. Gary Hart's office produced four press releases during the first week after the announcement went public. Their offices continued to issue press releases and updates at every opportunity to keep the story in the news.[7]

The members of the Colorado delegation, led by Senator Hart, were not the only ones to protest and demand to see the justification used to kill their projects. In the days and weeks after the cuts, the White House fielded multiple calls and letters. For example, on February 23, Congressman Tom Bevill (D-AL), who did not even have a project on the initial Hit List, blasted Carter for infringing on his turf. An irate Bevill barely managed to veil his anger, complaining the announcement "had forced a great deal of attention on my Public Works subcommittee on appropriations." He continued, stating that they had been "inundated with questions" about the reasoning used. To rectify the problem, Bevill requested copies of the transition memorandum, complaining that it had already been extensively quoted in the press but that his committee did not have a copy. He also defended the projects, and the work of his committee. He also reminded the president of their previous conversation in which Bevill recommended Carter accelerate water resource projects. He wrote, "I fail to see how the deletion of all of the 19 projects of the Corps of Engineers and the Bureau of Reclamation will accomplish that objective."[8]

The White House staff tried their best to keep up, but they faced two critical challenges. Carter's decision to keep staffing levels lower than Ford's really left the

[7] For Hart's press releases see Gary Hart Papers, Box 52, Folder 1, "Hart Pledged Fight for Water Projects," February 21, 1977; "Senators Want Explanation for Water Project Cuts," February 22; "Senators Seek Explanation on Funding Delays, " February 28. Also see, Floyd Haskelll Papers Series iv, box 1, folder 118, "Meeting on Colorado Water Projects, February 22, 1977.
[8] White House Central File, Subject File, Natural Resources. Box NR 14, Folder NR 7-1 1/20/77-3/15/77, Tom Bevill to Jimmy Carter, February 23, 1977.

White House shorthanded. Further, the staffing shortages had already created a backlog that they were trying to get out of. For example, the Congressional Liaison's office was trying to determine how to respond to Senator Edmund Muskie of Maine who had been waiting since January for a reply to his initial inquiry about the project in his state. The January 17 memo asking for consultation prior to any decision on the project had gone unanswered. Muskie sent another letter on Feb 22 after the hit list announcement leaving an embarrassed liaison staff wondering how to proceed.[9]

Members of Congress did more than protest, issue press releases, and demand information from the White House. The president had taken on many powerful members of Congress who felt that—like the law of physics--Carter's actions demanded an equal and opposite reaction. For example Russell Long of Louisiana had several projects from his state on the Hit List. As chairman of the Senate Finance Committee, the bulk of Carter's legislative agenda—energy policy, economic stimulus, tax reform—fell within the jurisdiction of Long's committee. After a February meeting with Senator Long, White House senate liaison Dan Tate reported back to his boss that Long had threatened to put the president's economic stimulus plan "in the deep freeze." Tate also reported that Senator Muskie, Chair of the Senate Budget Committee, threatened to hold up consideration of the budget resolution to save the Dickey-Lincoln project stating, "The president might not get what he wants

[9] Dan Tate and Bob Russell to Frank Moore, February 23, 1977; Muskie to Carter, January 17, 1977; Muskie to Carter, February 22, 1977, JCPL, Office of Congressional Liaison, Box 50.

unless certain members of Congress get what they want." Tate emphasized, "The threat was hardly veiled."[10]

But the negative reaction was not limited to those in political power. The announcement also angered many water users, particularly in the drought-stricken West. But, judging from constituent mail sent to Senator Frank Church (D-ID) those who felt strongly enough to write letters favored the president by a margin of 4 to 1. Many pointed out safety concerns after the collapse of the Teton Dam. An attorney from Coeur d'Alene, Idaho, wrote to Church supporting Carter, "It is tragic that a dam had to collapse and people had to die before the pork in the barrel turned so rancid as to warrant inspection." The majority expressed concern over the environmental destruction caused by the projects as their primary objection, while some also complained of the project's lack of economic justification. Those writing against the President often pointed to the drought and the ever-present need for water in the West. Others just expressed anger and unbelief. For example one constituent wrote:

> If my mother had told me that I was an illegitimate child, I could not be more shocked, astonished, and disgusted than I was to hear President Carter's proposals to drop funding of some 19 irrigation and power dam projects from his budget.[11]

The negativity of the congressional reaction, as well as the statements of support from the environmental community and others only convinced Carter that he needed to fall back to the strategy he had used to deal with the occasional intransigence of the Georgia state legislature. He would go over their heads to the

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[10] Dan Tate to Frank Moore, JCPL, Office of Congressional Liaison, box 50, Folder "water projects," quoted in Scott A. Frisch, and Sean Q. Kelly, *Jimmy Carter and the Water Wars: Presidential Influence and the Politics of Pork.* (Amherst, New York: Cambria Press, 2008), 69-70.

[11] For "it is tragic", see Scott W. Reed to Church, February 23, 77; for "if my mother" see, Ray Horn (Blackfoot) to Church, February 23, 1977, both in Boise State University, Frank Church Collection, Mss 56, Series 1.1 (Legislation), Box 108, Folder 2.

public to put pressure on Congress. Carter had already made plain to congressional leaders prior to the inauguration that he was not afraid to take that action. Tip O'Neill and others had warned the president then not to try it. But, their warnings went to the same place in Carter's brain that stored all of the warnings about not cutting the projects in the first place. That place was a little furnace that fueled his determination to do what he thought was right.

Convinced that winning the public to his side was the only way to deal with Congress, Carter began to take action and to accept offers of help. On February 28, Carter met with singer John Denver for 10 minutes right before meeting for two hours with Governors attending the National Governors Conference. The purpose of Denver's visit was to inform the president that he was "available to help me with any major programs that we had to put over to the American people, including environmental quality or the reduction of expenditures for unnecessary dams, energy policy, particularly with emphasis on conservation. He and Robert Redford and others, I think, can be used with effectiveness and we intend to do so."[12]

Carter delivered on this promise a few days later. In an effort to get his message out, Carter hosted a question-and-answer meeting with eighteen editors of major newspapers across the country on March 4. William Smart, the editor of the *Deseret News* in Salt Lake City, wrote that of all the responses Carter gave, the one about the Hit List "was by far the longest and most intense." Carter told those gathered that, 'The ultimate decision will be made by Congress but my own judgment is that none of the projects is worthy and none ought to be completed." Another report

[12] Jimmy Carter, *White House Diary*, (New York: Farrar Straus Giroux, 2010), 29; hereafter *White House Diary*. "The Daily Diary of President Jimmy Carter ," Feb 28, 1977. Available online by date, http://www.jimmycarterlibrary.gov/documents/diary/. Hereafter cited as "Daily Diary."

quoted Carter as saying, “My opinion is several of these projects—I'm not going to single them out—would be better not built if they didn't cost anything, if they were free...” [13]



Figure 2 Editorial Cartoon lampooning Carter's visit with John Denver as more important than western water problems. Milwaukee Sentinel, *March 9, 1977.*

The following day Carter had his first call-in show with Walter Cronkite. The president thought this would help him stay in touch with the American people. He stated in his diary, “The congress has got to know that I can go directly over their heads when necessary. And, of course, I wouldn't hesitate to do it.” Undoubtedly he was thinking of the battle over budget reductions and the water projects when he wrote this. Stu Eizenstat elaborated in 1994 on the president's belief in town hall meetings

[13] William B Smart, “Carter Still Firmly Against Funding Utah Projects,” *Deseret News*, March 5, 1977;
J. Dicken Kirschten. “Draining the Water Projects Out of the Porkbarrel,” 540.

and radio call-in shows to appeal to the people over the heads of Congress. Carter believed that the people "would support him if he made 'right' decisions."[14]

But as Carter pressed his case with the people, Congress continued to lodge complaints at the president. The same day as his meeting with newspaper editors, Frank Moore hand delivered a letter from Senate Majority Leader Robert Byrd at 8:00 p.m. Byrd tried to convey to the president the "strong feelings" of he Senators involved in the cuts. He explained, "The universal complaint—and I believe it is justified—is that these Senators were not consulted and given an opportunity for a discussion of the matter prior to the action taken."[15]

That same day Frank Moore also requested that Carter attend a meeting with members of Congress the following week that Moore had been planning for over a week. He intended the meeting as an opportunity for members of Congress to meet with Andrus, Burt Lance, and Clifford Alexander to answer questions about their projects. But Moore told Carter that "We are encountering some resistance and dissatisfaction from members because you will not be at the briefing." Carter agreed to drop in briefly during the meeting scheduled for March 10.[16]

In the intervening period, attitudes on Capitol Hill got worse rather than better. On March 8, Carter hosted his regular breakfast meeting with democratic leaders. Carter wrote in his diary that day that the leadership continued to express serious concerns about his agenda. Carter confided, "The water resources and dam projects

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[14] *White House Diary*, 30; Stuart Eizenstat, "President Carter, the Democratic Party, and the Making of Domestic Policy," in *The Presidency and Domestic Policies of Jimmy Carter* edited by Herbert Rosenbaum and Alexej Ugrinsky (Westport, CT: Greenwood Press, 1994), 5.
[15] Robert Byrd to Jimmy Carter, March 4, 1977 and Frank Moore to Byrd, March 4, 77 in JCPL, Natural Resources Subject File, Box NR 15.
[16] Frank Moore to Carter March 4, 1977, JCPL, Natural Resources Subject File, Box NR 15.

have caused some consternation in the Congress and I don't know if I'll win on this subject or not, but I am going to pursue it for four years until we cut out some of the unnecessary projects." The president's comments, slightly different than those of his entry on February 22, reveal an increased level of doubt. His wording had changed from "I may not win on all of these … the first time around" to "I don't know if I'll win." But, if indeed this change does point to an increase in doubt, both passages express his determination to press ahead with what he considered the correct choice regardless of the consequences or his chance of victory.[17]

The other interesting note about this entry is that Carter contrasted the attitude of congressional leadership with that of General John Morris, chief of the Corps of Engineers who he met with the same day. Carter wrote, "He's very eager to see us eliminate some of the pork barrel projects." The contrast is striking, especially given that most authors who have covered the Hit List have pointed to the intransigence of the Army Corps of Engineers as an organization that actually was lobbying against the president's plan in Congress. Morris may have been duplicitous with the president. It is also possible that his opinions did not trickle very far down the chain of command. In either case it is interesting to note that in later years, as noted in Chapter 1, Morris has been quite critical of Carter's efforts.[18]

Also on March 8, newspapers carried more stories about the escalation of the water review and also strong words against the President's policies. The National Water Resources Association and the Water Resources Congress sponsored a joint

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[17] *White House Diary*, 30.

[18] Oral history of Lt. Gen Ernest Graves by Dr. Frank N. Schubert, 1985, Research Collections, Office of History, U.S. Army Corps of Engineers, Alexandria, Virginia, 168. Alternate title Engineering Memoirs, Lieutenant General Ernest Graves, Engineering Pamphlet 870-1-52 (Washington D.C.: Army Corps of Engineers, 1997).

"emergency" in Washington D.C. on Monday March 7. At the meeting attended by more than 100 water officials, about 25 from Colorado, the *Denver Post* reported that Kathy Fletcher told the group about the criteria being used to evaluate all water projects. But in the *Post's* article this turned into a one-inch, red-letter, banner headline, "New Water Policy Perils 300 Projects." The paper also stated that:

> Fletcher warned that an "adequate" EIS [Environmental Impact Statement]—one that has survived a court test—would not necessarily satisfy environmental concerns about specific project construction. Even such a statement and its approval by a court Fletcher said, "is not a demonstration that environmental impacts are acceptable."[19]

Governor Lamm granted an interview to *New York Times* reporter Grace Lichtenstein. Lamm tempered his comments and acknowledged that he did not harbor grandiose plans or even hopes for major new water projects. He did, however, defend the Colorado project that had already been authorized and cut off by Carter. He explained his stance to the reporter saying:

> A Georgia boondoggle is a Colorado vital project. I don't mean there aren't boondoggles out here. But reclamation has been an important ingredient in the West, and you don't cut off projects already started.[20]

The level of consternation in Congress jumped even higher the following day. During a Senate Subcommittee on Public Works Appropriations hearing that day, word came of a new expanded hit list. During the hearing committee members grilled Andrus and vented their anger. Once again word of the list had come from the media without consultation or notification from the executive branch. Andrus stated he had only learned about the list at the end of the work day the previous day. He tried to

[19] Leonard Larsen, "New Water Policy Perils 300 Projects" *Denver Post*, Mar 8, 1977.
[20] Grace Lichtenstein (NY Times Writer) "Carter's Funding Stand Intensifies War of Water Politics," *Salt Lake Tribune*, March 8, 1977.

reassure the angry senators that the list was an "in-house" paper, and not a final draft.[21]

The newspapers that day reported that the new list leaked from the Department of Interior included another 45 water projects in the West. The angry Colorado delegation became livid as the list added four more projects in their state— Dallas Creek, Frying Pan-Arkansas, Narrows, and the San Juan-Chama. Congressman Frank Evans, whose district included several of these projects, issued a press release stating:

> When we talk about Fryingpan-Arkansas and the other projects, you begin to talk about major water sources for Pueblo, Colorado Springs, and Western Slope communities. The administration is cost-cutting necessities of life for Colorado and we will not put up with this. I am declaring warfare on Carter.[22]

It was during the uproar over the expansion of the list of projects that an AP writer based in Olympia, Washington, first used the term "hit list." The headline ran "Ray lashes Carter's 'Hit List.'" Washington Governor Dixie Lee Ray had dispatched a terse telegram to Carter on March 9 in response to learning that the Third Powerhouse project at Grand Coulee Dam had been included on the list as well as the Bacon Siphon and Tunnel needed to expand the Columbia Basin Project. The governor's office made the telegram public on March 10. Governor Ray, like her colleagues noted above complained that the White House had taken the action without consultation. She also found it "incomprehensible" that the administration could consider discontinuing construction of the hydroelectric plant at a time the nation sought to reduce dependence on foreign oil and fossil fuels.[23]

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[21] Morley Fox to Arizona Delegation, March 9, 1977, Frank Evans Papers, Box 4, Folder "Water Projects."
[22] Stan Usinowicz "Water Projects List Grows." March 9, 1977 *Durango Herald.*
[23] AP, "Ray Lashes Carter's 'Hit List,'" *The Spokesman –Review*, March 11, 1977, 1.

Table 4 Projects "added" to Hit List for failing to meet one or more review criteria as confirmed by Andrus on March 8, 1977.

Applegate	Oregon	BR
Bacon Siphon & Tunnel	Washington	BR
Brantley	New Mexico	BR
CVP- San Filipe	California	BR
Dallas Creek	Colorado	BR
Dickenson Unit	North Dakota	BR
Frying Pan-Arkansas	Colorado	BR
Jensen Unit CUP	Utah	BR
Lyman	UT/Wy	BR
Narrows Dam	Colorado	BR
North Loop	Nebraska	BR
Nuaces River	Texas	BR
O'Neill Unit	Nebraska	BR
Sacramento River Division	California	BR
San Juan-Chama	CO/NM	BR
San Luis Unit	California	BR
Southern Nevada Water Supply	Nevada	BR
Grand Coulee Third Powerhouse	Washington	BR
Tualatin	Oregon	BR
Fulton	Illinois	ACOE
La Farge	Wisconsin	ACOE
Plametto Bend	Texas	ACOE
Red River Waterway	Ark-Tex	ACOE
Tallahala Creek	Mississippi	ACOE
Trinity River Canal	Texas	ACOE
Tyrone	Pennsylvania	ACOE

With feeling running high on Capitol Hill and the administration still cleaning up from the first list debacle, White House staff attempted to regroup in preparation for the meeting schedule for the following morning. Stuart Eizenstat and Frank Moore wrote a memo to update the president and prep him for the meeting. With the escalating tensions, Vice President Mondale was to run the meeting.

OMB Director Burt Lance was to give a full briefing on the ongoing review of water projects which had generated the latest press. They expected Lance to discuss the initial screening criteria, information to be gathered, public hearings, public availability of information developed, and the April 15 deadline for recommendations to Congress before Carter arrived. Andrus, Alexander and CEQ chair Warren would also have described their role.[24]

The memo conveyed additional background information to Carter and provides valuable information on the status of Carter's overall efforts. Vice President Mondale had met earlier that day with Senate Democrats. Mondale relayed that their main concerns were "whether you fully realize the political pressures they must bear [and] whether you personally feel strongly about this issue or are being guided mainly by staff." Moore and Eizenstat also informed Carter that there were now three "lists" in Congress' hands, the original list of 19, the list leaked within the last twenty four hours which Andrus confirmed to both the Senate Committee and the White House "as needing further review." The third list consisted of thirty seven Corps of Engineers projects which failed the economic test as the higher interest rate of 6 5/8% which Senator John C. Stennis (D-MI) had requested and been given.[25]

Finally, Moore and Eizenstat provided Carter with a list of talking points. Essentially all of the points they suggested focused on answering the two questions that Mondale had brought away from his meeting earlier that day. They encouraged Carter to express understanding of the projects importance and also of the political pressures his proposed cuts had brought to bear. Encouraging empathy they suggested

[24] Stu Eizenstat and Frank Moore to Carter March 9, 1977, JCPL, White House subject file, natural resources, box NR 14, folder NR-1.
[25] Ibid. Emphasis in original.

Carter relate, "I understand the political pressures you feel; I went through it with the Sprewell bluff dam in Georgia." They also thought that the president needed to address the new list and to remind those attending that in his original letter he had told Congress that the administration would be "undertaking a study of all water projects, including the 19 for which no funding was recommended for FY 1978." Finally, they wanted to make sure the president emphasized that he was not acting unilaterally. That he could not implement the cuts on his own and that the administration would work closely with congress to achieve their goals.[26]

Carter spent 30 minutes at the briefing with thirty-five members of Congress, and had thirty-five-minute follow up meeting with "senior White House staff" afterward. Carter wrote in his diary that day that he "had a rough meeting" with the members of congress. He continued:

> They are raising Cain because we took those items out of the 1978 budget, but I am determined to push this item as much as possible. A lot of these would be ill-advised if they didn't cost anything, but the total cost of them at this point is more than $5 billion, and my guess is that the final cost would be more than twice that amount[27]

The significance of this diary entry is clear. Carter understood both at the time that the water projects review was causing divisions with the Congress. But rather than pick his battles and play politics with a Congress controlled by his own party, Carter was determined to push forward at all costs. He understood that these water projects represented the worst of an endemic problem of government waste.

Unfortunately for Carter, he was unable to make any real converts to his way of thinking. If anything, the meeting symbolized not only the growing "breach" with

[26] Ibid.
[27] "Daily Diary," March 10; Jimmy Carter, *Keeping Faith* (Toronto: Bantam Books, 1982), 78.

Congress, but also the administration's challenge to win the public relations campaign. The White House did allow reporters access to the meeting, and the President did not appear before the press at the end of the meeting. The administration did not even issue a press release. The extent of its coverage of the meeting was the Press Secretary's daily briefing that followed the meeting. In contrast, congressional participants at the meeting made hay. They were talkative with the press corps when they left the meeting and quick to issue press releases for the papers back home.

The afternoon paper in Scottsdale, Arizona, made the meeting front page news. The article quoted Utah Senator Jake Garn. While Garn was a Republican, he noted that even the Democrats present at the meeting questioned the cost effectiveness of cutting the projects. He optimistically predicted that "the chances are overwhelming" that Congress would fund the majority of the projects over Carter's objections. [28]

Senator Barry Goldwater told the press that "it was evident when the president spoke that he has his mind definitely set against these water projects without knowing anything about any facet of them" He pointed to his home state's pet project as an example explaining that none of the cabinet members at Carter's session appeared to know anything about the project. "It is disappointing to me that people in high places have not taken the time to more fully understand the desperate need for water and water conservation in the arid regions of the West."[29]

Senator Garn later related that one of the primary objectives of western senators and members of congress had been to educate the president on that very topic. Their sentiments echoed the comments made to the press by Governor Lamm a few

[28] AP "Carter Firm on CAP Cut," *Scottsdale Daily Progress*, March 10, 1977.
[29] Ibid.

days earlier. They believed that as someone from the South he was more accustomed to the problem of how to get water off of land rather than on to it. Garn related that at the end of this part of the discussion Carter turned to and asked Senator Barry Goldwater--who had been quietly listening—for his thoughts. According to Garn, Goldwater told Carter that westerners valued three things: gold, women, and water. He also quoted Goldwater as having said, "You can have our gold and our women; but damn you, Mr. President, don't touch our water!"[30]

Because the unofficial list of projects which failed an initial screening had been confirmed earlier in the week by Secretary Andrus, many at the meeting demanded more information from the President on the decision process. The Colorado delegation pressed for the information they had requested under the Freedom of Information Act (FOIA). Unprepared to answer adequately these questions, Carter requested his budget director to update him on the status. Following the meeting Burt Lance explained to Carter that the Colorado delegation had claimed access to the material based on their legislative responsibilities. After describing the documents that would be included in fulfilling their request, Lance stated:

> The release of the documents requested could provide additional ammunition with which to attack the decision to delete the nineteen projects. The release of the information could permit the decision to be cast in partisan terms. Council on Environmental Quality staff and my

[30] Oral interview with Jake Garn by Adam Eastman, Central Utah Water Conservancy District Oral History Project, March 25, 2004, Salt Lake City Utah. Garn was fond of repeating the story and would use it during hearings as a humorous introduction to his remarks, but also to stress the importance of water—specifically the CUP—to his constituents. For example see his remarks in U.S. Congress, House, Committee on Interior and Insular Affairs, Subcommittee on Water and Power Resources. *Proposals to Raise the Authorized Cost Ceiling for the Colorado River Storage Project : Hearings before the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs, House of Representatives, One Hundredth Congress, Second Session, on H.R. 3408 ... Hearings Held April 18, 1988: Salt Lake City, UT; May 4, 1988: Washington, D.C.* (Washington: U.S. G.P.O, 1989), 44.

staff are not anxious to have some of the information released.[31]

But as the administration worked to try douse the flames from the morning meeting—by moving the hearings out of Washington, and working on the FOIA request—they did not realize the severity of the brush fire the meeting had kicked up. Returning to Capitol Hill from the morning meeting, the senators set about the scheduled work. The Senate agenda included floor debate for an emergency appropriation measure to fund job creation and public works that Carter and most of the Democrats felt was urgently needed. The bill presented a perfect opportunity to the two Democratic senators from Louisiana who were not thrilled with the President for cutting several projects in their state, and who were not satisfied with the answers they had received from Carter or his staff at the meeting. Senators Johnston and Long took the opportunity to introduce an impromptu amendment and send a clear message, "Carter cannot kill water projects without congressional approval."[32]

The amendment had five parts. The first section was a statement of facts to make the Senate's view on the president's action clear. Congress authorized the projects after protracted hearings and consideration extended over many years. Congress approved yearly authorizations. Clearly Congress wanted the projects to continue. Further, if Carter wanted to stop them, he needed to follow the law instead of taking unilateral action. To make this point clear, the amendment's second part

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[31] Bert Lance to Jimmy Carter, JCPL, Box 12, Folder 3/10/77.

[32] The president's schedule showed the meeting took place in the morning from 8:43-9:13. *Daily Diary,* March 10. The debate on Johnston's amendment began before 2:00 as it was interrupted by a vote schedule for that time. Several senators commented during the floor debate that that Carter was not following the law and could not discontinue the project without congressional approval. This exact wording comes from the press release from Gary Hart's office. See, "Senate Vote on Water Projects Symbolic, Hart Says," March 11, 1977, Gary Hart Papers, University of Colorado Archives, Box 52, Fd 1 – Carter Deletions. The debate on the amendment is in *Congressional Record,* Senate Proceedings Vol 123, Part 6, (March 10, 1977): 7120-7138.

stated the president was to spend the funds appropriated for FY 77. Adding further emphasis to this point, section three essentially stated that the Senate preemptively blocked any deferral or rescission of funds. Johnston noted that this section was technically not necessary, but had been included in case the previous section had something legally wrong. Section 4 "reiterated" the discount rate to be used was set in law either by the appropriation of the project or by the Water Resource Development Act of 1974. Again, reminding the president the he could not change the law by himself to reevaluate the projects at a higher interest rate.[33]

The final section stated that if the amendment was found by the courts to be invalid, the entire piece of legislation would be invalidated. Several of the senators, particularly Edmund Muskie (D-ME) felt this measure was a bit too harsh. Johnston admitted that he did not believe that section was absolutely essential, but wanted to send a strong message. Agreeing that they did not need to hold the jobs bill hostage to send the message, Johnston agreed to drop it without debate.[34]

For the most part, the floor debate was pretty mundane. While there were a few concerns that needed to be worked out, there were not heated exchanges. The only vitriol was the anger and complaints lobbed at the president. The amendment presented the perfect opportunity for project proponents to lodge formal complaints; something they had done and would continue to do at every opportunity. For his part, Senator Johnston took the opportunity in his introductory remarks to point out what he considered to be the insanity of the president's decision to cut projects in his state. He singled out the Bayou Chene, Boeuf, and Black project as an example. Those who

[33] *Congressional Record*, March 10, 1977, 7120-1.
[34] Ibid, 7122-3.

supported the president and opposed the project panned the project as corporate welfare. This was the much maligned project that had as its primary benefit the capability of a sole company to tow oil rigs out to sea.

But Johnston defended the project. The old channel through the Bayou was 360 feet wide. The company constructing the rigs had been building them as wide as the channel for some years. However, they needed to build larger rigs to take part in the deep water drilling. The Army Corps of Engineers' project called for the widening of the channel to 440 feet. The company had begun building the new platforms 440 feet wide after the authorization of the project in anticipation of its completion. Johnston pointed out that there was at the time of the debate $200-$300 million dollars worth of construction already sunk by the oil company. At that point, the project was about one-third complete and total cost of just over $22 million. But until it was done, there was no way to get the new drilling platforms out into the Gulf of Mexico. He complained that environmentalists had tried to stop the project with a NEPA lawsuit, but had lost in the courts. Now he thought they had attacked the project by convincing Carter to include it on the Hit List. He felt such a move was hypocritical because to stop the project would put 5000 people out of work at the very time the Senate was passing legislation to try and create jobs. It would also reduce gas exploration at a time when Carter was pushing his energy policy.[35]

Senator Muskie, who remained angry at the White House, spoke at length in favor of the amendment. His anger was palpable, permeating the pages of the printed record. He declared that he could not be "more offended" with any other action Carter or any other president could take as he was over the water projects. What really

[35] Ibid., 7121.

bothered him was the way Carter had taken the action. Muskie conceded that the president may be right that some of the projects might be bad, but he "violently object[ed] to the procedure" used by the president. It did not help that Carter had included Dickie-Lincoln Dam in Maine on the list. Muskie, like others, had requested the documentation used by the White House to justify the cancellation and had received two pages. He called those pages “totally inadequate,” "the flimsiest kind of evidence,” and “a disgrace.” He noted those two pages did not discuss the ongoing environmental impact statement, something he called a “critical distortion.” He complained the president intended to stop the project on environmental grounds before the environmental impact statement was completed, a fact which was not even addressed in the recommendation to the president. While he was not sure the wording of the amendment was effective legally, Muskie nonetheless concluded,

> There are times when you have to fight fire with fire. When the executive aborts established procedures, I, as one member of the Senate, am going to look for any thing I can fire back -- anything I can fire back.[36]

Washington Senator Warren Magnuson (D) railed against the release of the extended hit list which included the third power plant at Grand Coulee Dam. He said he was "flabbergasted" because the project had a positive cost benefit ratio of 42 to 1. He challenged the President to find any project with a higher return on investment. Magnuson—like Long, Muskie and others—continued to vent frustration about who had created the lists. Despite Carter’s declarations that he personally felt the cuts needed to be made, the senators believed the work was that of a “third or fourth rank bureaucrat,” anonymously disparaging to Cathy Fletcher. The senators also expressed

[36] Ibid, 7121-2.

concern that conducting field hearings would be disruptive to their schedules. They thought that would be a colossal waste of time and energy. Magnuson stated that in the long run he was confident they would win and override the president's veto, but that the fight would stop everything else in the interim.[37]

The floor debate also revealed some regional concerns. Senator Moynihan from New York spoke in favor of the amendment despite the fact than none of the projects were in his state. Moynihan said he wanted the Bayou widened "so that the rigs could get into the Gulf of Mexico and find gas to keep the people in the Northeast warm and the factories working." But he wanted to remind the Senate that for every dollar that came from Louisiana or Washington to complete those projects $10 would come from New York. Moynihan used the moment to make the point express what he believed was "a legitimate expectation" that for supporting the projects in the South and West, those senators would support extending the public works/unemployment measure from the previous year which gave more funds to states with above-average unemployment.[38]

The measure was bipartisan. Senate Minority Leader Howard Baker (R-TN) said he had been listening to the discussion "enraptured." He was so "delighted with the amendment" he asked to be a co-sponsor. Subsequently a gaggle of others all requested to be co-sponsors as well. They all stood up on the floor asking to be included and calling out their names as if to say 'count me in too.' [39]

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[37] Ibid, 7124.
[38] Ibid, 7124-5.
[39] Ibid, 7126-7. Co-sponsors included Senators Wallop, Hathaway, Young, Gravel, Hollings, Hatfield, Randolph, Bentsen, Baker, Thurmond, Hansen, Canon, Haskell, Jackson, Burdick, Magnuson, Domenici, Church, Curtis, Hayakawa, and Muskie.

One issue in the proposed amendment that was unclear was the statement necessitating the use of the original interest rate and the cost benefit. Gaylord Nelson (D-WI) believed that the amendment would legislatively block the proposal of the president to reconsider projects at the higher rate. Johnson answered that it was not legislatively blocking the president but only reminding the president what was in the law on the books. "No one in the executive branch, not the president, the secretary of the interior or anyone else, can change that interest rate unilaterally."[40]

The debate on the amendment was pretty straightforward. Only one person really took any kind of stand against the amendment. Nelson stated that some of the projects on the list were indeed bad. He stated that he was not qualified to pass judgment on all nineteen. But he said,

> It is clear to me that some of them are disasters from every standpoint, the welfare of the country, the benefit-cost ratio, ecological impact—all kinds of ways. I do not support the procedure followed by the president. I believe it was precipitous. On the other hand, I respect and support the instinct of the president to finally say, "For heaven's sakes let us not dam every river, every stream and every watershed in this country just as a part of some project that is desired by some groups or members of Congress."[41]

He pointed out his state's own recent experience with the La Farge Dam under construction by the Corps of Engineers that was stopped by the courts. It would have been the largest water resource project in the history of Wisconsin. The Army Corps had already spent $18 million on the project, including the purchase by condemnation of 9,500 acres, effectively "chasing over seventy-five farmers off the land." While La Farge was to function as a flood control project, Nelson noted that for half the cost the government could have bought every single farm in every building in every village on

[40] Ibid, 7128.
[41] Ibid.

the shores of the floodplain of the river. Similar to Carter's experience in Georgia, Nelson found the cost benefit analysis to be totally flawed. In this case the Army Corps inflated the recreation benefit five-fold. Ultimately the project was stopped because despite a 1965 warning about water quality disregarded by the Corps of Engineers, it was determined that the water in the lake would be in violation of state and federal water quality laws. Nelson concluded, "anybody who says to me that the Corps of Engineers is not prepared to build anything we ask them -- anything -- does not know the politics of the Corps or the Congress." He concluded by emphasizing that he did not think all of the projects were bad. He recognized that some had merits. But he did not want the Senate to take action

> that would handicap the president in providing some long needed national leadership to force us to address ourselves very carefully to these projects and start rapidly cutting back on them, because we are wasting money. We are damaging watersheds, ruining rivers, and the cost-benefit ratio and lots of them is not there. In many cases the cost-benefit ratio is a sham.[42]

Two other senators expressed some concern, but did not advocate holding off passage of the amendment. Senator Dale Bumpers (D-AR) opposed the Cache River project in his state. He worried the president would not be able to stop the channelization that was taking place that year if the amendment passed. In his testimony he said that "about a week before the president announced the deferral or rescission of funds for all the projects" the army corps has started the second section of channelization 3.1 miles. Bumpers continued, "I'm not here to defend or to condemn this particular project. But there is one thing that I know to an absolute

[42] Ibid.

certainty, that if the president is going to be successful in stopping the project it should be stopped right now before any additional works."[43]

The other major concern that surfaced was over the Meramec Park Dam in Missouri whose senators were split. The junior senator, John Danforth (D), opposed the dam while Senator Eagleton (D) favored the dam but was willing to stop it pending the outcome of a referendum in the adjacent counties—a plan then being debated by the Missouri state legislature. In the end, Danforth was successful in winning an amendment exempting the Missouri project, allowing Carter the option to defer funds and stop the construction project.[44]

The message from the Senate to President Carter was loud and clear. As if it needed explaining, Senate Majority Leader Robert Byrd (D-WV) told the press later that afternoon bluntly, "The road can be smooth or the road can be rough." A report in the *National Journal* called the Senate action an "unexpected move." But, the White House responded to the action with a message of its own. Based on information from a "spokesman for the Carter administration" they explained that while Carter did not intend to impound any appropriated funds, they did hold out the "possibility of a veto of future appropriation bills that include projects the president considers unsupportable."[45]

Veto Strategy, Vote Study.

Johnson, Long, and the other senators essentially put Carter on notice that in their opinion, Congress held responsibility to fund or cut the projects. But if they

[43] Ibid, 7129-30.
[44] Ibid, 7131-2.
[45] "Washington Update," *National Journal*, , VOL. 9, NO. 12 (March 19, 1977), 437.

expected Carter to heed the warning shot across his bow, the president disappointed them. He instructed his staff to begin to prepare an analysis of the veto options and to draft a letter to Congress. Led by Ann Dye, White House staff evaluated their success of sustaining a veto by studying potential supporters of water projects using 1976 voting and letters to the president prior to and after the announcement of the cuts. The study concluded 168 members might be expected to vote to sustain the veto, more than the 156 needed. But it also noted the numbers could change if state delegations pulled together. Dye also noted that western state members were more "water-conscience" (sic) at this time; and their 1976 votes did not guarantee they would vote the same way. In a handwritten note to Moore attached to the report, Dye concluded:

> Basically, I think this looks pretty grim. If you subtract the western members (except Phil Burton who Rick indicates is with us) you get 141 votes. The key people on any such vote would probably be Eager and John Rhodes (who likes his Arizona project).[46]

While the Congressional Liaison staff calculated the strength of their ultimate weapon against Congress, Carter worked to repair some of the damage and salve some of the wounds. He sent a letter to Congress. He first attempted to express that he was not ignorant of the ramification of his decision by stating he was aware of Congress's concerns. He stated that he believed it was "essential to involve the Congress in developing a coherent water resource policy." But, he promised, he would not take unilateral action again. Instead, he promised to meet with congressional leaders to establish "a dialogue and close corporation on the issue" and also promised that in the future, any recommendations for deletion would be discussed with the members of

[46] Ann Dye to Frank Moore, March 14, 1977. JCPL, Office of Congressional Liaison Moore, Box 50, Folder "Water projects, 2/18/77-10/6/78 [cf., O./A 625]." Emphasis in original.

Congress, noting the time constraints would not be as severe as those faced when preparing revisions to the Ford budget.[47]

He went on in subsequent paragraphs to justify his cuts, noting the authorizations for many projects were old and did not reflect current economic conditions. He tried to avoid the appearance of blaming Congress for authorizing the objectionable projects, and instead blamed changing conditions and evaluation criteria. In the end, he argued the projects needed to be cut because of the "enormous sums of money," and environmental concerns involved. He reiterated that he could not meet his commitment to balance the budget without congressional cooperation stating "every ongoing program of government must be continually examined in the light of the harsh realities of a tight budget."[48]

Carter again took personal responsibility for the decision to recommend discontinuing funding and assured Congress that he had used rational criteria in selecting projects. He emphasized that he had not and would not make arbitrary choices regarding specific projects and promised the review process would be completely fair and allow for public input. Carter also attempted to quell the rumors of new or expanding project lists noting the "exaggerations" resulting from "the misunderstanding of various lists which I had never seen and which had no official sanction." He concluded the letter by noting the problems "too severe to ignore," on several projects, without singling them out by name. For example, he referenced the potential treaty violations (posed by the Garrison), and the earthquake hazard at the

[47] Jimmy Carter to members of Congress, March 16, 1977, *Public Papers of the Presidents: Jimmy Carter.*
[48] Ibid.

Auburn Dam.[49]

In spite of his efforts and promises to work more closely with Congress, that same day Carter spoke at an energy conference in Charleston, West Virginia, where he again stated his willingness to go over Congress' head to the American people. He said, "I am determined to let the American people know about this particular concern... I am very determined to present to the American people my side of the story."[50]

Despite the president's repeated attempts to emphasize to Congress and the nation that he personally felt strongly about cutting the projects, project proponents continued to shift blame to Kathy Fletcher and others in the White House. So, did they somehow remain ignorant of Carter's personal convictions, or did they simply not believe the president's statements? Both could be true, but it seems the more likely explanation was that by shifting blame to "a low level bureaucrat" in the White House it was easier to convince their constituents—and perhaps themselves—that the president did not understand their projects and that they should be funded. As discussed earlier, this effort to shift blame is evident in the remarks of several Senators during the floor debate of the Johnston amendment.

Another example is stories which circulated in various newspapers. For instance, the Denver's *Rocky Mountain News* carried a story on March 18 under the headline, "Girl in the White House Infuriates Dam Boosters." The story reported that many on Capitol Hill claimed Kathy Fletcher was the "prime mover behind the President's surprisingly firm effort to halt dozens of public works projects." The story reported that the White House denied the allegation and went so far as to say "it was

[49] Ibid.
[50] Dom Bonafede, "Carter and Congress -- a Tenuous Relationship" *National Journal*, March 26, 1977, Vol 9. NO 13, : 462.

unfair to Carter to assume that some lower level aid is responsible for the order barring new construction contracts on water projects." But the story also continued by explaining that they did confirm that Fletcher had created a list as part of the transition team. In this case, the *Rocky Mountain News* generally tended to favor the President in its reporting, at least when compared to the *Denver Post.* And while they presented a fair and balanced story that sought to repudiate the allegations of Fletcher's role, it is easy to see how someone opposed to Carter's cuts could read the article and still place blame on a young environmental idealist. The paper not only made note of her young age, twenty seven, but also concluded the article with a note that some might consider guilt by association. The story noted that in a CBS documentary featuring Robert Redford on the defeat of the proposed Kaiparowits Power Project in southern Utah, "Redford spent most of his time listening to Fletcher."[51]

Kathy Fletcher also took the blame for leaking the "second Hit List" that hit the papers in early March. The President had heard—though it is unknown from whom—that she was responsible and directed Stu Eizenstat to quietly look into the matter. Eizenstat reported his finding back to the president two weeks later on March 21, clearing her name. He told the president, "I am convinced, as are others, that Kathy was <u>not</u> the source of the leak." [52]

As evidence he pointed out there were five other administration representatives at the meeting who said that Kathy did not distribute the list and made no statement speculating that 90 to 95% of the projects would be cut. Further, Assistant Secretary

[51] Powell Lindsay and Ann McFeatters, "Former Denverite: Girl in the White House Infuriates Dam Boosters" *Rocky Mountain News*, March 18, 1977.
[52] Stu Eizenstat to the president, March 21, 1977, Handwriting file, box 12, Folder 3/22/77 [1]. Emphasis in original.

Christopher Farrand (a Republican holdover) told Eizenstat that Kathy "did not see and could not have had access to the list before or during the meeting of the Congressional Environmental Study Conference where they supposed that the leak occurred." Eizenstat concluded, noting "as you may know, since you spoke to me about this matter, the Interior Department has assumed full responsibility for the release."[53]

Hit List Hearings

Despite the continued stories in the press defending the water projects against the "attacks" of the administration, the Carter Administration pinned its hopes on the hearings. Carter often styled himself as a populist; he thought that the hearings would provide the opportunity for the public—whom he believed supported him—to hear his side. Unfortunately, the hearings did not quite work out the way Carter had hoped. Even though the White House had made every effort to ensure a fair and balanced hearing—for example they equally divided the time between those speaking in favor and those speaking against the projects—virtually every politician and person of influence in their respective communities spoke to support the project, and condemn the President and everything about his water project review. The project's supporters seemed to win the press's vote, if not the public's.

Governor Scott Matheson's comments at the hearing in Salt Lake City are a good example. Matheson, a Democrat, had just taken office. He replaced the very popular Calvin Rampton who retired after four terms. Matheson enjoyed very high approval ratings as well. Matheson's remarks not only defended the Central Utah

[53] Ibid.

Project, but also demonstrated both the anger of the majority in the West as well as the idea that Carter and other political leaders did not know the West. He declared with rhetorical flourish:

> We've conquered the desert with water. We've nurtured our crops with water. We've sustained our populations with water. Water is the basis of our existence. When Washington talks of shutting off the primary element in our life system, you can understand why we recoil in horror….Our state was born on the principle of sacrifice. Our state will grow on the same principle. But, we must have the freedom and opportunity to control our own destiny. Our destiny is controlled by the availability of water and our wise use of it…Westerners have always said that they knew more about what they were doing than did the federal bureaucracy. We argued that we knew how to administer our own lands, mine our ore, manage our forests and plan our highways and cities. The only major limiting factor has been the lack of economic resource, largely caused by federal domination of our lands and of our water. There has always been the feeling that the federal government didn't trust us. The feeling was mutual … and still is.[54]

Another example at the same conference was Congressman Gunn McKay (D-UT). News reports covering the hearing noted that McKay was the only member of the state's entire congressional delegation appearing at the hearing. While he spoke on behalf of the entire delegation, he also stated that it was also in protest that the hearings broke with what they considered the congressional prerogative over the examination of water projects. McKay told reporters, "Our view is that the proper forum for defense of the project is before the congressional committees which are already acting on this and other water projects." Like many other CUP defenders at the hearing, McKay also pointed out that the courts had resolved any questions about the environmental objects raised when it upheld the project's environmental statement. Complaining that in effect two branches of the government had approved the project,

[54] Draft statement before the fact team regarding the Bonneville unit defense, March 23, 1977. Utah State Archives, Matheson Papers Series 4532 Box 8 FD 3, quotes on pages 3, 4, 5.

Carter had no business stopping it. He concluded, "in effect, the environmental philosophy of a small group of presidential advisors is elevated above the law of the land. We cannot allow such a procedure to be established."[55]

McKay's comments echo many of the same concerns and complaints that the supporters of the water projects had been making over the previous month. These included the president's interference with Congress's normal business, the lack of authority and even the illegality of the president's actions, and the arbitrary action of Carter. His comments also reflected the belief that a small group of environmentalists that had sway over the president, again pointing to the influence of Kathy Fletcher, among others.

These commonalities turned into a news story that would not die, in part because the administration did not seem to be learning from its mistakes. At the end of March the press reported a "third Hit List," this time covering small watershed and drainage projects. In reality, the initial announcement was only that the Soil Conservation Service would review all 1,185 projects authorized using the same criteria—safety, economics, and environmental objections—used to review all 320 major water projects. Colorado Congressman Jim Johnson and aids for Haskell and Hart used the announcement to spin the story against the Carter administration. They complained to reporters that once again they had not been notified and expressed anger at the sudden, unexpected announcement. Johnson, noting the administration planned the same kind of review on the small projects, retorted, "They can forget it. It

[55] Larry Weist, "Utahns Protest Procedure of Central Utah Project Hearings," *The Daily Herald*, March 25, 1977.

was a sham. The President said he was against those projects before they ever had the review. The whole hearing process was nothing but a PR process."[56]

As the hearing process neared completion on the original nineteen projects, the administration was completing its review of the additional water projects. Various lists had been releases or "leaked" at various points in the screening process. At one point another list of 45 projects under review was allegedly distributed by Kathy Fletcher, placing some of the blame for the political fallout once again at her feet. Cecil Andrus sent a copy of the list to Frank Moore noting that he had heard from Senator Henry Jackson that Fletcher distributed the list at a White House luncheon. There was no evidence in the archives if Fletcher was actually responsible for this "leak." It is possible that she actually did not, but was once again blamed as she had been for the original and second leaks. As noted above, Andrus has and continues to place the burden of blame—it seems unfairly—on Fletcher for the entire Hit List debacle.[57]

On March 23 the White House released the official results of the review. The administration decided to remove three of the projects—Dickey-Lincoln Dam, Painstville Dam, and Freeport, IL from the original list of nineteen because the projects were still under feasibility or NEPA review. Fourteen projects were added to the list for more extensive review prior to a decision on the final budget recommendations to Congress the President had promised on April 15. Because most of the fourteen had been circulated on the unofficial lists, the reaction to the announcement was mild. The White House also insured that Frank Moore's office

[56] Steve Lang, "Six More Water Projects Face Review" *Rocky Mountain News*, April 1, 1977.
[57] Cece (Cecil Andrus) to Frank (Frank Moore), No Date, Box NR1-5, Folder "3/16/77-4/15/77;" Cecil Andrus Interview with author, July 13, 2010.

had properly notified each member of Congress affected by the announcement prior to its release.[58]

Table 5 – March 23, 1977, Official Results Of The Review Of Water Projects.

Removed from Hit List		
Dickey-Lincoln	Maine	ACOE
Freeport	Illinois	ACOE
Paintsville Lake	Kentucky	ACOE
Officially Added		
Tennessee-Tombigbee Waterway	AL & MS	ACOE
Tensas Basin	Ark-LA	ACOE
Fulton	Illinois	ACOE
Hillsdale Dam	Kansas	ACOE
Bayou Bodcau	Louisiana	ACOE
Mississippi River Gulf Outlet	Louisiana	ACOE
Red River Waterway	Ark-Tex	ACOE
Tallahala Creek	Mississippi	ACOE
Applegate	Oregon	ACOE
Tyrone	Pennsylvania	ACOE
La farge	Wisconsin	ACOE
Dallas Creek	Colorado	BR
Narrows Unit	Colorado	BR
Lyman	UT/Wy	BR

April 5 Meeting with Democratic Leadership

The sensational "revelation" of another hit list in the press only fueled the flames of discontent that were still hot over the objectionable hearing process. The bad publicity and consternation of Congress came at a bad time for the White House. The water project review was far from the administrations only priority, in fact it seems that they felt it should have occupied less time and generated less trouble then it had. While White House staff attempted to find a way to convince Congress and find

[58] Edward Walsh, "Asks $844 Million in Drough Aid: Water Projects Added to 'Hit List,'" *Washington Post*, March 24, 1977.

a way forward on the water projects, Carter also—as noted in Chapter 1—simultaneously pushed a significant number of other important legislative packages through Congress. One of his top priorities had been an economic stimulus package including a $50 tax rebate. Tip O'Neill and other Democratic leaders, in a monumental effort to support Carter, had worked hard to push the measure quickly through the House. In spite of their prompt action, the package bogged down in the Senate.

In early April Carter held a private meeting with House and Senate Democratic leadership in an effort to come to some agreement on the passage of the tax rebate and move the rest of Carter's legislative agenda forward. In the process, Robert Byrd pressed Carter to make some compromises on the Hit List in order to win votes on other important issues. He complained to Carter:

> Mr. President, you raised the water projects question. Today in the Senate we would lose on the [tax] rebate. We'd get no more than 40 votes... I can't tell you, Mr. President, how much the water project list is doing to our efforts...Two senators from Mississippi are doubtful, and one or two in Alabama and Arizona. We've already lost two in Colorado and I think the senator from Maine (Hathaway). If we were to have a vote today we would lose hands down. Some senators aren't going to come along as long as those water projects are on the list. It's a battle you don't need. It will cost you—and us—here and on other, more important battles. Its timing was 100% off. Senator Long will vote for the rebate but he won't put his arm around any other senator so long as water projects in his state are on the list. If we lose, it would be a defeat for the president and for the Senate Democratic leadership. I want to be honest with you Mr. President. I'd be very insincere and dishonest with you if I didn't say this.[59]

It must have been a rare display of emotion for a man who was reported to have played it pretty close to the vest. But Carter remained unmoved. He refused to

[59] From White House leadership meeting, Wednesday, April 5, 1977 8-9, Steve O'Neill papers, Elizabeth Kelly files, box 9, folder 3, quoted in Frisch and Kelly, 77.

make any kind of trade or deal on the water project cuts. Dan Tate—Carter congressional liaison assigned to the Senate—attempted to follow up with Byrd to no avail. Tate wrote to Carter a few weeks later that his refusal to deal on the water projects had

> Confirmed the fears of those senators in attendance that you are all take and no give, that your decisions are irrevocable, and your demands are non-negotiable. The concern around the Senate is that you are naïve or selfish or stubborn, perhaps all three. Most senators see you as hard-nosed and they respect that, but they also see some signs which, to them, indicate that you are hard-headed and, even worse high-handed.[60]

The exchange between Byrd and Carter reveals many things, none of which has been demonstrated before. President Carter personally felt strongly about the water projects; strongly enough that he refused to back down, or use them as a bargaining chip. Thoughts of canceling the request for the tax rebate may already have been in his mind. Growing increasingly concerned about controlling inflation, rather than stimulating the economy Carter dropped the rebate request on April 14. This move, incidentally, did not win him any favors with Congress, particularly with Tip O'Neill and the Democratic leadership who had gone all out to support the president and secure the tax rebates passage in the House. Ironically, Carter's determination to push ahead with unpopular policies caused just as much friction. But this exchange not only exemplified the ongoing problems between Carter and Congress, it presaged continued troubles ahead as the administration completed its review process and prepare to take the debate to Congress.

[60] Farrell, 458.

Final Recommendation

Following the public hearings for the projects, Department of Interior staff returned to Washington D.C. to begin their re-evaluation. The president had set mid-April as the target date. Andrus sent his final recommendations to the White House on April 14 writing under signature: "If you need other info please call and I will be available. Remember that haste sometimes creates problems. BE CAREFUL & GOOD LUCK."[61] On April 15, Carter reviewed Andrus's report, and made his recommendations. He personally wrote the outline for his message to Congress to accompany his final recommendations. He instructed Eizenstat's staff to prepare the memo and "Prepare [the]dam project statement listing those which will be eliminated or cut back. In every case, itemize objections in strongest terms."[62]

Carter submitted his final recommendations to Congress on April 18. [63] For the Bureau of Reclamation projects on the list, the president accepted Secretary Andrus' recommendations. The president gave the green light for a few of the smaller projects on the original list, including Lyman in Wyoming and Dolores, and Dallas Creek in Colorado. Andrus recommended several of the larger projects, including the Central Arizona, the Central Utah Project's Bonneville Unit, and the Garrison Diversion to be allowed to proceed with significant modifications. He recommended Auburn Dam only proceed if a safe plan could be guaranteed. Because of strong local opposition, the Oahe Unit remained on the list to cut completely. It was the only

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[61] Andrus to Stu, undated handwritten memo, Office of Congressional Liaison, Frank Moore Files, Box 50, Folder "Water Projects, 2/18/77=10/6/78 [CF, O/A 625]." Capitalization in original.
[62] Carter to Stu, April 15, 1977, JCPL, Box NR1-5, Folder "3/16/77-4/15/77."
[63] *Public Papers of the Presidents of the United States: Jimmy Carter, 1977, Book 1*, 651-654; the same version of this statement including the individual summary sheets for each projects White House, Office of the White House Press Secretary, "Statement on Water Projects," April 18, 1977 in Carter Hit List Binder, U.S. Department of the Interior, Bureau of Reclamation, History Program Files, Denver.

Bureau of Reclamation project actively under construction to be cut. During the review process, Andrus had added the Narrows Unit in Colorado to the review list, and now recommended it also be cut, along two other smaller Colorado projects; the Savory-Pot Hook, and Fruitland Mesa projects.

Table 6 Final Hit List—Recommendations to Congress April 18, 1977

Zero Funding Recommended		
Applegate	Oregon	BR
Auburn Dam	California	BR
Fruitland Mesa	Colorado-Wyoming	BR
Narrows Dam	Colorado	BR
Oahe Unit	South Dakota	BR
Savery-Pot Hook	Colorado	BR
Atchafalaya River *	Louisiana	ACOE
Bayou Bodcau	Louisiana	ACOE
Cache River	Arkansas	ACOE
Grove Lake	Kansas	ACOE
Hillsdale Dam	Kansas	ACOE
La farge	Wisconsin	ACOE
Lukfata Lake	Oklahoma	ACOE
Meremac Park Dam	Missouri	ACOE
Russel Dam (Trotter's Shoals)	Georgia& South Carolina	ACOE
Tallahala Creek	Mississippi	ACOE
Yatesville Lake	Kentucky	ACOE
Duck River Dams, (Columbia and Normandy)	Tennessee	TVA
*Including Bayous Boeuf, Black and Chene		
Modification Recommended		
Central Arizona Project	Arizona	BR
Central Utah Project	Utah	BR
Garrison Diversion	North Dakota	BR
Mississippi River Gulf Outlet	Louisiana	ACOE
Tensas Basin	Ark-LA	ACOE

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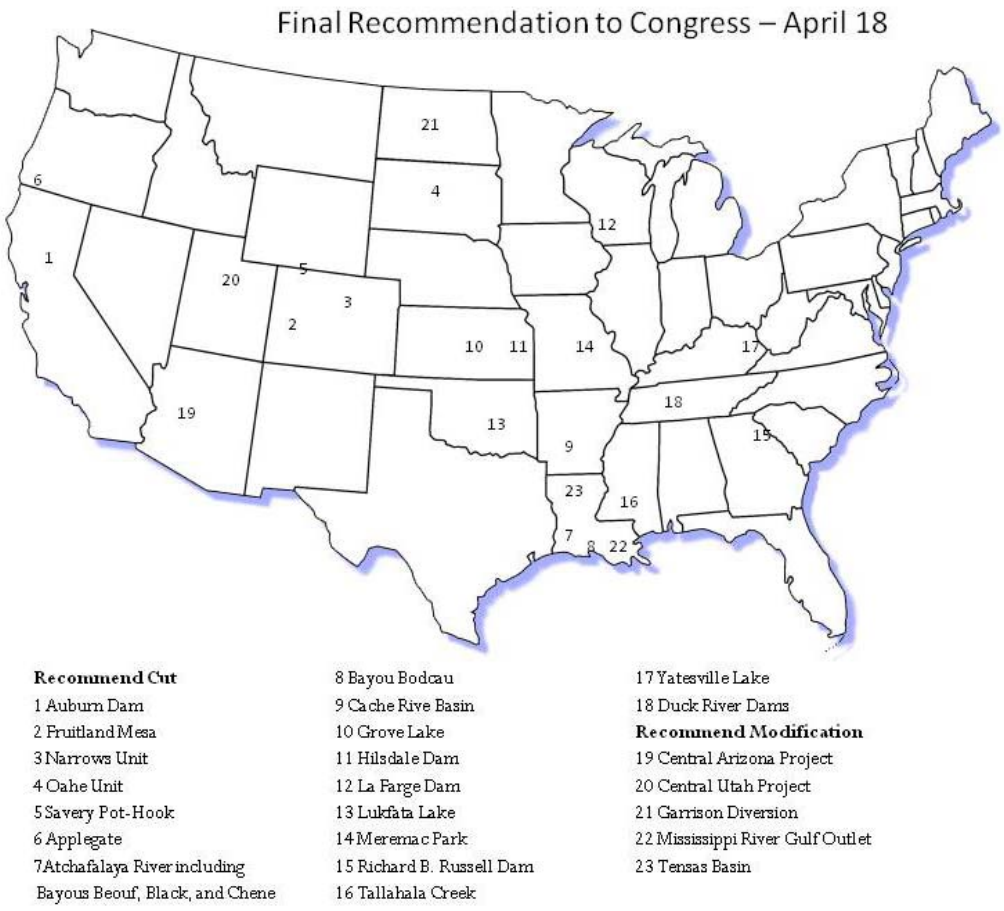

Figure 3 Map of Final Hit List Projects

Stuart Eizenstat announced the president's decision in the White House press room. When asked if Carter would veto the water project funds Eizenstat said "we're taking no position on that. Our hope is that Congress will find the proposal acceptable." Eizenstat also answered a question about the finalists being fashioned to placate powerful members of Congress. He insisted that was not the case, but the newspaper reported that was not the feeling among others in Washington who saw projects pushed by Senators John Stennis and Russell Long were no longer on the

list.[64]

Those whose projects Carter spared had reason to celebrate, and that is exactly what the small town of Cortez, Colorado, did. Cortez and surrounding communities had voted for the Dolores Project. Community organizers quickly prepared plans. The following day stores closed and schools let out early in Cortez, Mancos, Dolores, and Dove Creek. The event featured a parade, speeches, and barbecue with free beef, beans and beer. Local bean farmers provided free beans, ranchers provided 1,200 pounds of free beef, and the local beer distributor provided kegs of free beer. Area housewives prepared barrels of free salad. The newspaper reported that more than 4,000 people showed up, including Governor Lamm who flew in for the event.[65]

But the President's final announcement did not please everyone. Once again the press had managed to scoop the story. Wyoming Senator Malcolm Wallop complained in a letter to Frank Moore that his office received the official message from the president on April 19, "only four days later than I received most of the same information from members of the Wyoming press corps." He continued satirically, "the distance from the White House to Capitol Hill seems to vary from year to year depending upon the relative state of congressional-executive relations. I hope that in the near future you can work to ensure that the 11 block distance up Pennsylvania Avenue will be less than the distance to Wyoming, and that it will take fewer than four days to traverse." Getting to the heart of the letter, Wallop complained the President's statement was brief and did not include any details about the specific "relative

[64] Lee Roderick, "CUP Status On Water 'Hit List' Examined," *The Daily Herald, April 19, 1977.*
[65] "Cortez throws a party" (no attribution or date retained on clipping), Frank Evans Papers, Box 4, Folder, "April Clips."

importance" of each of the justifications for cutting the project.[66]

Frank Moore, who had been trying to repair his reputation since the inauguration—based on what he considered the inaccurate charge of not returning phone calls—did not respond for three weeks. Moore's May 10, 1977, letter blamed the press and pointed out that Wallop's office received the president's official statement several hours in advance of the official press release by the White House. But he explained the press had been calling White House and administration officials for weeks asking questions. Moore assured Wallop that senior staff had tried their best to keep the information from the press until his office notified members of Congress. He apologized, and then noted he passed the senator's request on to OMB.[67]

Colorado Governor Richard Lamm, who had been outspoken about the cuts since Andrus got off the plane in Denver that Sunday morning in February, stayed on the offensive. He sent a strongly worded, yet balanced letter to Congress in the days after the release of the final list. Lamm responded in the letter to Carter's official release which had been carried in the papers. Lamm said that the article

> Carried a report of your domestic counsel which proposes a shift of federal funding from 'expensive water projects' in the West to economic stimulus in the heavily populated Northeast. The reasons given were that 'expensive water projects already in place have done little to alleviate drought or flooding,' and that water storage isn't an adequate insurance against drought.[68]

Lamm did not immediately criticize the President. In fact he gave him a compliment on his Monday night speech on energy. Rather than blame Carter for the bad decision, he expressed a belief that the President was getting "ill considered and incorrect advice on the meaning of water storage projects to the West." Lamm pointed

[66] Malcolm wallop to Frank Moore, April 20, 1977. Natural resources box NR 15
[67] Frank Moore to Malcolm Wallop, May 10, 1977. Natural resources, box NR 15.
[68] Richard D. Lamm to Jimmy Carter April 20, 1977, natural resources box NR-15

out the domestic counsel statement was wrong and that "most of our major cities would be totally incapable of supporting their present population without its water projects." For example, Lamm explained that 200,000 acre-feet of the 265,000 needed would come from reservoir storage. Further, Fort Collins, Colorado Springs, Pueblo, Boulder, and Greeley were totally dependent on reservoir storage. He mentioned most other large cities in the West were in the same situation.[69]

He went on to say that Colorado was already looking at many of the policy solutions Carter proposed—"conservation and efficiency, water pricing, groundwater management, and thoughtful land-use decisions." But he explained that the reality was that many of the proposed solutions had serious drawbacks. For example, groundwater recharge was usually impractical because it was not possible to extract all of the water pumped into the aquifer. Lamm also noted the tremendous expense and energy needed to pump and retrieve. He concluded:

> We are willing to work with you to examine these policies. But frankly, Mr. President, we are worried about the quality of the advice you are getting about the West. Contrary to your statement that water projects have done little to alleviate drought, these water storage projects are our first line of defense against drought. Without them, our cities would become ghost towns, and our irrigated farms would disappear. I urge you re-examine your policies relating to the West. They do not serve you well.[70]

The White House reply to Lamm was less than enthusiastic, bordering on patronizing. It was not even clear if the President had been given the letter to read. The domestic policy staff responded to Lamm May 13. It was prepared by Kathy Fletcher—a fact which would have undoubtedly rankled Lamm had he known—and signed by Stuart Eizenstat. After thanking him for his "thoughtful letter" they said

[69] Ibid.
[70] Ibid.

that they “appreciate deeply you're concerned about the impact of the drought in the West, and realize that water storage projects are and will continue to be important. The president hopes to improve all our water resource programs by making certain they are effective and efficient. We look forward to working with you and other western governors in this effort.” To Lamm, these words likely rang hollow based on the administration’s past performance.[71]

Governor Lamm's letter is not the only example of the critical response the administration's final recommendations received. The *Denver Post* published an editorial excoriating the President. Like Governor Lamm, the paper's editors criticized the president's choice in advisers. Specifically the paper suggested the President “get better advisors, or insist that they begin responding to real questions not their own red herrings.” However, they chose a different part of the president's statement to attack, Carter’s argument that for a comparable cost water projects created fewer jobs. Specifically, the President message stated:

> The current pattern of water project distribution is contributing to the federal dollar drain out of the heavily populated Northeast or economic stimulus is needed. Many of our water projects simply shift economic development for no apparent policy reason.

The *Post* interpreted this in perhaps a different way than the president intended:

> Perhaps the biggest canard the President was handed (for release under his name 10 days ago) was the claim that spending federal dollars on western water storage was somehow depriving the “heavily populated Northeast:” of needed “economic stimulus” This is simply ridiculous. It pyramids false assumption and compounds it into incredible error. Since when has the federal budget insisted that to help one part of the country you had to withdraw financing from another area? Good programs rise and fall on their own merit. The government flings money by the billions at ill-defined social targets with no thought

[71] Richard D. Lamm to Jimmy Carter April 20, 1977, natural resources box NR-15.

> whatever of a dollar payback, plus interest…Probably, President Carter is concerned about the potential out-migration from the energy-short cities of the Northeast to the Sunbelt states of the Southwest, including Colorado. This is a serous concern. But the way to meet this challenge is to make the Northeast competitive. The Northeast should be given all kinds of assistance from the federal government. The theory that the rest of the country should be made economically weaker doesn't (to hazard a pun) hold water. That's the first lesson the President's water advisors should learn.[72]

President Carter's statement discussed the federal dollar drain, that is, states in the Northeast paid more taxes than they received back in federal spending. Carter simply noted the same thing that Senator Moynihan had pointed out in the March 10 debate on the Johnston amendment. States in the Northeast had a higher rate of unemployment. As a fiscal conservative, Carter simply suggested that instead of investing limited federal funds into water development projects, the government could "get more bang for its buck" by spending that money on economic stimulus. His argument was not against creating jobs in the West, but that because dams were capital intensive more jobs could be created by investing the funds in different public works projects. Carter felt those jobs should be created in the areas with the highest unemployment. While the *Post's* editors complained about this statement, ironically they did little to refute it other than offer their own red herring.

However, while Carter did not explicitly discuss the issue of regional spending disparity, it was nonetheless a real problem and source of complaint for politicians at every level in the economically struggling Northeast and Great Lakes states. The steel and automobile industry had been particularly hard hit by the "Great Recession" of 1974-75. Both industries had been facing increased competition from foreign manufactures. Further, American automobile companies had been unprepared for the

[72] "Posts Opinion, Western Water: Some Lessons for Mr. Carter's Advisers" *Denver Post,* May 1, 1977.

sudden shift in consumer tastes. The practice of "planned obsolescence" of American manufactures, the oil embargo and inflation motivated consumers toward vehicles that not only got better gas mileage, but that also lasted longer. This resulted in large layoffs and higher unemployment in the Rust Belt. Further contributing to high regional unemployment, as the economy slowed down during the recession and other industries cut production, they closed their older industrial plants in the region shifting production to newer plants that had been built in the Sun Belt during the Post WWII expansion.[73]

Even though the regional population shift had been creeping since the end of WWII, the recessions of the 1970s made the economic losses in the Frost Belt more pronounced. The high unemployment also exacerbated another problem faced by cities in the region, suburbanization. As the closure of older industrial plants led to the loss of tax revenues cities had to either raise taxes, cut services, or both. This only promoted more "flight" from cities which led to a "self-sustaining downward economic spiral." Increasingly, politicians began to see economic growth in the 70's as zero sum game leading to strong regional support for Carter's efforts. As we shall see, this regional tension only intensified during the Carter administration and the reactions of Governor Lamm and the *Denver Post* would be come even more pronounced and strident.[74]

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[73] Yanek Mieczkowski, *Gerald Ford and the Challenges of the 1970s* (Lexington: University Press of Kentucky, 2005), 151-2.

[74] For "self-sustaining" see, R. McGreggor Cawley, *Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics* (Lawrence: University of Kansas Press, 1993), 76-77. The importance of the regional differences in ending support for large federal water projects has been emphasized by Donald J. Pisani, "The Bureau of Reclamation and the West: 1945-2000," in *The American West in 2000* edited by Richard W. Etulain and Frenc M. Szasz, (Albuquerque: University of New Mexico Press), 60; "Federal Reclamation in the Twentieth Century: A Centennial Retrospective," in *The Bureau of Reclamation: History Essays from the Centennial Symposium,* Volume 2, (Denver:

The *Denver Post's* editorial provides yet again more evidence of how water project supporters continued to lash out at the president. Like other examples noted previously, it expressed anger, but did little to discuss the projects on their merits. Furthermore, like many others who spoke out against the president, it pointed to Carter's ignorance of the West, and highlighted the regional tensions that underlay the debate over the Hit List. President Carter began his term in office with a popularity deficit in the West which his policies did not improve.

In contrast to Governor Lamm and the *Denver Post*, other water development supporters continued to criticize the entire process. As noted above, many water project proponents thought the hearings and entire review process were a sham, as exemplified by the comments of Congressman Jim Johnson. The final results of the review process did not change any minds. Another example is former Commissioner of the Bureau of Reclamation, Ellis Armstrong. Armstrong gave the keynote address at an American Society of Civil Engineers national conference later that summer. In his address, he stressed the need for rational planning to meet the nation's natural resources needs. He singled out Carter's "hit list approach" as an example of spectacular failure to achieve that goal. He contended that the administration's "attempt to demonstrate a sound course of public policy consideration" was biased to "appease the extremists of the so-called 'Environmental' groups." Speaking about Blackwelder's *Disasters in Water Development* he continued:

> [T]he half-truth, several year old propaganda of the "Environmental coalition Groups" was hastily polished up and further enhanced by selective data from OMB and CEQ. They bear the familiar hallmarks

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U.S. Bureau of Reclamation, 2008), 625; and Tim Palmer, *Endangered Rivers and the Conservation Movement* (Berkeley: University Of California Press, 1986), 182-3.

> of shallow research, a dearth of technical understanding, and a half-truth approach with an apparent unwillingness to tell the whole story. [75]

May Meetings with Democratic Leaders

In the weeks after the release of the final list, Carter continued to face criticism in the press from his opponents from both parties. The president and the project's proponents continued to speak past each other while trying to convince the other of their position. But increasingly, with the hearings complete and the decisions made, the administration magnified its focus to improving working relations with the Democratic congressional leadership to win support and backing for the bill. At his regular weekly breakfast meeting with the Democratic Congressional leadership on May 3, Carter tried to sell them on the rationality of his final recommendations.

> I feel very strongly about the need to show fiscal restraint. I hope that you can support our analysis on the water projects. We have gone back and assessed them in a very professional way with the Army Engineers and the Interior Department. I see developing an unnecessary confrontation with Congress.

O'Neill pushed the president to reciprocate. If he wanted to see his water project cuts pass, then he would need to expand aid to the unemployed and poor. He concluded, "I can read this Congress, but if there is no move to serve those who need compassion we'll run into a heap of trouble." Tip O'Neill's response shows that not only did they remain unconvinced, but that a gulf separated their basic political philosophies.[76]

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[75] Ellis Armstrong "Emphasis on People," remarks at keynote session ASCE national specialty Conference on Energy, Environment and Wild Rivers in Water Resource Planning and Management, Moscow, ID, July 6, 1977 in Armstrong to Church, July 29, 1977, Boise State University, Frank Church Collection, Mss 56, Series 1.1 (Legislation) Box 108, Folder 3.

[76] White House leadership meeting, Wednesday, May 3, 1977," 9-10, *Thomas P. O'Neill papers*,

Carter responded, "perhaps we have excessively emphasized fiscal restraint. We don't want to appear callous and we are not wanting to rob the poor." [77] But while he took a conciliatory tone with O'Neill, he complained in his diary that day that the leadership did not understand his position at all. The allegation that his administration was "neglecting social programs in order to try to balance the budget in four years" irritated Carter.

> I took strong exception to this... because the Congress doesn't oppose what we put forward, there's been very little knowledge about the progress that we're trying to make. In my opinion there is no way to have available financial resources in two or three years for better healthcare, etc., if we don't put some tight constraints on unnecessary spending quite early.[78]

Undoubtedly the news that the House Subcommittee had passed budget recommendations funding all of the Hit List projects but one that same day probably did not help the President's mood. Walter Mondale, Stu Eizenstat, and Frank Moore huddled after the vote to review strategy. They wrote to Carter the next day providing a status update and recommendations. They noted that the markup by the full appropriations committee was scheduled for May 25 and predicted it would follow the subcommittee's recommendations. If the committee followed that course they predicted the full House would follow based on a recent House vote. Two weeks previously, California Congressman George Miller had attempted to attach an amendment to strip funding for water projects out of the concurrent resolution. Miller's amendment failed spectacularly by a vote of 252 to 143. Despite that

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Elizabeth Kelly files, box 9, folder 3, quoted in Frisch and Kelly, 78-9.

[77] Ibid.

[78] Carter included this passage in both his 1982 memoirs and the expanded collection of annotated excerpts published in 2010. See, *Keeping Faith*, 77, and *White House Diary*, 45-6.

outcome, the three thought that they could possibly do better on the House floor, "if a more intensive lobbying effort is employed. They also noted that of the fifty-five members on the full committee, only eight voted for the Miller-Emery amendment.

The three recommended that they should take no actions to defer or rescind 1977 funds and focus on modifying the budget for 1978. They based their recommendation on the Johnston amendment which the conference committee had accepted which indicated the Senate's intentions. They also recognized that it could be easily overridden because it would be an impoundment and could be defeated by a simple majority in either house; whereas a veto of the 1978 appropriations could be overridden only by two-thirds vote in each house. They also noted the presence of a final decision on the projects announced in April that indicated there would be no recessions or deferrals sought. Despite that, they noted that Andrus believed the administration had an obligation to seek deferrals on projects that had been determined the unjustified. But Andrus recognized that there were political problems pursuing that course of action.

The second recommendation on the 1978 funds included the following strategies. First, they had considered initially issuing a critical statement of the subcommittee. However, Frank Moore determined that would not help the cause. He recommended instead sending a personal letter to each member of the full appropriations committee indicating the serious need to delete funding for the project. Further, they recommended that the letter emphasize the budgetary concerns rather than environmental.

Second, when the bills moved to floor debates, they would secure sponsors for

amendments to delete all eighteen projects. They thought offering amendments to delete only some of the projects "would appear to place the administration in the posture of further conceding." Finally they stated that if the appropriations bill included funding for "an unacceptable number of water projects, a veto could be used." Frank Moore believed they would have a "decent chance of sustaining such a veto in the house which would vote first." They concluded the letter, suggesting continued expressions of concern from the president, vice president, and Secretary Andrus, and "privately the leadership should be told explicitly that a veto is likely, so that there can be no complaint that Congress did not know your intentions."[79]

The memo also included the draft letter to members of the House appropriations committee. Carter extensively edited the letter before he signed off on it. He added that he was not only disappointed but concerned The words "deeply disappointed" were in the draft and Carter changed it to read "I am deeply concerned and disappointed." In the second paragraph, Carter added the word careful to the first sentence which reads, "my recommendations, announced April 18, were the result of a thorough and detailed review by the Corps of Engineers, the Secretary of Interior, Office of Management and Budget, and by me and my staff." He concluded, "if wasteful spending is to be curtailed and necessary programs financed, and the budget balanced by FY 1981, the Congress will have to assess and eliminating needless and counterproductive projects."[80]

Carter responded on May 31 to a letter from Russell Long about the interest

[79] Walter Mondale, Stu Eizenstat, and Frank Moore to Jimmy Carter, May 4, 1977, White House Subject File, Natural Resources, box NR- 15, folder NR-1
[80] JCPL, Office of Congressional Liaison Moore, Box 50, Folder Water projects, 2/18/77-10/6/78 [cf., O./A 625]

rates used to calculate benefit-cost ratios. He explained to Long that he consulted with OMB to "supplement my own views on the subject." Carter remained convinced that using the higher discount rate was appropriate. He knew that lower rates had been used in the past but explained, "I think today's rate should be used in assessing today's expenditures." It was obvious to Carter why proponents of the projects preferred lower rates because they improved the score. But he pointed out that a substantial number of economists favored an even higher rate. He took time to emphasize that besides the economic arguments, he had also considered environment, safety, and employment impacts. He concluded, "I'm glad to have had the benefit of your thoughtful views on the subject and, while I do not expect you to agree with me, I believe this candid exchange of views is highly constructive. Thank you for taking the time to write."[81]

At another White House meeting with the Democratic leadership on May 19, Carter again found himself on the defensive. This time House Majority Leader Jim Wright (D-TX) confronted the President with another argument project proponents had been using effectively; they pointed out that the administration supported millions of dollars in foreign aid for water projects without any requirement for cost-benefit justification. Western politicians in particular, resurrecting the platitude that the West was a colony of the federal government argued that if the administration could support foreign aid without a positive cost-benefit ratio, why could it not help its own citizens? When Jim Wright brought this point up with the president he reportedly smiled and blushed saying, "I was wondering how you would fit that in!" Wright responded:

[81] Jimmy Carter to Russell Long, May 31, 1977, White House Subject File, Natural Resources box NR 15, folder NR-1 5/1/77-5/31/77.

> Mr. President, we're getting along fine despite the efforts of the news media. But I see this little cloud on the horizon no bigger than a man's hand... So before we get set in concrete on the water projects, I would like to bring in Tom Bevill, Bizz Johnson, and a half-dozen others to talk about it...[82]

Carter encouraged the meeting and subsequently Cecil Andrus met with Tip O'Neill and Jim Wright the following week for a breakfast meeting. Andrus reported back to Carter following the meeting that O'Neill was desirous to resolve the issues, but that members represented by Jim Wright did not think the House would make any further cuts than they already had. Wright believed the majority opinion was that the House had already met many of the president's objections by eliminating Grove Lake, with the possibility of the Senate eliminating up to two more projects for a total savings of $200 million. Andrus concluded:

> Frankly, Mr. President, in my opinion the speaker is an ally and wants to be helpful, but we are headed for a confrontation that will probably require your veto (if you choose to). The house knows it cannot override, therefore, they will send the bill back to Mr. Bevill's committee instead of risking the override vote and we will be right back where we are today. I am not optimistic about any change in their posture, but I would also add that they are acutely aware of your personal firmness in this matter.[83]

Carter had an opportunity to follow up with Tom Bevill in a private lunch two days later. The lunch had been arranged following Wright's suggestion at the May 19 meeting. The president also found the House leadership did not want to move further than they already had. While his personal pet project— Tennessee-Tombigbee waterway project—had been spared, Bevill continued to oppose further cuts. Just as he had from the day the list was announced in February, Bevill considered funding of

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[82] "White House Leadership Meeting, Wednesday, May 19, 1977,"-10, *Thomas P. O'Neil papers*, Elizabeth Kelly files, box 9, folder 3, quoted in Frisch and Kelly, 79-80. Smiling and blushing in the description used to describe the president's reaction by John Brademas in his meeting notes.
[83] Cecil Andrus to the president, May 25, 1977, Handwriting file, box 27.

water projects a congressional prerogative and resisted any interference by the President. If Carter understood the politics of Bevill's position, he did not let on. Instead he used his engineer's logic and attempted to discuss the merits of the project on a case-by-case basis. Bevill left the White House unmoved. Political scientists Kelly and Frisch question if Carter understood how much his cuts threatened Bevill's political power base. "His ability to provide funding for other member's projects—and protect that funding—was the basis of his influence." To acquiesce to Carter's request for project cuts would erode Bevill's power and in turn threaten the Tennessee-Tombigbee as he would no longer be able to trade votes to overcome any future challenges to its funding.[84]

These meetings with political leaders in May, and the House Appropriation Committee's actions clearly indicated to Carter and his administration that they faced enormous political challenges to secure any further budget cuts to water projects. As Andrus indicated, increasingly, the administration began to move in the direction of preparing for a veto of the appropriations bill. In early June, the administration began to court allies in anticipation of such an outcome. On June 9, Carter sent letters to sixty-three House members who signed the February 14 letter prior to the announcement of the hit list encouraging Carter to cut funding. He also sent letters to the 142 members of the House who voted on April 27 for the failed Miller amendment that attempted to trim $100 Million in water projects funding from the concurrent resolution. The virtually identical letters expressed concern over the House Appropriations Committee's reporting out a bill funding all but one of the deleted projects. Adding insult to injury, it also added construction starts for twenty new

[84] Frisch and Kelly, 80.

projects. Like the letter to the members of the appropriations committee, Carter concluded, "If wasteful spending is to be curtailed and necessary programs financed, we will need to work together to eliminate needless and counterproductive projects. I personally appreciate your assistance in this effort."[85]

Preparing for the Worst – Veto Strategy

When the House took up consideration of the appropriation bill on June 14, the White House worked with Butler Derrick (D-SC) to amend the bill. Derrick, joined by Silvio Conte (R-MA), a longtime opponent of pork-barrel spending, offered an amendment to strip all 18 of the water projects. After a heated debate, the "Derrick Amendment" failed, but only by a small margin, 194-218. Despite the failure of the amendment, Carter and his allies had reason to celebrate. The 194 votes in favor of the amendment and against the water project's funding was well above the margin needed to prevent the House from overriding a Carter veto.[86]

Once again, Carter ensured that he reached out to his supporters and allies in a further attempt to build strength and support. Carter sent personalized letters to each of the 194 members of the House who voted for the Derrick-Conte amendment. In the letter he stated, "It was a difficult test, on an issue to which I am deeply committed. I am encouraged by the outcome of the vote and I am especially grateful for your support." The White House also held a special reception June 21, hosted by the Congressional Liaison's office, Derrick, other members of Congress and their staffs, White House staff, representatives of environmental groups, and lobbyists who

[85] Carter to [Member of Congress], June 9, 1977 JCPL, Box NR 15, Folder 6/1/77-6/9/77.
[86] Gaylord Shaw, "House Rejects Bid to Halt Water Projects," *Los Angeles Times*, June 15, 1977,

worked to build support for the president on the Hill. Some of the environmental supporters invited included Brent Blackwelder, John Burdick, and Ed Osann. Moore's office invited Derrick, Conte and twenty-five other members of the House.[87]

Frank Moore requested the president to spend a few minutes with them. Moore thought that even just two-minutes would go a long way with his supporters. Carter gave a tentative OK, but did not attend according to the handwritten notes on the form. It is unknown why Carter chose not to attend. His schedule diary indicates that he could have attended if he chose. Perhaps the reason was his penchant to conduct business via paper rather than face to face. He may have been too buried in paperwork and the matters of the day to justify leaving his desk. Whatever the reason, Carter missed a golden opportunity to support his ground forces, and boost their morale for the oncoming battle. As discussed shortly, his absence also may have led to a miscommunication or misunderstanding in the coming weeks that would prove especially difficult.[88]

Of further interest to this study, Carter Congressional Liaison's office analyzed the vote on the Derrick-Conte vote. Frank Moore's team found the House largely split along regional lines with members from the North, East, and Midwest supporting the president's position 137-52, conversely the South and West opposed the president by

[87] Carter to [Member of House], June 15, 1977; Rick Hutcheson to Frank Moore ad Tim Kraft, June 20, 1977
JCPL, Box NR 15, Folder 6/1/77-6/9/77.

[88] Rick Hutcheson to Frank Moore ad Tim Kraft, June 20, 1977, for Carter's preference see Stuart Eizenstat, "President Carter, the Democratic Party, and the Making of Domestic Policy," in *The Presidency and Domestic Policies of Jimmy Carter* in *The Presidency and Domestic Policies of Jimmy Carter* edited by Herbert D. Rosenbaum and Alexej Urginsky. (Westport, CT: Greenwood Press, 1994), 4. For Carter's schedule see "Daily Diary," June 21, 1977.

44-145. The voting thus proved the rhetoric exemplified by Moynihan, Matheson, Lamm, the *Denver Post*, and others discussed previously.[89]

In another interesting note, political scientists Frisch and Kelly find Congressman Derrick's support for the administration surprising in that it came despite the fact that the Richard B. Russell Dam was partially located in his district. Traditional interpretation of iron triangles would suggest the opposite would be true. To account for this anomalous behavior they suggest the fact he was elected in 1974 and that he was a "reformer sympathetic with the deficit control philosophy that Carter brought to the White House. When push came to shove, Derrick chose principle over his concern about the reelection." But perhaps there is another explanation that Frisch and Kelly did not consider. Derrick's personal principles—like Carter's—may have included not only economic but an environmental ethic regarding such projects that influenced his actions. He may also have been influenced by the success of the efforts by the National League of Conservation Voters that demonstrated "traditional" unconditional support of water projects could increasingly backfire.[90]

While the House version of the bill succeeded, it did not do so by a veto-proof margin. With Carter's threat of a veto hanging in the air, Senator Stennis convinced his subcommittee to cut more projects. He felt that if they cut eight additional projects, bringing the total to nine, the president might agree to the halfway measure. Additionally, to make the compromise more acceptable to the president, the Stennis subcommittee agreed to delete all new starts by the Army Corps of Engineers. Stennis

[89] Frisch and Kelly, 82-3.
[90] Ibid, 83-4.

told reporters “he did not know whether his panel's proposals, if enacted, would be sufficient to avoid a veto.”[91]

When word of the subcommittee’s actions reached the White House, Eizenstat apprised the president that the subcommittee provided half funding for the Bayou Bodcau project in Louisiana, a nod to Senate Finance Committee Chair Russell Long and Energy And Natural Resources Committee member Bennett Johnson. The subcommittee included full funding for Richard B. Russell dam which the president opposed and some modifications of five other projects suggested by the president. Further, it fully funded an unmodified Central Utah Project, which Eizenstat noted in his memo, “you have privately indicated to Frank [Moore] and me that you have an objection to this funding.”[92] Eizenstat concluded the memo advising the president that he should:

> At least make an effort to knock out all of the projects in the Senate; and then support Senator Stennis's position or some similar compromise as a fallback position. To do otherwise may put us in a weak position in the conference. In order to get congressional passage of our water reform policy in the near future and in the long term, we will need the full support of those congressmen who voted with us to knock out all of the projects. Therefore, at this stage, we should take no action, which signals them to retreat from the administration's determination.[93]

Heeding Eizenstat's advice, the Carter administration backed a Senate floor amendment, sponsored by Thomas McIntyre, to strip all the projects the president had recommended for cuts. The amendment failed during floor debate on July 1 by a vote of 52-34. During the consideration of the bill that day, Colorado Senator Floyd

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[91] “Washington Update,” *National Journal* 9 (June 18, 1977):957, 962.
[92] Memorandum for the President from Stu Eizenstat, June 20, 1977, JCL, Office of Congressional Liaison, box 50, water projects, quoted in Frisch and Kelly, 84.
[93] Stu Eizenstat to Jimmy Carter, June 20, 1977, JCL, office of Congressional liaison, box 50, water projects.

Haskelll offered an amendment to restore funding to eight projects cut by Stennis' is a committee. Haskelll remained upset with Carter, but now was upset with Stennis, whose committee had cut three Colorado projects to reach a number they thought the president could agree to. According to the newspaper report Haskelll then "noted bitterly that six of the eight water projects in the Senate bill were in states with senators on the subcommittee." He also noted that the $1.6 billion Tennessee-Tom Bigbee had made it off of Carter's list despite being an environmental disaster "subject to leash laws in 50 states." In the end he argued, the projects did not succeed or fail on the merits, but on "the fortunes of committee assignment." Haskelll's amendment failed by a vote of 19-73. The Senate adjourned before final approval on the bill was taken. In the end, the Senate approved the Public Works appropriations bill on July 13 by a vote of 85 to 3.[94]

Table 7 List of Nine Projects Cut by Senate

Fruitland Mesa	Colorado-Wyoming	BR
Narrows Dam	Colorado	BR
Oahe Unit	South Dakota	BR
Savery-Pot Hook	Colorado	BR
Grove Lake	Kansas	ACOE
La farge	Wisconsin	ACOE
Lukfata Lake	Oklahoma	ACOE
Meremac Park Dam	Missouri	ACOE
Yatesville Lake*	Kentucky	ACOE

* The only project of the nine to subsequently receive funding to completion.

[94] Frisch and Kelly, 86; Walter Pincus, "Senate Works on Funding Bill for 9 Projects Cater Fights," *Washington Post*, July 1, 1977; Walter Pincus, "Senate Backs New Drama Arms, But Keeps Veto Option," *Washington Post*, July 14, 1977.

Compromise: Carter Anxious To Avoid a Veto.

The bill now moved to the conference committee. With the threat of a Carter veto in the air, the committee considered what could be done to compromise with the president, who appeared determined not to budge an inch. Speaker Tip O'Neill was anxious to avoid a veto battle. Tip O'Neill's biographer, John Ferrell wrote, "O'Neil, the ultimate party loyalist," had made it his goal to avoid a first-term veto and the prospect of a Democratic Congress trying to override a Democratic president. Not only did O'Neill have political reasons for avoiding a veto, he had also started to warm to the President. In addition to their weekly breakfast meetings, O'Neill had dined privately at least twice with the Carters, and had flown on Air Force One to accompany Carter to his Notre Dame commencement address. Their relationship warmed.[95]

Further, in early June, Ivy Sprague had warned O'Neill to avoid a veto. He wrote:

> If Congress were to override [an appropriations bill], the damage to Carter would be considerable. This argues strongly for an accommodation. Even a failed override attempt would be damaging as we go forward with energy, tax reform, health insurance, reorganization, and other critical legislation.[96]

But O'Neill was likely not the only one looking to avoid using the veto. At a speech delivered early in his campaign, Carter had created a list of traits that described his vision for America. In this list he included, "I see an America with a president who does not govern by vetoes and negativism, but with vigor and vision and positive,

[95] Farrell, 460-2.
[96] Memo to the speaker from Ivy Sprague, June 1, 1977,"Vetoes," JCL, office of Congressional liaison, box 112, speaker memos, quoted in Frisch and Kelly, 86.

affirmative, aggressive leadership." This type of feeling may explain why Carter was reluctant in his first year in office to use the veto extensively.[97]

With both Carter and O'Neill looking to avoid an embarrassing veto, O'Neill called Carter on the phone to try and secure a compromise. O'Neill offered to cut out all of the new starts the House had included in its version of the Bill, along with a provision to remove any funding for the $2.1 billion Clinch River Breeder Reactor Project which he also opposed. In a move that shocked his senior staff and allies in Congress, without hanging up the phone to think about the offer or consult with those around him, he agreed to it on the spot. Later, in his 1982 memoir Carter described in the compromise with Tip O'Neill "a hasty agreement:"

> The speaker had called me during the heat of the congressional debate to say, "Mr. President, we have worked out a good compromise on the water project... with all of the Senate deletions maintained, no new projects approved, and a reduction of funds for the Clinch River Breeder Reactor. If you can accept this without a veto, I believe we can get it through the Congress." I thought for a few seconds, considered the progress we made in changing an outdated public-works system, decided to accommodate the speaker, and then agreed to his proposal.[98]

To his advisors, calling the decision "a hasty agreement" must surely have seemed a colossal understatement. In an oral history interview, Eizenstat reported that he was in the room when the call came in from Tip O'Neill. "He made the decision, without Frank Moore, without staff consultation. And I said to him, you can't do that, we have 194 Democrats who will support you, what did you do?"

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[97] "I see America" May 27, 1976 in Cincinnati Ohio to the AFL-CIO convention reproduced in Jimmy Carter, *A Government as Good as Its People* (New York: Pocket Books, 1978), 105.
[98] *Keeping Faith*, 79.

The compromise undermined the positions of Carter's staunchest congressional allies. Further, he had once again taken action without conferring with his staff or his allies on the Hill who would feel betrayed.[99] Even more baffling, the compromise contained a flaw; there had been no promise from Bevill or Stennis that the cuts would be permanent. As Marc Reisner noted, it is unclear if O'Neill had promised the projects would be deauthorized, or if Carter had made an assumption or taken it on good faith. But if Carter had read or been briefed on any of the press report of the Senate debate on July 1, he would have known that Stennis and his Republican counterpart Milton R. Young (R-ND) had both stated that they considered their cuts only apply to that year's budget. Young stated a preference to fund all the projects, but knew that to do so would result in a veto. He specifically stated, "However, most, if not all, of those projects being deleted now will be in the program next year or shortly thereafter. I cannot help but feel this whole situation will settle down, and we will go back to our old procedures."[100]

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[99] Stuart Eizenstat, Miller Center Interview, 61. See also, Frisch and Kelly, 88. Frisch and Kelly note Marc Reisner erroneously attributed the decision to make the deal to Hamilton Jordan. Reisner based his information on an interview with Jim Free. See, *Cadillac Desert*, 320. Frisch and Kelly suggest that "while Jordan may have recommended that the president accept the deal, he was not present when the conversation occurred." However, it is unclear how Jordan would have recommended that to the president when he wasn't in the room and Carter made the decision before hanging up the phone.

Marc Reisner makes another error in his narrative in the subsequent paragraphs. After explaining about the encouragement of Andrus and Guy Martin to veto the bill, Reisner concludes his story, "Up until the last moment," says Free, "I was being told, and was telling everyone, that he was going to veto." Then with no advance word to anyone, Carter signed the bill. This narrative confuses the chronology and takes the story out of context. He ends the paragraph stating that Carter signed the bill, but the context of "that moment" Dan Free is discussing was the moment Carter accepted the compromise with O'Neill. Between the final vote on July 26 and August 8 Carter had opportunity to veto the bill, but was not apparently telling anyone he intended to veto the bill, or encouraging his staff to do so. In hindsight, given that Stennis, Young, and Bevill all clearly and publicly stated they intended to put the projects back in the following year, Carter should have vetoed the bill and insisted that he would only compromise on those projects if they were deauthorized by the appropriations bill.

[100] Walter Pincus, "Senate Works on Funding Bill for 9 Projects Carter Fights," *Washington Post*, July 1, 1977; *Cadillac Desert*, 320.

For his part, Senator Stennis attempted to reassure Colorado senators Hart and Haskelll who, as noted above, were upset that three of their state's projects had been cut. Echoing Young, Stennis recognized they had to cut some projects to avoid Carter's veto; but, he stated, "next year all of these matters will be considered that senators desire and put in some kind of appeal if they deserve it."[101]

The newspapers repeated these statements. Walter Pincus' article in the *Washington Post* stated in two different places, "The conferees made clear they considered their actions on the bill only temporary funding delays." The article repeated a few paragraphs later that specifically for the water projects, the conferees said, "Funding cuts for hit list projects originally approved by the House and dropped by the Senate were only a delay until next year."[102] An article appearing after the House approved the conference committee report quoted Tom Bevill speaking about the projects cut, "We intend to finance them... this is a temporary position. We are just going along to get this bill through."[103]

President Carter signed on August 8, 1977. In his signing statement Carter called the bill "a precedent-setting first step in trimming spending on unnecessary, expensive, and environmentally damaging construction projects." He claimed success in getting Congress to cut nine projects in response to administration's recommendations. He called it "unprecedented progress" and vowed to continue a "major effort" to cut spending on wasteful water projects and work for comprehensive water policy reform. Carter stated he "remained very concerned" about the "ten

[101] Adam Clymer, "Senate Compromises with Carter on Killing Them," *New York Times*, July 1, 1977.
[102] Walter Pincus, "Panel Drops 9 Projects on 'Hit List,'" *Washington Post*, July 21, 1977,
[103] AP. "Water projects bill approved by House," *Washington Post*, July 26, 1977.

projects remaining in the bill." He called on Congress to take action on these deleted projects which should be "deauthorized immediately."[104]

Carter wrote of the compromise in his memoirs,

> I made some mistakes in dealing with Congress, and one that I still regret is weakening and compromising that first year on some of these worthless dam projects… This compromise bill should have been vetoed because, despite some attractive features, it still included wasteful items which my congressional supporters and I had opposed. Signing this act was certainly not the worst mistake I ever made, but it was accurately interpreted as a sign of weakness on my part, and I regretted it as much as any budget decision I made as president.[105]

Carter's allies did feel betrayed about the decision. But no amount of hindsight was needed to realize that. His supporters immediately howled in protest. A spokesman for the coalition for water project review… termed the compromise "a complete cave-in" at the White House "We believe the president has betrayed his friends," the spokesman said. The article noted that Congressman Derrick felt especially betrayed. Derrick told reporters that Frank Moore had assured him—at the June 21 reception held to celebrate Derrick's work rallying support for his amendment which proved Congress could not pass a veto proof bill—that the president would never sign the public works bill if it contained money for the Russell project. Derrick told the reporters that came "direct from the president."[106]

Derrick joined eight other representatives—Moffatt, Tucker, McHugh, Edgar, Tongas, Bedell, Miller, Maguire, and Kosstmayer—who sent a joint letter expressing "deep disappoint[ment]" and "dismay" that Carter had decided to compromise. Carter sent individual handwritten letters in reply asking for their continued support.

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[104] *Public Papers of the Presidents of the United States: Jimmy Carter, 1977*, Book II, 1461.
[105] *Keeping Faith*, 79.
[106] Walter Pincus, "Panel Drops 9 Projects on "Hit List,'" *Washington Post*, July 21, 1977.

> My goal is the same as yours, to eliminate the pork barrel water projects and to build a production model breeder reactor only where it is needed and we are sure of the best design. With your help we have already made surprising progress. This will be a continuing struggle which cannot be concluded at one stroke. Stick with me, and together we have a good chance to win.[107]

According to an interview with Frisch and Kelly in April 2008, Butler Derrick stated that Carter "never fully regained his credibility in the house" after he failed to veto the bill. He continued, telling Frisch and Kelly, the decision to veto was a critical moment in the presidency:

> I do believe the water bill was, to a large degree, the downfall of the administration. Not because he was not on the correct side of the issue, he was, but when he 'blinked' he wrote the obituary for his administration and the second term.[108]

Derrick is certainly not alone in this assessment. Frisch and Kelly contend that the hit list was a major source of criticism by members of Congress, the media, and the public—along with the battle over the Panama Canal treaty and $50 rebate. Further, "his early decision to favor fiscal control over fiscal stimulus, which partially played out in the water projects fight, caused Carter to seem indecisive and feckless."[109]

This caricature stuck with many of his critics for the balance of his presidency. This criticism of the president was further ingrained by events later that summer and fall. Carter Biographer Peter Bourne noted that the Hit List compromise was the beginning of a period which saw the administration losing momentum and running into trouble in the late summer and fall during the same time as Burt Lance's

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[107] Tobby Moffett, et al to Carter, July 29, 1977; Jimmy Carter to Moffett, August 2, 1977, JCPL, Box NR15 Folder "NR 7-1 8/1/77-12/31/77."
[108] Frisch and Kelly, 86-87.
[109] Ibid, 92-3.

resignation and the energy bill getting bogged down in the Senate. He argues this hurt Carter, particularly with the media who saw Carter as "vulnerable and on the defensive," particularly after their role in ousting Lance.[110]

The entire affair over the Hit List left Vice President Mondale feeling exasperated. His own personal friendship and loyalty to Carter kept him from confronting the president directly. He would continue, as he had done previously, to try and help steer the president out of messy, unneeded confrontations with Congress. It proved to be an incredible challenge which left him so frustrated that by 1980 he even, for a time, considered resigning.[111]

Time has softened some of the strong feelings, and undoubtedly mindful of his legacy Mondale now takes a moderated view. In his 2010 memoir he stated:

> We won a little on the merits, be we lost a lot on the politics. Over time, however, I believe Carter changed the way people think about those federal infrastructure projects. The *New York Times* editorial page came around to our side, noting the environmental hazards and the international frictions caused by diverting rivers. Environmental groups raised their level of scrutiny on dam and diversion projects, and voters applied a more balanced view to the benefits and costs.[112]

In many ways, the trouble in 1977 over the water project review was a direct result of Carter's core personality that clashed with the political style of Washington. Stuart Eizenstat, observed:

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[110] Peter Bourne, *Jimmy Carter: A Comprehensive Biography from Planes to Post Presidency* (New York: A Lisa Drew Book/Scribner, 1997), 415.
[111] Steven Gillon, *The Democrat's Dilemma: Walter F. Mondale and the Liberal Legacy* (New York: Columbia University Press, 1992). For differences with Carter see 191-5, for contemplating resignation see 256-9, especially 258. Though it should be noted that Gillon states in his preface that Mondale "thinks I have exaggerated his differences with president carter [and] overplayed his flirtation with resignation as vice president during the spring of 1979," see, preface xxii.
[112] Walter Mondale with David Hage, *The Good Fight: A Life in Liberal Politics* (New York: Scribner, 2010), 184.

> Jimmy Carter possesses a preference for making decisions 'by paper' rather than 'by people,' insisting on full data and complete written materials and eschewing decisions by oral argument whenever possible… Jimmy Carter possesses the belief that there are comprehensive answers to problems... Far from thinking too small, he thought too boldly at times, wanting more than the political system could produce. He believed in laying out a total solution to rally support, although he was always willing to settle for half a loaf at the end."[113]

Eizenstat's insightful observation gets at two important points that this narrative has shown thus far. Carter's preference to "make decisions by paper" created significant friction with Congress. Many politicians and observers in Washington noted it in 1977 and since. The preference did not just affect the outcome of the hit list, but proved problematic for every major policy item on Carter's cluttered agenda. Specifically affecting the outcome of the debate over Carter's "review of water projects" was the decision to move forward without consultation, or even prior notification of Congress. The continued reliance on paper to convey the outcome of the review also prevented many in Congress from feeling a part of a review project that they felt also violated their prerogative.

Further, Carter's belief in "laying out a total solution" rankled congressional members who felt that his solutions amounted to arbitrary decisions, that in some cases violated not only tradition but what had been written in the law.

Over the course of the first six months of his presidency, Carter had taken on a thorny political issue. He did so knowing the choice involved serious political ramifications and consequences. However, it also seems that Carter was not prepared for the extent and voracity of the onslaught which continued to catch him off guard.

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[113] Stuart Eizenstat, "President Carter, the Democratic Party, and the Making of Domestic Policy," in *The Presidency and Domestic Policies of Jimmy Carter*. Page 4

To use a water metaphor, the Carter administration's mistake acted like giant boulders dropped into the fast flowing currents of congressional politics, each one creating new rapids and dangers which imperiled his raft. Having successfully run the rapids, Carter settled for his "half loaf." While he did not realize it at the time, doing so punctured his raft and left his administration bailing water to save the boat.

Chapter 3
Intermingled Waters or New currents in Federal Water Policy:
Comprehensive water policy reforms, acreage limitation, and the FY 1979 Appropriations veto

> The day of considering money to be the only solution to water problems is over. We want results not in the form of more dams and canals and the like, but in the form of more rational use of this very precious resource.
> —Cecil Andrus, Secretary of the Interior[1]

The White House was a busy place during the early months of the Carter Presidency. The administration simultaneously pushed forward an economic stimulus package, governmental reform, the creation of the new Department of Energy, and several other legislative efforts that under any other president would have been considered significant. Many have argued that the White House tried to do too much too fast. Carter himself wrote in his diary a week after taking office, "Everybody has warned me not to take on too many projects so early in the administration, but it's almost impossible for me to delay something that I see needs to be done." At a leadership breakfast a little more than a week later, House Speaker Tip O'Neill warned Carter, "You have an awful lot of balls in the air at the same time." Intermingled with an economic stimulus plan, income tax reform, comprehensive energy bill, and government reorganization, the water project review certainly was not the only major issue occupying staffers' time. But, as referenced in Chapter 2,

[1] J. Dicken Kirschten, "Turning Back the Tide of Long-Time at Water Policy," *National Journal* 9 No. 24 (June 11, 1977): 900-903.

Secretary of the Interior Cecil Andrus, President Carter, and the White House staff considered it important. Andrus had considered comprehensive water policy reform a far more obtainable goal, and more important in the long run than cutting controversial water projects. Rather than alienating members of Congress by blocking authorized projects, Andrus believed policy reforms, not more dams, held the key to solving the nation's water problems. In a tacit exchange for his solidarity behind the President's push to cut water projects, Andrus insisted that water policy reform be included in the package. Carter agreed and indicated in his April 1977 message announcing the outcome of the water project review that policy reform efforts would precede quickly.[2]

The President and Andrus did not expect their reform to sail through congress like a pleasure boat on a placid river, but they soon found that resistance in the corridors of Congress and—more importantly—in governors' offices across the West, posed serious challenges to any effort to advance comprehensive reforms. Yet the White House domestic policy staff, partnered with Andrus and his senior staff, continued to work on the issue. While once seen as two different issues, by early 1978, it was apparent that the separate streams of water policy reform and the Hit List had begun to run together; the two streams meeting at the political confluence of state's rights. As the Department of the Interior moved forward, coordinating with other agencies, hashing out technicalities at meetings. and conducting extensive field hearings, opponents to increased federal involvement in water regulation entrenched themselves further and fortified their battle lines for a fight that would continue the

[2] For "Everybody" see, Jimmy Carter, *Keeping Faith*, (Toronto: Bantam Books, 1982), 69; for "balls in the air" see John Aloysius Farrell, *Tip O'Neill and the Democratic Century* (Boston: Little, Brown and Company, 2001), 457.

remainder of the Carter Presidency. Compounding the challenge, the administration also simultaneously found itself dealing with a third stream. Federal court rulings previous to the administration required they tackle the thorny issue of enforcing the long neglected acreage limitation provisions of reclamation law. Each of these issues individually—water policy, acreage limitation, and stopping projects on the Hit List—taken together they proved too. The political coalitions in the West and South supporting large water projects fought back blocking many of Carter's water policy reforms, and renewing the fight against the Hit List.

Acreage limitation

Carter's veto of the Public Works Appropriation Bill, and the subsequent vote by the House of Representatives to sustain his veto, ended the Hit List saga, but it did not end Carter's differences with Congress, his problems with the West, or other important water policy issues that had challenged the administration. If anything, in many ways it made resolving the remaining issues even more troublesome. While the Carter administration attempted to move its package of water policy reforms forward, and continued its fight against wasteful projects, it also worked simultaneously on another water policy issue that had taken on a life of its own, acreage limitation.

The issue revolved around a clause in the original 1902 legislation creating federal reclamation projects. Although it never had been strictly enforced, for reasons stated below, the law stated that a farmer could only receive enough water to irrigate 160 acres. Because of judicial rulings prior to Carter's term, the administration had to resolve a problem that no one had really wanted to tackle. Understanding the controversy over acreage limitation is essential to understanding the history of Carter's

water policies. And while the Hit List is mentioned at least in passing in virtually every study of Carter's domestic policies or biography of Carter or his contemporaries, virtually none discuss acreage limitation. Understanding the controversy over acreage limitation is to understand its relationship and interaction in the debates over water project cuts and water policy reform. During Carter's presidency the enforcement of the law complicated dealings with Congress; it contributed to the perception of many that Carter was anit-West by attacking traditional western agriculture; and it fueled feelings of Sagebrush rebels.

In an effort to stave off speculation and monopolization of government irrigation projects, Congress had included provisions in the original 1902 Reclamation Act limiting the size of irrigated farms using project water. The purpose of the acreage limitation and correlating residency requirement was to insure the government distributed the benefits of the water subsidy as widely as possible. These provisions were strengthened by subsequent amendments to the law, including the 1926 Omnibus Adjustment Act that implemented many significant changes in an effort to save the reclamation program.

However, like the original 1902 Act, the new 1926 legislation contained ambiguities. For example, while the law had reiterated the acreage limitation provision, it had not restated or repealed the residency requirement. Under the conservative Hoover administration, the Bureau of Reclamation interpreted the omission of the residency requirement in the 1926 law to mean that it was no longer in force. Additionally, Congress inaugurated a new phase in the agency's history by authorizing new massive construction projects beginning with the Boulder Canyon

Project Act. As the Bureau of Reclamation began these new projects, new controversy over the application of the acreage limitation provisions surfaced.

Historians have traced the development of the acreage limitation provision, and it transformation with the large construction projects. Much of this literature was produced during the 1970s when the provisions came under the scrutiny of the public, Congress and the courts. But the history of the scrutiny of the law, the decisions of the courts, and the actions of Congress in the 1970s has largely been overlooked. Often the issue is simply summarized by the conclusion that the Reagan administration resolved the issue with the passage of the 1983 Reclamation Reform Act.[3]

A good example of this is the treatment by Norris Hundley in his encyclopedic work on California water. While Hundley treats controversies of the 1930s through 1950s in some detail, the court cases along with the public and congressional debate of the 1970s are completely absent. Without any mention of this previous history, Hundley simply states that, "In 1982 President Reagan's administration and corporate-farm interests nationally pressured Congress into increasing the acreage limitation from 160 to 960 acres." After a brief explanation of the victory for agribusiness, he

[3] A good discussion of the origins of the provisions to curb speculation in the 1902 act and subsequent enhancements is Donald J. Pisani, *Water and the American Government* (Berkeley: University of California Press, 2002), 56-62. Further information behind the formation of the original provisions as well as the best discussion of the issue during the Roosevelt and subsequent administrations is Clayton Koppes, "Public Water, Private Land: Origins of the Acreage Limitation Controversy, 1933-1953," *Pacific Historical Review* 47 (November 1978): 607-636. In addition to Koppes' article, other academics helped expose the abuse of the acreage limitation provisions. The most significant and prolific of these was Paul Taylor, an economist at Berkeley whose work on the issue spans his career. For example see, "Water, Land, and Environment in Imperial Valley: Law caught in the Winds of Politics," *Natural Resources Journal* 13 (1973): 1-35; "Mexican Migration and the 160-Acre Water Limitation," C*alifornia Law Review* 63 (1975) 732-750; and "The Excess Land Law: Execution of a Public Policy," *Yale law Journal* LXIV (1955): 477-514. These and other essays are compiled in Paul Taylor, *Essays on Land, Water, and the Law in California* (New York: Arno Press, 1979).

simply concluded that "The concept of the family farm, long a sham, could now be declared officially dead."[4]

The short treatment of the legislation is likely explained by the fact that Hundley goes on to explain how even the increases in the limitations did not end abuse of the system during the Reagan and Bush administrations. One might assume the thinking behind such a decision would have revolved around the question, when the legislation has little effect, why take the time to discuss the details of its creation and passage?

The history of the debates and passage of the Reclamation Reform Act of 1982 is important as it reveals that it was not simply the product of Reagan's alliance with corporate interests. The issue had previously been taken up by the Carter administration, and the final legislation passed in 1982 bears striking resemblance to the package that was endorsed by Carter himself. Thus, regardless of the omission in Hundley's work, understanding the full history of the legislation shows that it was not simply a land or power grab.

The issue of acreage limitation enforcement and reform was a priority of the Carter administration. Its importance to the administration has largely been overshadowed by the controversy over the Hit List and the broader water policy review. But even if President Ford had won reelection, acreage limitation would have been an issue due to a series of court decisions prior to 1977. In fact, much of the

[4] Norris Hundley, *The Great Thirst, Revised Ed.* (Berkeley: University of California Press, 2001). For the treatment of the earlier controversy, see pages 259-276. For later treatment of the issue and quote see 461-462. The best discussion of the history and concept of the irrigated family farm as a means of societal reform is Donald Pisani, *From Family Fart to Agribusiness: The Irrigation Crusade in California and the West 1850-1931*(Berkeley: University of California Press, 1984). Specifically, Pisani shows that by 1930, that most Californian's had given up that ideal and "irrigation became one of the foundation blocks of agribusiness" (452).

confusion and controversy surrounding acreage limitation originated in four significant court cases that predated the Carter administration. These four cases each challenged difference aspects of the acreage limitation provisions. However, each case struck at the heart of the issue. Significantly, each case involved the same large water projects in California that had been the focus of the original debates over enforcement in the 1930s and 40s.

The Central Valley Project and the All American Canal were two large projects that served existing farms. Many of these farms exceeded the 160-acre limit prior to the project's construction. Thus the primary issue from the 1930s into the 1950s was that if the law would apply to these existing farms, or if the owners would be made to sell the excess lands as a condition of receiving federal water. During the New Deal, President Roosevelt supported the application of the law as he believed it would open the door to new family farmers, "the 'Grapes of Wrath' families of the Nation." With the death of Roosevelt and the resignation of Ickes in 1945, the commitment to enforcement slackened under the Truman administration. The Bureau of Reclamation adopted a policy described by Hundley as "technical compliance." Essentially the Bureau adopted a policy of allowing larger farmers to divide their land into smaller units on paper to meet the provisions, while maintaining the land under a single operation.[5]

Throughout this time period, opponents of the policy continued their objections. It is interesting to note that Hundley argues it was the plight of white farm workers during the Depression that temporarily attracted the sympathies of New Dealers toward enforcement of acreage limitation. When those workers found factory

[5] Quoted in Koppes, 617. For technical compliance see Hundley, 266-272.

jobs during WWII and farm labor returned to the domain of immigrant workers, interest in the issue began to wane.[6] While that generalization may hold some truth, it does not apply universally. Secretary of the Interior Stewart Udall, first under President John F Kennedy and later under Lyndon Johnson administrations attempted a more forceful implementation of the law.[7] And the subsequent court battles that would renew the controversy over acreage limitation in the 1970s originated with individuals concerned about the conditions of immigrant Mexican workers.

The first case to be heard by the courts challenging the Bureau's policy of technical compliance was located in California's Imperial Irrigation District (IID). The Department of the Interior originally did not place acreage limitations on the projects in the Imperial Valley. It was viewed as a special case since the land and original canal had been constructed with private money. In 1933, shortly before leaving office, Secretary of the Interior Ray Lyman Wilbur affirmed this interpretation in an official letter to the irrigation district. He believed that Congress had recognized the vested water rights of the valley's farmers without regard to acreage limitation.[8]

Attorneys at the DOI believed that Wilbur, who was a physician and not a lawyer, had stepped onto shaky legal ground providing the exemption. The DOI Solicitor partially reversed Wilbur's decision in 1945 by holding that the acreage limitation provisions applied to the Coachella Valley County Water District. But, it would not be until 1964 that the DOI completely overruled Wilbur and extended the

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[6] Hundley, 264, 266.

[7] For a discussion of Secretary of the Interior Udall's effort to enforce acreage limitation see, Charles Coate, "'You Put Politics in the Scale:' Stewart L. Udall and Excess Land Law in California, 1961-1968." *Social Science Journal* 38 (2001): 515-526.

[8] "Review of Acreage Limitation Policy for the Federal Reclamation Program [Draft]," 70-71. NARA Rocky Mountain Region, RG 115, Accession 8NS-115-95-090, Box 35, 16; on Wilbur specifically see William K. Wyant, *Westward in Eden: The Public Lands and the Conservation Movement* (Berkeley: University of California Press, 1982), 362.

law to apply to the Imperial Irrigation District. Subsequently, the government sued the district in an attempt to enforce the provisions. Needless to say, a lengthy legal battle ensued.[9]

District Judge Howard D. Turrentine of Southern California U.S. District Court heard the case, United States v. Imperial Irrigation District. After an "extensive hearing" Turrentine handed down his decision on January 5, 1971. He ruled against the government finding that Reclamation law and thus the acreage limitation did not apply to the IID. Essentially, Turrentine sided with the Wilbur letter, determining that in the Boulder Canyon Act, Congress had exempted the district from acreage limitation. In a move that surprised many of the Department of Justice lawyers working on the case, the Nixon administration declined to appeal the case. U.S. Solicitor general Erwin Griswold said, "It is not just that I think an appeal… would be unsuccessful, but that I think it ought to be unsuccessful."[10]

National Land for People, a group of small California farmers, filed a federal suit in 1975 charging that the Government had never really enforced acreage limitation. In April 1976, the U.S. Court of Appeals for the Ninth Circuit in San Francisco ruled in favor of the small farmer, ordering the Government to enforce the 1902 act. As a result, the Bureau of Reclamation began to study the extent of the problems in anticipation of rulemaking to satisfy the court's ruling. The Bureau of Reclamation had last completed a study on acreage limitation in 1964 at the request of the Senate Committee on Interior and Insular Affairs. During congressional hearings in 1976, a new study was inaugurated. By early February, the Bureau had completed a

[9] Wyant, 362; "Review of Acreage Limitation," 16.
[10] Quoted in Wyant, 363.

rough draft. Commissioner Gil Stamm distributed copies to his regional Directors and solicitors for comment. [11]

Noting the acreage limitation provisions of reclamation law were "designed to provide farm opportunities to families, widely spread the benefits from the reclamation development and prevent speculative gain from the federal investment in the reclamation project," the study concluded that "overall the acreage limitation provisions had effectively accomplished these objectives." The study's authors believed the low incidence of violations provided sufficient evidence to claim this success. However, they did concede there were problems and abuse of the provisions. Further, they noted that conflicting interpretation and enforcement of acreage limitation provisions by Congress, the Department of the Interior, and the courts complicated the administration of reclamation law.[12]

In August, Andrus announced that given the court ruling, he had decided to enforce the original interpretation of the acreage limitation provisions of the 1902 act. As a result, he also announced that one million acres of federally irrigated farm land in eighteen western states would be redistributed in a national lottery on the homestead principle of 160 acres for a farmer and each member of his family.

The announcement caused instant outrage throughout the West among those already riled by the recently resolved Hit List controversy, and the recently announced fast-paced comprehensive water reviews. To those claiming Carter had declared a "War on the West," Andrus's announcement only provided more evidence. While the owners of the corporate farms in California's Central Valley were shaken by the

[11] Commissioner to Regional Directors, February 8, 1977, NARA Rocky Mountain Region, RG 115, Accession 8NS-115-95-090, Box 35.
[12] "Review of Acreage Limitation," 70-71.

announcement, Andrus shocked and outraged Imperial Valley farmers by announcing that they too were now subject to the acreage limitation provisions.

The livid Imperial Valley farmers were among the most vocal critics. In mid-September, at the annual meeting of the California Republican Party, farmers mounted a massive protest. Hundreds ringed the San Diego Convention Center waving placards that read "FAIRNESS FOR FARMERS" and "SAVE THE IMPERIAL VALLEY" while more than 50 farmers drove their huge tractors around the building. It was a stunt they would repeat on at least two more occasions.

In early October Andrus announced a series of ten public hearings on the new regulations would be held in seven Western states and Washington, D.C., beginning in November. An article in *Time* quoted him as saying, "We expect plenty of testimony, plenty, about how the West was won." But the article also indicated that Andrus and Carter were sympathetic to the farmers plight. It stated:

> Peanut Farmer Carter, however, is troubled by the proposed breakup of some 5,000 farms in the Western states. He owns 2,000 acres of Georgia soil (the land is not affected by the 1902 law, since it is not irrigated by federal projects). Said Carter: "Seventy-five years ago, 320 acres for a husband and wife for irrigated land was all they could handle. Now, with massive development and large machinery, a larger acreage is necessary for an economically viable farm operation. So the law needs to be changed. But," Carter added, "for the present we don't have any alternative but to enforce the law." [13]

Farmers across the West complained bitterly of the administration's decision to strictly enforce the law. In a common form of protest, farmers in California took to streets in their tractors in protest demonstrations. On the evening of October 22, after meeting western governors in Denver to discuss his water policy reform efforts, President Carter traveled to Los Angeles to address a Democratic Party fund-raising

[13] "The Homestead Act Hits Home," *Time*, October 17, 1977, 26.

dinner. Newspaper reports estimated that 2,500 farmers—mostly from the Imperial Valley—protested outside the fundraiser's venue, the Century Plaza Hotel, while "a squadron of tractors and heavy equipment" paraded up and down the street. At the DOI acreage limitation hearing in Fresno California, 150 people testified over two days while farmers "took over several downtown streets" with a tractor parade while other picketed with signs reading "Take our land, take our lives," and "Don't talk about the Farmers with your mouth full."[14]

The largest protest occurred at the hearings held in the Imperial Valley, chaired by Assistant Secretary of the Interior Guy Martin. The hearing—held outdoors at the Imperial Valley Fairgrounds in El Centro, California—got off to an early and chilly start at 8:00 a.m due to the long list of speakers scheduled to testify. Martin faced an estimated crowd of over 3,000 people seated in the grandstands, while 1,200 tractors and other farm implements filled the infield behind him. The morning's testimony was frequently disrupted by the noise of tractors driving as well as a news helicopter that was circling above. The spectacle created a circus atmosphere. To limit the disruptions, after about an hour Martin negotiated with the organizers to quiet the tractors and in exchange for a 45 minute demonstration period at noon. Martin recalled later with great humor the spectacle created by the massive demonstration. As the crowds began to dwindle in the afternoon, Martin negotiated to move the balance of the hearings into the adjacent auditorium. The balance of the hearing

[14] Don Irwin and Richard Bergholz, "Carter Seeks to Mollify Jews Over Mideast Policy: Tells Los Angeles Fund-Raising Dinner of 'Progress This Year Toward Peace'; 3,500 March Outside." *Los Angeles Times*, October 23, 1977. "Anti-160 farmers picket in Fresno," *Imperial Valley Press*, November 15, 1977.

transpired without incident. Of the 120 plus speakers, only six spoke in favor of enforcing acreage limitations in the Imperial Valley.[15]



Figure 4 ***Guy Martin, second from left, chairs the Department of Interior field hearing at the California Mid-Winter Fairgrounds in El Centro, California.*** Imperial Valley Press *photo, Monday November 23, 1977*

As the hearings were underway, the domestic policy staff wanted the president to make comments on the "160-acre excess lands problem." In a memo, Andrus advised against that position. He told the president, "Let me continue to take the heat and you announce the solution after the first of the year." Later in the month, Andrus reported to the president that he was moving forward on both the excess lands and

[15] "Thousands Jam Acre-Limit Hearing; exemption pushed," *Imperial Valley Press,* November 21, 1977, 1; "Interior Hearing Winding Down," *Imperial Valley Press,* November 22, 1977, 1; "Interior Tabulates Number at Hearing," *Imperial Valley Press,* November 24, 1977; Guy Martin Oral History Interview, July 22, 2010.

water policy review hearings. While one wonders if it was with a feeling of relief or optimism, Andrus reported, "There is light at the end of the tunnel." [16]

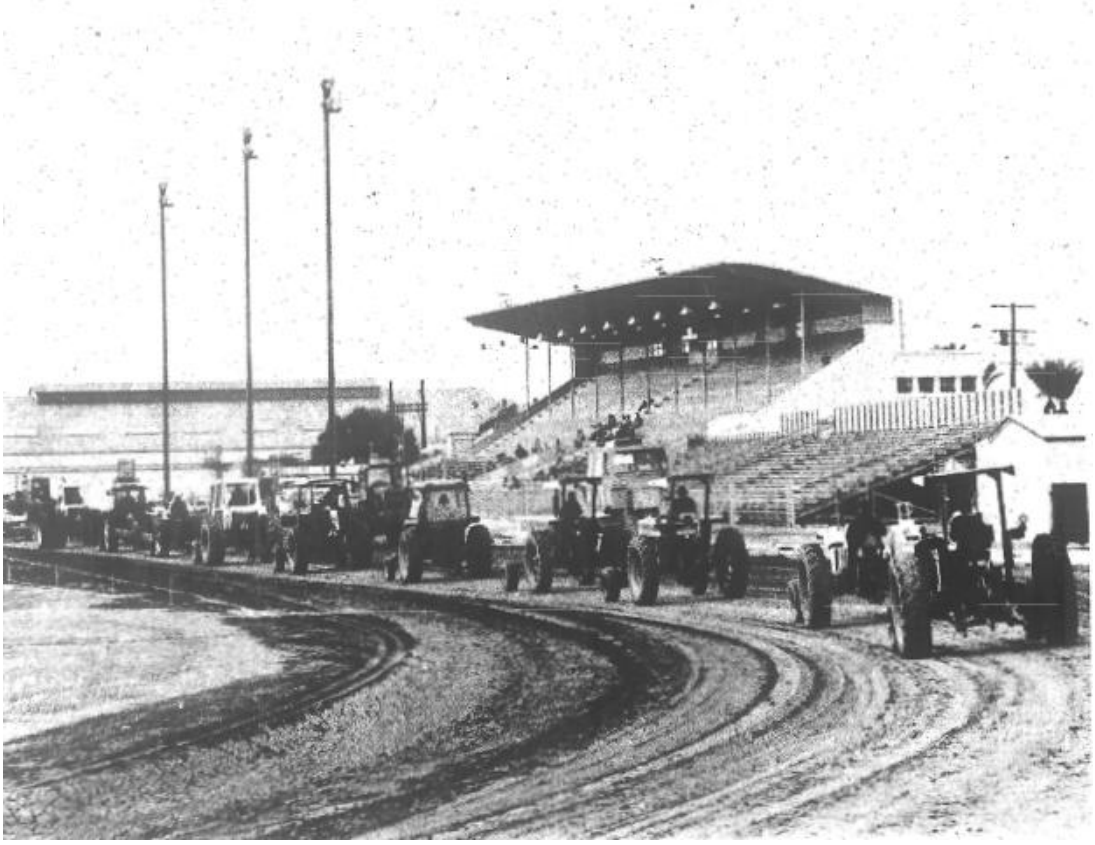

Figure 5 ***Some of the 1,200 tractors participating in the protest demonstration enter the grandstand arena prior to the hearing.*** Imperial Valley Press *photo, Monday November 23, 1977.*

That week the Department of the Interior Solicitor, Leo Krulitz, reported to Andrus, on the field hearing in Sacramento. Krulitz revealed to Andrus that the important issue for most was not the actual number of acres they would be limited to, but how many people could join together and how much leased land could be farmed. Participants also wondered if the final policy would include a formula for calculating an "economically viable family farm." This expanded on an older concept of land

[16] Andrus to Carter, November 4, 1977; Andrus to Carter, November 18, 1977, Andrus papers, box 6, folder 5.

equivalency. Should farmers on poorer quality land be given enough water to grow the same amount as a farmer on the best land? Those in Sacramento now wondered if the type of crop grown, prices, and how many harvests could be made would be used to compute a quantity of water to make a profit large enough to make the family farm viable.[17]



*Figure 6 Len "Boro" Borozinski (*San Diego Union) *editorial cartoon appearing in the* Imperial Valley Press, *November 18, 1977.*

Krulitz concluded for political reasons that the 160 acre limitation must be changed. "I doubt that it ever represented an 'economically viable family farm.' I'll bet 160 acres was simply a convenient number for surveyors—as a quarter section." He recommended that the actual number was not "particularly important" as long as it

[17] Krulitz to Andrus, November 16, 1977, Andrus Papers Box 11 Folder 30. Emphasis in original.

was determined on a "rational basis" and was not too large. He also recommended that a residency requirement should only apply to new buyers and existing landowners should be grandfathered. Finally, he did not have a suggestion for leasing restrictions, and stressed again that the number needed to be rationally justified and not arbitrary.

The results of the hearings were mixed at best. As Krulitz's report to Andrus shows, the testimony raised as many questions as it solved. The hearings also did little to resolve bitter feelings in the West. If constituent mail is an indication, the issue continued to remain a hot topic in people's minds. Idaho Senator Frank Church, for example, received 113 letters about acreage limitation in the few months after the hearings. While thirty-nine were form letters, seventy-four were unique, each one expressing a concern about how their personal farms could be impacted by the sudden enforcement of the law.[18]

Many of the farmers' letters expressed shock and outrage that the old, neglected law should suddenly be enforced. Some expressed no knowledge of the law, and felt that it was the Bureau of Reclamation's responsibility to have told them about it. They took the failure to inform or enforce the law as proof it was never going to be enforced. Some of the writers had more than 160, some didn't live close enough. One older couple leased their 160 acres to Green Giant because of their age. They explained that they did not want to have to sell to a new owner and move away. One irrigation district wondered about the expense of adding turnouts in canals to smaller farm units, and what would happen to small parcels of "excess land." Another district worried about the social consequences to rural communities of an influx of new farmers, and an increase in population. Most commented in some form that both the

[18] Boise State University, Frank Church Collection, Mss 56, Series 1.1 (Legislation), box 108, folder 3.

country and farming practices had changed too much in 75 years to make 160 acres viable.

While the courts mandated the administration take action to enforce the law, it did allow an opportunity to tackle an important issue. For Carter it came down to an issue of subsidies. He and others in the White House—perhaps influenced by the Nader Task Force book, *Damming the West*, and other environmental writers—felt most beneficiaries of federal water were not paying their fair share. They had discovered during their work on the Hit List a few that water pricing policies encourage wasteful consumption and half of Bureau of Reclamation irrigation water is wasted. Carter continued to feel that "wise management and conservation" were needed, not "expensive water projects."[19]

The poster child for the most severe abuses to the reclamation law, and some of the biggest subsidies, resided in the Westlands water district. Because of additional litigation, the water district's original contract had been deemed invalid. Congressman George Miller succeeded in passing legislation requiring a review of the project. Guy Martin chaired the investigative task force on the Central Valley Project. By early 1978 they had documented "serious problems... ranging from spending-ceiling violations in unauthorized construction to unenforced excess land restrictions." However, Andrus emphasized in a news release that the CVP was "not typical" of most projects. While true of Westlands, violations were not as wide spread as critics

[19] For "wise management" see, Dick Kirschten, "The Quiet Before the Shootout Over 'The Water Law of the West,'" *National Journal* 10 (January 28, 1978): 151.

had been saying about other reclamation projects. Official Bureau of Reclamation statistics suggested that only 1% of the 11,000,000 acres were in violation.[20]

Dick Kirschten interviewed Bureau of Reclamation Commissioner Keith Higginson for his *National Journal* article. Higginson reported to Kirschten that "the Bureau's mail was 3 to 1 against the administration." Higginson also reported the primary concern was the residency requirement. The original Reclamation Act required farmers to "live in the neighborhood" of their farms. A 1909 interpretation of that clause defined neighborhood to mean 50 miles. When Congress made major amendments to the Reclamation Act in 1926, they did not include the residency requirement, and as a result, the Bureau stopped enforcing it. However, in 1972, a federal district court ruling stated that the 1926 amendments had not superseded the residency requirement, and ruled it was still in force.

Similar to the findings in Senator Church's constituent mail noted above, Higginson reported to Kirschten much of the mail had come from "retired land holders who have moved away from their farms but retain ownership because they depend upon the income from leasing." Because Reclamation had not kept records concerning absentee ownership in reclamation projects since 1926, "Higginson thought the residency issue was 'potentially explosive' since they had 'no idea' how much irrigation land is held today by potentially ineligible absentee owners."[21]

Following the hearings in November, Andrus had developed a tentative plan to allow a husband and wife to farm 640 acres, provided no more than 320 were owned and no more than 320 were leased. The proposal included the option for up to two

[20] Ibid
[21] Ibid, 152-3.

children to join the farming operation with leasing privileges which could raise the total to 1280. Anything larger would need action from Congress. But before Andrus could implement the new rules, California growers filed a lawsuit to delay implementation of the rules by claiming the need for a NEPA study of the new rules. The court ruled in favor of the growers, stalling Andrus' plans for over a year. Both the administration and the growers hoped the delay would give Congress time to act. While he did not say it at the time, in an interview Andrus indicated that part of the logic in choosing a strict interpretation of the original 1902 law was to motivate Congress to take action to permanently solve the problem.[22]

Kirschten concludes, "Although it has cost them politically in the West, Carter may have succeeded in arousing widespread public skepticism about the politics of water projects."[23] If the enforcement was a publicity stunt to generate nationwide concern for western water projects, the political costs in the West were much higher than Kirschten may have realized. The *Denver Post* editorial, quoted above, from the same time is a good example of the vitriol in the West aimed at Carter. Another powerful example from Colorado is a guest editorial, by Jack Ross, in the *Colorado Water Congress Newsletter* from April that year.

> Even though [Andrus] knew that 160 acres is inadequate, the Secretary of the Interior proposed some new regulations on August 25, 1977 which were designed not only to require strict adherence to the letter of the law for the first time in 75 years, but to go way beyond what the law requires in one of the most vicious and burdensome bureaucratic schemes to interfere with the farmers' life and livelihood that has been tried by any administration.

[22] Ibid, 151; Cecil Andrus interview with Author, July 15, 2010.
[23] Dick Kirschten, "The Quiet Before the Shootout Over 'The Water Law of the West,'" *National Journal* 10 (January 28, 1978): 153.

After noting the "bureaucratic maneuvers" had been held up by legal challenges Ross continued:

> How long will it be before they crank up the machinery of big government to try to do it again? No one knows; but it is certain that unless the basic law is changed, they surely will try, again, claiming that they want to "protect" the family farmer against giant corporate agribusiness.[24]

Ross informed the newsletter's readers that the National Water Resource Association (NWRA) had responded to the outcry from western farmers against the Carter administration by forming a special drafting committee in November 1977 to craft a legislative solution to present to Congress. Senator Frank Church introduced the bill on behalf of the NWRA as S. 2818. Ross concluded his editorial with a call to support the bill including personal contact information for members of Colorado's delegation and a call for financial support of the NWRA's lobbying efforts. Ross recommended an appropriate donation was ten cents per irrigated acre or $20 per $100,000 of farm-related business volume.

Another example of the harsh, sometime paranoid fears expressed about the administration was a letter to Congressman Frank Evans (D-CO) from the past president of the Colorado Water Congress, Ralph Adkins. Perhaps responding to Ross's editorial, Adkins wrote Evans in May about the two bills in the Senate proposing reform, and urged his support of S. 2818. Adkins contended that of the two bills, 2818 represented a better solution for "a majority of Western water users." Having said that, Adkins then launched into an attack of the administration.

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[24] Jack Ross, "160 Acre Issue Hits Colorado," *Colorado Water Congress Newsletter* 21 Number 4 (April 1978), 1-3.

> I say to you quite frankly we cannot live with the repressive proposals being put forth by Secretary of Interior Andrus. They are a thinly disguised drive for land reform that has nothing to do with the realities of producing food and fiber for our country in 1978. People aren't going away and, if we want to have more of our people and those in other countries go hungry or starve, all we have to do is adopt the Andrus platform.[25]

In addition to the written attacks in letters and newspaper, there is also evidence that in at least one case the attacks became physical. Vice President Mondale made a second tour of the West that the administration called a "listen and learn" mission. Joined by Secretary of Agriculture Bob Bergland and Cecil Andrus, they made stops across the West. On a stop in Amarillo, Texas, angry crowds threw eggs and snowballs at Bergland as he tried to explain Carter's farm policies.[26]

An inset in the *US News and World Report* article highlighted the administration's outspoken critic in the West, Colorado Governor Richard Lamm, whom they styled as a "new breed of Western Democrat." The article quoted Lamm as saying,

> The perception of Jimmy Carter in the West is worse than the reality, but we all know perception is the name of the game in politics. He has made some mistakes, getting off on a bad foot with the so called Hit List on water projects. Unfortunately, Carter will be a heavy burden for Democrats to carry this election year.[27]

Further emphasizing the central problem that most critics of Carter in the West, and Lamm himself had contended previously, Lamm told the magazine that the Democratic Party was "on the wrong side of the federal-vs-state issue."

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[25] Ralph Adkins (Colorado Water Congress past president-76-77) to Frank Evans, May 9, 1978, Frank Evans papers, box 23, folder "water issues."
[26] "The Western Revolt Against the White House," *US. News and World Report,* April 3, 1978, 52-53.
[27] "New Breed of Western Democrat," *US. News and World Report,* April 3, 1978, 53.

As critics lashed out at the administration, and Senator Church introduced his legislation in early April, Secretary Andrus did not complain about those issues. Rather, he complained about the bureaucratic infighting holding up the water policy review. He told the president, "Policy by committee has cost us ten days because of departmental differences," and went on to note the paper on excess lands was in a similar position. The Office of Management and Budget had the paper for two weeks at that point, but other departments were still "lint picking." He expected the issue to be resolved by April 12.[28]

In May 1978, President Carter took a second trip to Colorado to visit the Solar Energy Research Institute in Golden, Colorado. The Washington Post reported that Senator Haskell was "vexed" because Carter planned on bringing Secretaries Andrus and Bergland. When he found out, Haskell told Carter on the phone, "You are bringing with you the symbols of the two most hated Carter administration policies in the West and you better take the time to meet some of these other people." As a result, the president agreed to schedule meetings with residents concerned about farm and water policies. Haskell's office still speculated the president's public relations event might be ruined by a "bunch of farmers demonstrating outside the solar facility."[29]

In words that echoed the sentiments of Governor Lamm, *Washington Post* correspondent David S. Broder wrote after Carter's trip that even thought the White House attempted to spin it in a positive light, he believed "the Western trip ultimately underlined—rather than erased—the doubts that are undermining the credibility of the

[28] Carter to Andrus, (April 7, 1978, Andrus papers, box 8 folder 5
[29] Edward Walsh, "Haskell Vexed as Carter Takes 2 Unpopular Aides to Colorado," *Washington Post*, May 3, 1978.

Carter administration." In his article, Broder reported Andrus "volunteered that the action that really poisoned Carter's relationship with the West -- the misguided effort at the beginning of the administration to kill off a score of Western dams and reclamation projects -- was a 'disastrous mistake.'" This was an admission that Andrus had made with increasing frequency since Mondale's fence mending tour earlier in January.[30]

Acreage limitation was only half of the equation producing Western anger, fear, and anxiety between the summers of 1977 and 1978. While Andrus was busy trying to solve that problem, Carter had also tasked him with heading up the administration's primary goal, comprehensive water policy reform. In ways that Andrus did not expect, Western anger, already inflamed over the Hit List, and also being fueled by his acreage limitation proposals, would evolve into a fiery furnace that would test his ability to mediate between Carter and the West.

Comprehensive Water Reform

Comprehensive water policy reform had been on Carter's political agenda while running for office. His transition team had devoted more attention to it than to the Hit List. But in the early days of the administration, the focus had been on revising President Ford's budget. After having his cover blown prior to his meeting with Western governors, the loyal Andrus agreed to move the president's budget cuts forward on the condition that water policy review was a part of the package.

In his April 18, 1977 statement announcing the administration's decisions on water resource projects, President Carter recommended "the development of major

[30] David S Broder, "Carter Out West: A Credibility Problem," *Washington Post*, May 10, 1978.

policy reforms" in five areas. His proposals included more realistic project evaluation criteria, dam safety; cost sharing; water conservation; and "redirected public works programs" which is the name the administration gave to cutting water projects on the Hit List. As discussed in Chapter 2, the president's announcement drew criticism for several reasons. Colorado Governor Richard Lamm took exception to Carter's statement that water development was not effective against drought. The *Denver Post* criticized the notion that water development in the West was contributing to "dollar drain" out of the Northeast.

The president followed up on his announcement, dedicating part of his May 23, 1977 environmental message to Congress wherein he initiated a comprehensive review of national water policies. President Carter designated secretary Andrus as the chair of this review, to be conducted by the Water Resources Council, the Office of Management and Budget and the Council on Environmental Quality. The president also added water research and federal reserved water rights to the list of policies to review.

The same day, Secretary Andrus unveiled the new policy proposals at the National Conference on Water held in St. Louis, Missouri. Press releases from the Department of the Interior, including a copy of Andrus's speech, stressed the importance of the announcement, which included an expanded list of nine points. The press coverage demonstrates that the Administration saw water policy as an opportunity to redouble their efforts to present their case directly to the public ahead of the president's opponents who had been so sharply critical. Andrus began by taking the opportunity to recast the Hit List in a positive light. In his address, Andrus

explained that President Carter's list of water projects recommended for elimination showed the "renewed awareness and sensitivity toward water resources and a commitment to examine each water resource and to seek its resolution."[31]

Andrus' St. Louis speech also highlighted several important issues the administration had not previously tackled. While he concluded his speech by stating the obvious conservation and more efficient use of water, other items did not seem so benign to critics who viewed them with growing suspicion. For those convinced it was real, it was easy to see the boogeyman of increased federal interference. One potentially dangerous issue, in their opinion, was the quantification of federal reserved rights. Andrus also proposed efforts between state and federal governments to eliminate laws and rules or institution which hampered integrated water management. While on its surface the idea seemed simple enough, some worried that any effort to resolve such conflicts would result in more federal control over water. Another idea setting off alarm bells was Andrus's proposal for the adoption of sunset legislation to deauthorize water projects on which construction had not begun eight years after the authorization. The idea was anathema for project proponents that had spent years securing authorizations at great effort.

Andrus's speech did generate some positive press. J. Dicken Kirschten, wrote an extended article for the *National Journal.* Kirschten pointed out that the serious drought as well as the increasing costs of cleaning up polluted water made the time right for the administration "to convince Americans that 'wise management and conservation' may be better answers to water problems than the expensive construction projects of the past." He also pointed out that Andrus's speech had also

[31] UPI. "Andrus Tells 9-Point National Water Policy," *The Daily Herald*, May 24, 1977.

expanded the scope of the review to take in all agencies related with water use. For example, he explained that by Andrus emphasizing safe drinking water as a "primary concern," he had taken in the Environmental Protection Agency (EPA). Kirschten state that the EPA's programs over municipal sewage treatment works and safe drinking water programs "involve[d] more federal funds than all conventional water resource programs combined."[32]

Kirschten's article also provides some insight into the participants. He observed that over eighty percent of the participants were from outside the federal government. Quotes from participants reveal that the audience included supporters and critics of the president. Henry Caulfield, political science professor at Colorado State, told Kirschten that policy review was timely because, "in spite of the galvanizing effect of the Carter Hit List, political support for new large-scale federal water-development projects is on the wane." Conference organizer Gary D. Cobb, acting director of the federal Water Resources Council, noted a willingness among participants to consider new cost sharing. But he also noted that an increased fiscal role would necessitate an increased role in decision-making and regulation.

Carter's opponents to the Hit List also reacted quickly to Andrus's speech and the new policy review. Former commissioner of the Bureau of Reclamation, Ellis Armstrong, responded to Andrus in a speech of his own at the keynote session of the ASCE Conference on Energy, Environment and Wild Rivers in Water Resource Planning and Management, Moscow, Idaho, July 6, 1977. Armstrong appropriately titled his talk, "Emphasis on the People." In his address he stressed the need "for a

[32] J. Dicken Kirschten, "Turning Back the Tide of Long-Time at Water Policy," *National Journal* 9 No. 24 (June 11, 1977): 900-903.

balanced perspective that considers all factors" when making policy reforms. He also noted that such comprehensive efforts required objectivity. His speech reflected the fear of many in the West that based on their handling of the Hit List, the White House staff was too biased. He stated:

> This is not a perfect world, nor is it ever likely to be a perfect world. In the first place, with our diversity, few if any would agree on what a perfect world is. And the same applies to programs and projects. There must be tradeoffs, and what they are will be defined somewhat differently by different viewpoints. We desperately need, and we must have, comprehensive, multidiscipline, full system approaches on formulating programs for the future. And this can't be done by uninformed, tunnel-visioned, amateurs and zealots. It requires competent, objective, honest leadership.

The balance of the speech was a review of the 9 points in Andrus' speech. Armstrong warned that while on the surface they all sounded good, the distortion of the facts by those with an agenda could have serious consequences and ramifications for water use in the West. And while it is unknown how much circulation Armstrong's comments received, they reflect the anxiety Westerners felt about the president's water policy review. The extent of those concerns and the depths of that anxiety would soon be made manifest to the administration.[33]

The review committee worked quickly, and published a series of "issue an option" papers in the *Federal Register* on July 15 in July 25, 1977.[34] In July and August the review commission held regional hearings in eight cities across the country. Criticism of the Water Policy Review Commission's initial work was once again swift and abundant. The publication of the papers came at a time of heightened

[33] Ellis Armstrong to Frank Church, July 29, 1977. Letter contained copy of speech, Ellis Armstrong, "Emphasis on People," ASCE national specialty Conference on Energy, Environment and Wild Rivers in Water Resource Planning and Management, Moscow, ID, July 6, 1977. Boise State University, Frank Church Collection Mss 56, Series 1.1 (Legislation), box 108, folder 3

[34] *Federal Register* part VI July 15, 1977, 36788-36795;

emotion as the Senate debated the Hit List. To many, this just added another log on the fire. In addition to the concerns raised at the regional hearings, Secretary Andrus and the White House took considerable flak from members of Congress, and Western governors.

Two of the primary complaints early on mirrored complaints about the Hit List. The president was making monumental policy decisions at breakneck speed and many wondered how objective and thorough a review could be that was completed in so little time. Adding to the sense that the review was simply for advancing a predetermined agenda was the fact that, once again, there had been no direct notification.

Both of these complaints, for example, can be seen in a July letter from Felix Sparks, the director of the Colorado Water Conservation Board, to its board members. Sparks began his four-page memo complaining about the hearing scheduled in Denver later that month. He wrote,

> In accordance with the finest traditions and fumblings of the fledgling Carter administration, an announcement has been made that hearings will be held in Denver on July 28-29, 1979, to receive comments on the new national water policy being proposed by the president. As usual, we have received our information from newspaper accounts and other indirect sources. Despite the president's repeated promise to keep the governors of the respective states informed on matters of critical interest to the states, Governor Lamm, and presumably other concerned governors, have not been personally advised of these hearings and apparently no effort will be made to do so. [35]

Sparks also noted that the purpose of the hearing was to discuss policy papers to be published in the Federal Register on July 15. Because of the normal delay of mailing the publication, Sparks and the board members would have only a few days to

[35] Felix Sparks to Board Members, July 1, 1977, Frank Evans Papers, box 22, folder "Bureau of Reclamation."

read and prepare their responses. He also complained that the agencies involved, DOI, OMB, and CEQ "have been packed from one end to the other with key people who have opposed any further water resource development in the United States" and he predicted their proposed policies would be formulated for the purpose of terminating further water resource development. Again, he maintained that these factors indicated the policy decisions had already been made. He questioned how the review committee could draft their final opinion papers within a month of the last hearing.[36]

Sparks followed up with his board on July 20, indicating that the copy of the *Federal Register* had just arrived. He noted wryly that one of the most controversial issues, native American and federal reserved rights had not been included, presumably because the administration couldn't get it written in time. Despite its absence, Sparks noted that the papers contained more than they could evaluate in the week remaining before the hearing. He thought, at best it would take two months to "intellectually analyze the various options," with a preference to at least six months. Therefore, he once again told his board that the hearings would be virtually meaningless and he speculated that was probably the entire purpose of the hurried schedule. Ironically, he confessed that on the whole, the review papers could provide a meaningful and worthwhile discussion of policy options and a "framework for responsive national policy," but not in the time allowed.[37]

An editorial by Steve Arhens, the political editor at the *Idaho Statesman*, provides another view of the high-pitched rhetoric coursing through some westerner's

[36] Ibid.
[37] Felix Sparks to board, July 20, 1977.

minds. Specifically reacting to the publication of the water resource policy papers in the *Federal Register,* Ahrens began his editorial stating:

> If the United States had counted on Jimmy Carter to win the West 100 years ago, descendants of Chief Joseph, Sitting Bull, and Crazy Horse would be governor of Idaho, president pro tem of the Idaho Senate, and Speaker of the House.

After pointing out the oft-cited fact that Carter lost all of the West except Texas and Hawaii he asked:

> So what does Carter propose to do to win the West's trust and allay its suspicions about his politics? Carter threatens the West's water supply. It must have been a descendant of Gen George Armstrong Custer who dreamed up the new Water Resource Policy Study.[38]

While likely intentionally over-the-top, Ahrens comments still provide an example of how serious a threat many in the West considered Carter's policy review. The balance of his editorial painted a doomsday scenario that envisioned regional transfers, social equity, federal purchase of water rights to reallocate them to the most socially desirable and economically productive use—by condemnation if necessary. While Carter's policy reforms posed a threat to everyone in the West, Arhens best reflects the concern that these policies threatened the very way of life for the Western farmer and rancher whose water supply could be subject to "significant redistribution" to municipal and industrial uses.

But it was not just pundits complaining. In his weekly memo to the president, Cecil Andrus wrote at the beginning of August that Republican members of Congress had complained that the review was "just a cover for federal takeover of private water rights." Andrus told the president, "Nothing is more politically volatile in the West." To help calm the fears, Andrus quickly took steps to meet some of the primary

[38] Steve Arhens, "Water Policy May Lose West Again for Carter," *Idaho Statesman*, July 31, 1977.

concerns. He personally consulted with key members of Congress from the West, notably Gary Hart, to reach some sort of deal on the water projects and water policy reform. Andrus noted in his memo to Carter that after consulting with Hart and others they decided that in an effort to give opportunity for feedback and to dilute fears the administration was trying to quickly push through a takeover, they extended the time allowed for public comment. He also emphasized that from a public relations standpoint, they would make a point of emphasizing in the press the reason for extending the time frame was an effort to "go to the people, in Carter style, to see their suggestions and recommendations." They agreed to extend the public comment period by ninety days. Andrus also explained that they made a concerted effort to reach out to the press and "forcefully" emphasize their understanding of the "vital importance" of water in the West and the administration's commitment to seek public input on the proposals.[39]

Despite these efforts, Andrus still had his work cut out for him. Western politicians aggressively defended their turf. The issue was particularly thorny because, as noted above, it revived long-standing fears that the federal government may make an effort to preempt state water laws. In September Andrus attended a meeting of the Western Governors' Conference held in Alaska. At the meeting and afterward, Andrus exchanged words with Governor Lamm over the issue. In his response to Lamm's letter, Andrus stressed his personal knowledge of the West and the administration's "sensitivity" to water issues. But rather than back down, Andrus concluded:

[39] Andrus to Carter, August 5, 1977, Andrus Papers Box 8 Folder 4.

> My own knowledge of the West leads me to believe that western water will be in increasing demand and ever shorter supply. It's precisely because of this sensitivity that we believe the debate must go on. While the discussion promises to continue to be spirited, I hope it will also be as amicable as it has been to date.[40]

Briefing the president on the conference, Andrus wrote that the administration was "still taking flack on water projects and water policy." But Andrus thought he could handle the problem if "given some leeway."[41]

However, the trouble in the West began to intensify as Western politicians began to look forward to the 1978 elections. In mid-September Andrus explained that he and Vice President Mondale had been working on a strategy for "reclaiming solid posture in the West." Their plans included securing a political appointment for someone from the West. Andrus also encouraged the president to make additional stops in the West on his way to California. At the end of the month he asked for time to meet with Carter "to discuss plans and political strategy" before his trip West and before meeting with western Senators on October 6.[42]

In his briefing memo to the president explaining the purpose of the meeting, Andrus laid out their strategy for moving forward with the water policy review. He encouraged the president to "listen but not acquiesce to their demands." Andrus felt that the administration could place more emphasis on welcoming public comments. He explained that it would also hopefully avoid the senators preempting the announcement of the administration's proposals, as had happened numerous times with different Hit List and water policy announcements. Andrus instructed the

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[40] Andrus to Lamm, September 20, 1977, Andrus papers Box 34 Folder 11
[41] Weekly report, Andrus to Carter, September 2, 1977, BSU Andrus Papers box 8 folder 4.
[42] Andrus to Carter, September 16, 1977; Andrus to Carter, September 30, 1977; Andrus to Carter, September 23, Andrus Papers, box 8, folder 4.

president that they planned to take and review public comment until October 20, then have Carter announce the updated proposal in Denver on Oct 22. Concluding, "We will be playing offense then and it will be easier to maintain positive visibility."[43]

When commenting in his diary about the October 6 meeting with "30-40 western senators irate about the national water policy," Carter wrote, "This was a busy day putting out fires." As coordinated with Andrus, Carter pushed the idea of comprehensive planning and involvement of stakeholders—state and local officials, and private interests—as well as recognition of specific regional problems, and the need to prioritize spending. During the course of the meeting, the senators continued to complain about the schedule not allowing enough time for analysis and comment. Carter backed off from his schedule, and extended the comment period to the end of the year and with final decisions in February. Carter wrote of this compromise, "I think they went away assuaged."[44]

After the meeting, Andrus wrote that he thought the meeting had been "very beneficial," and noted that he was preparing position papers for the president's approval in consultation with Mondale and Jack Watson. On October 14, Carter held an additional meeting before his trip west, this time expanding the audience to include House members, "to get their support for the evolution of a comprehensive" national water policy.[45]

During the last week of October, Carter made a multi-state tour of the West that ended at the fund raising dinner in Los Angeles mentioned above. On his way he stopped in Detroit, Des Moines, Omaha, and Denver. The President spent about half

[43] Andrus to Carter, October 4, 1977, Andrus papers, box 8, folder 4.
[44] Jimmy Carter, *White House Diary* (New York: Farrar Straus Giroux, 2010), 115.
[45] Andrus to Carter, October 7, 1977, Andrus papers, box 8, folder 4; *White House Diary*, 119.

of his five hour stop in Denver discussing water policy. His first stop was a roundtable meeting on the proposed water polices. He did some "fence-mending" by reinforcing the administration's message that the western water users would play a role in crafting the new policy. He told those gathered that "there will be absolutely no federal pre-empting of state and local prerogatives in the use of water." After the open meeting, Carter met behind closed doors with western governors. Montana Governor Thomas Judge left the meeting impressed with Carter commenting to news reporters that "I believer there is a better relationship with him than there has been with any president in recent years."[46]

After the Denver meeting, Andrus applauded Carter "Your visit to Denver helped our "water image' tremendously. It's too bad the Panama issue pushed water off the front page." Andrus also spoke to the National Water Resources Association sometime between October 24-28 and told Carter he had emphasized the administration's position by using Carter's Denver comments. However, Andrus also acknowledged in his memo that the administration's polices had created "an accumulation of problems." Andrus believed that if the Democratic Governors in the West were to "play party line," that the White House would need to solve some of the problems by March.[47]

Walter Mondale's Tour of the West

While the administration worked to solve their differences with the governors, the White House also made plans to further address the negative impressions of Carter

[46] AP. "Carter Vows to Keep Hands of Western Water Rights," *Eugene Register-Guard*, October 23, 1977.
[47] Andrus to Carter, October 28, 1977, Andrus papers, box 8, folder 4.

in the West. The President tapped V.P. Mondale accompanied by Secretaries Andrus and Bergland to tour western states after the New Year holiday. As noted above, the trio and their entourage of staffers experienced strong opposition, including protests and in at least one instance hostility manifested by pelting Secretary Bergland with eggs and snowballs. They also faced opposition and hostility from many newspapers in the West. The *Denver Post* editorial accompanying the news of the trio's trip is revealing of both the hostility and of the continued anger and frustration over the Hit List and new water policy proposals. The newspapers editorial board wrote:

> President Carter took office a year ago amidst promises he would run an open people-oriented presidency. Since then the president has angered and confused thousands of Westerners with secret White House maneuvers over natural resources.
> This week VP Walter Mondale is visiting Colorado and other parts of the West in a fence-mending role to find out what is bothering westerners. Well there is a strong message he can take back to Carter. Environmental staffers, pretending an expertise they do not always have, last winter ripped savagely into Western reclamation spending—ripping out long-planned or partly-finished projects—with no explanation. Then the administration dumped a huge proposal for water policy changes on the West and Midwest.[48]

Despite strong editorials, such as the *Denver Posts'* it seemed to Andrus that a great many reporters, politicians, and the public in the audiences at their many stops had started to hear the administrations message. After returning to Washington, Andrus wrote Mondale that, "by all bench marks, the trip has to be judged a success." That success is seen in the press coverage and newspaper reports which help explain some of Andrus' optimism over the reception to the administration's message. That message was not new; the administration had been trying since the original announcement of the proposed cuts to prove that their actions were not vindictive.

[48] "Why the haste, Mr. Carter, in your resource plans," *Denver Post*, January 10, 1978.

Mondale repeatedly told reporters that there had never been a War on the West. Perhaps the reason why westerners were willing to listen to Mondale now was that he also demonstrated that he understood the source of their way of thinking. Mondale acknowledged that the water review had played a central role in creating the perception or idea of a "War on the West." In its reporting of the trip, the *Washington Post* quoted Andrus as saying, "We really screwed up on the way we handled the water projects." It was quite possibly the first time that Andrus made the admission in public. The admission went a long way to help calm frazzled western nerves. Andrus, known as a straight shooter had admitted the mistake as if to explain they understood and would not do it again. Keeping that tacit expectation would be challenging, to say the least.[49]

Within days, the *Washington Post* was editorializing that Mondale may have gone too far in his concessions to western governors, in effect painting the administration into a corner. "Despite his excesses in the 'Hit List' fight, Mr. Carter has been on the right track in reassessing federal water policies. The economic and environmental standards for future water projects should be tightened up." The paper argued that instead of continuing the pledge of non-preemption laid out by Carter himself at the Denver conference, Mondale had pledged "non-interference." The editorial's authors pointed out that many of the administration's proposals did not challenge the states' legal right to water, but sought to influence their decisions. They suggested this type of effort could be seen as a kind of "interference" that Mondale's pledged had ruled out. The paper remained hopeful that Westerners would be

[49] Andrus to Mondale, January 18, 1978, Andrus Paper Box 8 Folder 6; Lou Cannon, "Carter in Full Retreat in 'War on West,'" *Washington Post*, January 15, 1978.

cooperative, but ended by proposing, "Where cooperative efforts stall, we hope the administration is prepared to be less friendly and more firm."[50]

As if responding to the *Washington Post*, the White House proved that not everyone had gotten the message from Mondale and Andrus. Within days of the *Post's* editorial, the White House announced its budget recommendations for Fiscal Year 1979, which recommended fifteen percent cuts to the CUP. Rod Decker, the political reporter for Utah's *Deseret News* declared the move "A salvo in Carter's War on the West," pointing out that Mondale said "The war is over" during his trip two weeks previously.

Decker's column provides valuable insights into understanding the way many in the West viewed the White House. Lacking the vitriol in similar pieces in other western papers, Decker provides a more rational explanation of the problem. He explained that what many westerners called the "War on the West" was a "federal campaign to retard the economy and control the resources of the western United States." Decker also explained that the war began with the Hit List, and included the crack down on acreage limitation. He concluded insightfully:

> It is unfair to blame all the friction between Washington and the West on Carter. The bickering began before he came to office, and federal courts are responsible for much of the trouble. But Carter has surely intensified the conflict.[51]

Despite the setback in relations, Andrus had been meeting with Western governors on water policy review. The final meeting was scheduled for February 17. He explained that "it is tough, but they are responding. With the exception of Dick Lamm, they are trying to be reasonable." However, they did not finalize all of the

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[50] "Water Pressure in the West," *Washington Post*, January 22, 1978.
[51] Rod Decker, "A Salvo in Carter's War on the West" *Deseret News*, Jan 26, 1978.

issues. Despite the goal to have the final recommendations ready to announce in February, Andrus wanted to make sure that he had reached a consensus with the governors before moving forward. As a result Andrus met again with the Governor's Conference at the end of February or early March. Andrus reported to Carter that his round of talks "went better than I expected and, with the exception of Governor Lamm, we are making positive gains on water problems." The same memo also mentioned the President's upcoming tour of the west. Andrus noted the budget hearings were going well with the exception of Senator Burdick "and his Garrison Project."[52]

During the week of March 6-10 Andrus spent a day in Utah and met with Governor Matheson on water policy. As the head of the National Governor's Association over water policies, Matheson played a key role in crafting policies which struck a balance between state and federal policies, and also balancing the needs of the arid West and increasing concerns in eastern states over aging infrastructure. Andrus told Carter in his memo following the trip that he would deliver the Water Policy Review in the next week. However, he advised the president, "prudence dictates that discussion with the Governors and Congressmen move slowly so that you can cut on it after the Panama votes."[53]

As Andrus worked with western governors to smooth the road for the water policy review, in public he was also trying to soften the expectations. In an interview quoted by the *Washington Post,* Andrus even downplayed the use of the term reform. In Carter's original message he had called for "comprehensive reform." A year later

[52] Andrus to Carter, February 17, 1977; Andrus to Carter, March 3, 1978, Andrus Papers, Box 8 Folder 5.
[53] Andrus to Carter, March 10, 1978, Andrus Papers, Box 8 Folder 5.

Andrus stated that it was instead "a major effort to review" rather than a reform. He added, "A great deal more has been made of it than should have been." Margot Hornblower, who had been following the issue for the *Washington Post*, reported that Andrus and other key administration officials had grown reluctant to push through any revision which would cause a backlash. As a result, key issues, such as resetting the discount rate, which Andrus had called "imperative" during the initial water project review process, were now "dismissed as politically unfeasible."

But Hornblower noted that the Council on Environmental Quality and the Office of Management and Budget, which were also working with the Department of the Interior on the review, favored "a bolder approach." She also reported that Andrus favored the use of cost sharing to solve the discount rate issue. He believed forcing state legislatures to debate the issue of funding their portion of water project would "shine the light of day" on the true costs and limited benefits of the controversial projects. The states and local people could then "accept or reject the projects."[54]

But despite the success that Andrus made negotiating directly with governors to build solid support for the water policy recommendations, he did not placate all of them. Upset over the status of the Garrison Diversion Project, North Dakota filed a lawsuit in state court protesting that the new water policies required an environmental study under NEPA. The Federal District Court in North Dakota granted an injunction. The decision prohibited Andrus from presenting the President the water policy report. The Eighth Circuit vacated the decision on March 21. Andrus reported to Carter at the end of the week that he could now expect the final report on his desk by Monday April

[54] Margot Hornblower, "Politics Shriveling Water Revisions," *Washington Post*, March 12, 1978.

3. Andrus reassured Carter that while they had made concessions due to the concerns and politics involved, that the final product went a long way to achieving the president's original goals. Specifically, he said, "We have 'sanitized' some of the politics, but, there is a lot of meat and needed reform."[55]

However, Andrus did not keep his expected timetable. Now instead of delays from the negotiations with Matheson and the governors, the slow down was due to conflicts from within the administration. As Margot Hornblower had indicated in her March article, Andrus's partners at OMB and CEQ were not as keen on some of the concessions he had made. Andrus reported to Carter on April 7 that they had completed the policy paper. He explained that "Policy by committee has cost us ten days because of departmental differences.[56]

On April 28 Andrus was finally able to tell Carter that the water policy paper was in the White House for his review. He explained that some of the suggestions from his negotiations with the governors had been "changed by the OMB process," and that he wanted to review them with Carter before he made his "final cut." Andrus concluded:

> It is a good document and can be a solid plus for us, but someone has to be in charge or we will not follow through and end up with another disaster. There will be support for reform on the Hill and we need to take advantage of it. [57]

Andrus followed up the next day with a special memo specifically on the water policy review. Rather than "chat about it" as Andrus had asked, the message came back from Eizenstat requesting a brief statement. Andrus wrote the president that he

[55] Andrus to Carter, March 24, 1978. Andrus papers, box 8, folder 5.
[56] Andrus to Carter, April 7, 1978. Andrus papers, box 8, folder 5.
[57] Andrus to Carter, April 28, 1978, Andrus papers, box 8, folder 5.

still wanted to talk on the phone. Andrus emphasized to Carter as he was preparing to make his final cuts that:

> Cost sharing is the most important element of reform. It does many things, requires state legislative action, hearings on state level, will diminish backlog and discount rate problem will not have to be addressed and most bad projects eliminated.

Andrus also warned the president about language that had been added to the draft through the internal review at OMB and the White House, pushing water marketing to solve water shortage problems. They had advocated for state water exchange plans, allowing the export of state granted water rights outside a state. Andrus warned that such schemes would put the administration "on the defensive." He sensed that Governor Lamm and others would interpret it as an attack on state rights and a federal power grab to control water in the West. Despite the warning, Andrus concluded that he was optimistic about the final product and was encouraged by contributions by Governors, especially Matheson.[58]

The President joined by Secretary Andrus announced the results of the policy review at a press conference on June 6. He largely followed the advice of Andrus in making the final revisions. For example, the announced plan cut any efforts to raise the discount rate on existing projects. But in June, when Andrus sent the President a summary of the way the water policy proposals were being treated in the papers, even the supportive Matheson had turned critical of the final document. Matheson told reporters that he had "the 'uneasy feeling' that a lot of the language in the message

[58] Andrus to carter, April 29, 1978, Andrus papers, box 8, folder 5.

which appears innocuous will provide the basis for a heavy hand of additional bureaucratic costs and delays"[59]

The center piece of Andrus' plan was local cost sharing. The negotiations with the governors had resulted in a refinement of the formula. Revenue-generating projects like municipal water and hydroelectric power would require state or local governments to pay ten-percent of the project cost up front. Non-revenue producing projects, like flood control dams would require a smaller five-percent local cost share. The local cost share and other changes would only apply to new authorizations. But they anticipated states which volunteered for cost sharing could have their projects moved to the front of the line. In a move to appease smaller states, Governor Matheson won a provision that the local cost share could not exceed one-quarter of one percent of the states general revenues.[60]

Environmental groups, which had been working closely with the White House staff were quick to praise the proposal. A coalition of twenty-four environmental organizations applauded the proposals to make water conservation a specific objective in calculating cost-to-benefit ratios. Further, Carter asked Congress to appropriate $50 million to help states complete water plans and implement water conservation programs. While disappointed the plan did not mandate conservation measure for irrigation, environmental groups also praised the anticipated reduction the subsidy of irrigation water by charging farmers more for the water and limiting water contracts to

[59] Andrus to Carter, June 23, 1978, Andrus Papers, Box 8, Folder 5.
[60] Edward Walsh, "President Unveils His Long-Awaited U.S. Water Policy," *Washington Post*, June 7, 1978.

five years—as opposed to the old practice of forty years—to allow for more frequent price adjustments.[61]



Figure 7 Jimmy Carter and Secretary of the Interior Cecil Andrus conduct a briefing on new water proposals, June 6, 1978. JCPL, Carter White House Photographs, JC-WHSP, NLC-WHSP-C-05999-17.

The controversy over the administration's water policy reform continued to smolder in the West. In Colorado particularly, animosity remained intense. Governor Lamm continued to speak out, taking the administration on at the mid-July meeting of the Four Corners Regional Commission. Andrus reported to Carter after the meeting that Nevada Governor O'Callaghan had spoken out in defense of the administration, but concluded, "it appears that Lamm, and probably Colorado, is a lost cause." After the spring tour of the West, which met with limited success and the continued

[61] Ibid.

controversies, Andrus estimated that outside of the states along the coast (Hawaii, Washington, Oregon, and California), their only chance in the interior West was probably New Mexico. The following week, Andrus reported that Senator Gary Hart had called "expressing concern" over the West's reaction to the Administration's policies and the future impact on Democratic politics. But as bad as it was, Andrus would soon find out it could get even worse. Just as Andrus prepared to convert the water policy review into Carter's Water Policy Initiative, including working with Congress to implement cost sharing and other policies, Carter and Congress squared off again over the Hit List.[62]

FY 1979 Appropriations and Carter's Veto of the Public Works Bill

President Carter had originally set a quick deadline for the water policy review. In his mind he thought that it could be done in six months. If the problem had simply been one of evaluating alternatives logically, as was his custom and training as an engineer, six months undoubtedly would have been enough time. For those who had invested years into the investigation, planning, and political maneuvering needed to begin water projects, as we saw with Felix Sparks, six months hardly seemed adequate to evaluate the policies that had underpinned their projects for decades.

To his credit, Carter had delegated the review to Andrus, and allowed Andrus to slow down the pace to placate the politicians from Colorado, Utah, and elsewhere that had been protesting the loudest. The slower and more deliberate process, including prolonged negotiations with Western Governors, and the National

[62] Andrus to Carter, July 29, 1978; Andrus to Carter, August 4,1978, Andrus papers, box 8 folder 5.

Governors' Association—particularly through the involvement of Scott Matheson—resulted in reform recommendations that had a real chance of action by Congress.

Unfortunately for the administration, no policy decision—however great or small, limited or comprehensive—takes place within a vacuum. Countless other elements influenced the events and politics in Washington D.C. The White House had been working with Congress on its energy reform package that had bogged down in the Senate. President Carter had negotiated a treaty with Panama to quell increasingly anti-American attitudes that could have resulted in the deployment of U.S. troops to protect the Canal Zone. The White House would spend considerable time and political capital to secure its ratification. Implementing comprehensive water reform would have been a grand accomplishment had those been the only distractions. But unfortunately, they were not.

As has already been suggested—at least in passing—the Carter administration was also moving on many other issues that impacted the West, including several related to water. Thus simultaneously, they had taken on the water projects review, or Hit List, and water policy review. Additionally, because of court decisions made prior to taking office, the administration also had to tackle the issue of acreage limitation on Bureau of Reclamation projects and implement new regulations regarding the Clean Water Act, as well as other touchy issues in the West. But it was the combination of water project funding, water policy reform, and acreage limitation that served as the stock for a potent brew of political trouble poured out on the White House.

The question of what to do about the projects that Congress funded over Carter's recommendations—the eight projects Carter had agreed to allow into the

appropriations bill with a promise not to veto—was on the minds of White House staff before Carter had even signed the Appropriations Bill into law. Would Carter and the White House continue to push for their cancellation, or would they only work to seek deauthorization of the projects that had been cut? The domestic policy staff worked on options, and arranged meetings with allies during the fall. Brent Blackwelder and other environmentalists offered their suggestions and support.

Initially, it looked as if Carter would not take such a hard line, realizing the political damage that had been done by the early fight over the Hit List, especially given his desire to move forward on the water policy reforms already discussed. In fact, at a White House meeting in mid-October, Carter made some assurances to western politicians that the ongoing drought in the West had softened his position. Leaving the meeting, Utah Congressman Dan Marriott told waiting reporters that Carter "said that he did not intend to continue fighting over these projects and in fact would consider accelerating them to completion rather that waiting for 15-20 years down the line." Marriott left the reporter with the impression that Carter would no longer fight reclamation projects.[63] Utah newspapers jubilantly carried the news that Marriott and Gunn McKay had confirmed that "the President indicated a better understanding of CUP's purposes… [and] that Carter actually "singled out" the CUP as a reclamation effort he now supports after learning more than he initially knew about it."[64]

However, during the regular daily White House briefing later that day, Deputy Press Secretary Rex Granum clarified that Carter told the congressmen he believed

[63] "Has Drought Forced Carter to Halt Fight on Projects," *Washington Star*, October 15, 1977.
[64] "President 'Born Again' Stand implies Welcome CUP Support," *Salt Lake Tribune*, October 18, 1977.

"many of the water projects were unnecessary," adding that he doubted Carter planned to expedite the projects. Subsequently, the Press Secretary's office released a statement to further clarify what had transpired at the meeting. It explained that in response to Marriott's question about the projects that had been funded over his recommendations, Carter had not made any budget decisions.

> He added that he had learned more about the CUP and that he would probably support its continuation as modified. Still as source of concern to him, he said, are the remaining projects, which are still being considered as part of the fiscal 1979 budget process. He said there were a couple of projects he still strongly opposes.[65]

In late November Carter met again with those who supported his cuts. He wrote in his diary that "They wanted to plan mutual strategy on a water policy acceptable to them and to me. After listing the groups and interests they represented Carter added, "Good people and natural friends." While by the end of his term environmentalists would increasingly despair that Carter had not gone far enough in pushing environmental policies, his action on the Hit List—particularly his comments here and "natural friends"—really illustrates that Carter's true nature as an environmentalist motivated him cut the water projects, as much as his fiscal conservatism. An interesting contrast can be made here with President Nixon who supported environmental legislation largely as a political move. The general public may not have elected Carter because of his environmental credentials, but certainly those with concerns about environmental policy were familiar with his beliefs and supported his election and continued to look to him for continued change.[66]

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[65] Office of the White House Press Secretary Oct 14, 1977, University of Utah, Dan Marriot collection, box 1, CUP binder.
[66] *White House Diary*, 140. For Nixon's motivations see Brooks Flippen, *Nixon and the Environment* (Albuquerque: University of New Mexico Press, 2000).

By the end of the year, Carter had still not made up his mind. He had been lobbied by members of Congress from the West, by his environmental allies, and by his staff. But, he still had not made a final decision. Stu Eizenstat, Jim McIntyre and Frank Moore wrote the President with suggestions on how to approach the issue in the preparation of Carter's budget recommendations for FY 1979 due out in January. They indicated their memo was a follow up of previous conversations about the issue. They recommended funding the projects pending the water policy review after which they would recommend deletions. They also discussed the chance for success in cutting the Cache Basin and Richard B. Russell projects to which Carter had strong personal objections. Reading their memo, Carter finally made up his mind. He chose the fourth option listed on the memo, "Delete all projects funded by Congress against the recommendations," adding in the margin with some exceptions, specifically the CUP. On the cover of the memo Carter wrote to Eizenstat, McIntyre, and Moore, "I cannot in good conscience recommend that all these be funded. My budget is what I think should be funded. We won't make another major battle on these."[67]

Despite the political fallout, Carter did not believe the projects should be funded. At least, his conscience would not allow him to personally recommend it. If Congress chose to add the funding, then it would be their decision. He would push, but he would not make it a "*major* battle." But sometime after signing off on the memo, Carter changed his mind. The final budget recommendations released in January included funds for seven of the nine projects funded as part of the

[67] Eizenstat, Jim McIntyre and Frank Moore to the president, undated, JCPL, Handwriting file, Box 65, Folder 12/28/77-Not Submitted [CF, o/a 548]. It is assumed that Carter read and marked up the memo on December 28, 1977 as the attached outbound routing slip is dated and states it was in the president's outbox. Emphasis in original.

compromise with Congress. Only the Garrison Diversion and Auburn Dam received a recommendation for zero funding.[68]

Carter also dispatched Vice President Mondale on a sweeping tour of the West, accompanied at times by Andrus and Secretary of Agriculture Bob Bergland. The group was met with hostility, which at least in one case manifested itself physically. But, the tour also helped to mend some fences, at least temporarily. As had been pointed out earlier, soon after their trip the White House announced its FY 1979 budget that cut the funding requested by the Bureau of Reclamation by half. Utah politicians and newspapers, apparently accustomed to seeing the worst, failed to mention (and perhaps realize) that other "Hit List" projects had been cut completely.

In a radio interview shortly after the announcement on February 1, Representative Marriott lashed out at the president.

> Utah has been dealt a sharp blow from the Carter Administration. They have gone back on their word now a half dozen times. Cutting funding by half cripples the project. Deep down they want to cut the project out completely. It makes you mad when the administration is against you like this, but the Utah delegation are working together on this.[69]

Marriott and the rest of the delegation would work closely with Governor Matheson to lobby Congress for full funding of the project, including new construction starts for the Uinta and Upalco units of the CUP. The White House did not include any new construction starts in its initial budget recommendations. Instead, they had opted to withhold recommendations until after the completion of the water

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[68] W. Dale Nelson, "7 Water Projects Included," *UPI*, January 23, 1978.

[69] KWMS Interview with Dan Marriot, Feb 1, 1978, University of Utah, Dan Marriot collection, box 1, CUP binder. Marriott's numbers are misleading. The Bureau of Reclamation had recommended $52.6 Million for all units of the CUP, which included new construction starts for the Uinta and Upalco Units. The president withheld any new starts pending the completion of the review, and requested $37.5 million for the Jensen and Bonneville Units. To get the 50% cut, Marriott used the Bureau of Reclamation recommended amount for all units versus the $27. 3 million recommendation for Bonneville Unit.

policy review. Critics presumed that this was because the White House wanted to make the new construction starts subject to the new policies, and perhaps that way kill some of their projects. Those fears seem unfounded, for while there may have been a few projects subject to the new policies, they were primarily intended to regulate new project authorizations.

President Carter's stated goal that winter was to move past the Hit List controversy. As his comments on the December 28 memo pointed out, he was not looking for a major battle over water project funding. In fact, as he had begun to indicate in October, Carter increasingly believed that water project funding should be accelerated the projects under construction. He believed this would save money in the long run by lowering overhead costs and also starting repayment sooner. But as the water policy review entered its final stages that spring, Carter's attitude began to harden.

In April 1978 Jim McIntyre, Carter's director of OMB, encouraged the president to rethink his veto strategy. He argued that Congress interpreted Carter's reluctance to use the veto as a major weakness, and was "less willing to negotiate over our wide range of issues." McIntyre believed that demonstrating a willingness to use any veto "would create a greater respect and concern for our position on the Hill, and provide a stimulus for greater agency support of your positions." While McIntyre did not suggest the Public Works appropriations bill as a potential target, action by the House appropriations subcommittee, headed by Tom Bevill, made it a distinct possibility.[70]

[70] Jim McIntyre to President Carter, April 5, 1978, JCL, personal secretary and writing file, Box 79, Congressional veto policy 4/10/78, quoted in Frisch and Kelly, 94-95.

During the spring, the subcommittee had held hearings, debated the president's recommendations, and considered alternatives. On May 3, 1978 the subcommittee made its final changes and approved a version to report to the full Appropriations Committee. The administration had two concerns. First, Bevill's committee had cut out all funding for the Water Resources Council. Andrus protested to Bevill, that sustaining that action "would be extremely unfortunate." He continued, stating the administration, "regarded water policy as an extremely high priority and suspension of WRC funding at this time would certainly be a step backward in efforts to improve water resource management."[71]

The administration's second concern was that the proposed appropriations bill H.R. 12928 included funding for the nine projects that had been cut the previous year. As discussed in Chapter 2, it is unclear if Speaker O'Neill had promised to permanently cut those projects when he proposed his compromise to President Carter. But Tom Bevill and others had made it clear at the time that they had only removed funding to avoid the president's veto and they intended to restore funding the following year. True to his word, that is exactly what Bevill had done.

These events put the White House in a difficult position. President Carter's priority had clearly shifted to the comprehensive water policy reform. However, Carter and his domestic policy staff had advocated for the permanent deauthorization of the nine projects. Bevill's bill threatened both. The full House Appropriations Committee considered the bill on May 31, 1978. Jim McIntyre wrote George Mahon, the committee's chairman, warning that the administration opposed the significant funding increases above their recommendations. Despite the letter, the committee

[71] Andrus to Tom Bevill May 4, 1978, Andrus papers, box 33, folder 6.

voted on June 1 to send the bill to the full House without modification. A week later the rules committee gave a green light, making the bill ready for floor debate.[72]

Speaking to a group of editors and news directors on June 9, Carter expressed that his overriding concern as President was the worsening problem of inflation. He felt that Congress did not adequately support his efforts to control spending in an effort to curb inflation. Speaking broadly he added that, "Whenever a tangible, specific effort is made to control inflation, it always touches a very powerful constituency group…" Carter confided in his diary a few days later that he was discouraged with the Democrats in Congress. He wrote that they pressured him to spend "more money on defense, water projects, public works, transportation, education, health, labor, almost across the board. Public opinion will be on our side." He added that he believed confrontation would be bad, but unavoidable.[73]

That Carter included water projects funding in the laundry list of Congressional overspending gave no indication that he planned to make it agenda item number one. However, the following day, on June 12, Carter took action to do just that by meeting with congressional leaders supportive of the administration's stance on water projects. He told them it had been a mistake not to veto the appropriations bill in 1977. The administration planned on three amendments to the pending legislation. The first would remove the eight water projects that Congress had not funded in 1977; the second limited the number of new starts; while the third proposed that water projects use full-funding accounting. This simply meant that while they did

[72] Frisch and Kelly, 99-101.
[73] *White House Diary,* 199. "Interview with the President Remarks and a Question-and-Answer Session With a Group of Editors and News Directors," June 9, 1978, *Public Papers of the President, Jimmy Carter*, 1978, Book 1.

not in most cases appropriate the full cost of the project in a single year, it required that the full cost of the project be carried as an obligation in future budgets. While project authorizations generally included a cost-ceiling that capped the total cost of a project, this amount was not reflected as an obligation in the budget accounting. In other words, the proposal made it impossible for Congress to appropriate a small fraction of a project to get it started while "hiding" the huge costs to complete the project.[74]

That same day Carter sent a letter to Congress encouraging members to support these amendments and warned "budgetary constraints and inflation make it imperative that the appropriations process be responsible and restrained. Sound projects and program should be funded at reasonable rather than excessive levels. I cannot approve the proposed legislation in its present form."[75]

Within a few days the House of Representatives began debate on H.R. 12928. During the course of debate, the president's allies offered their amendments. Despite whatever feelings of betrayal they may have still harbored from Carter's compromise and failure to keep his promise to veto, Congressmen Edgar, Miller, and Derrick, respectively agreed to reprise their roles to sponsor the amendments. All three failed, but they saw Edgar's amendment to strip funding for the projects cut in 1977 as the most important. It was the test of the ability to sustain a veto. It failed by a vote of 142 to 234. If a veto override vote had those same results, the president's veto would have been sustained. But, if every member had voted, it would have fallen three votes

[74] Frisch and Kelly, 100.
[75] Jimmy Carter to members of Congress, June 12, 1978, JCPL, personal secretary and writing file, 6/12/78.

short if the president only had the 142 members on his side. The result was not as cut-and-dried as it had been in 1977, but it looked encouraging.

The House passed the bill and the Senate took up action. During early September, having just had his veto of the defense spending bill sustained, White House staff ratcheted up their support for a veto. The domestic policy staff and Congressional and Public Liaison began preparing for a veto. Kathy Fletcher reported to Stuart Eizenstat after the first week, "I believe the veto would be sustained." Others voiced their support as well. Andrus wrote the president on Sept 15 that he supported a veto. Gus Speth, a member of the CEQ, wrote to Press Secretary Jody Powell, on September 20:

> The call for a veto *extends far beyond the environmental community*. The president will lose credibility on the good government issue if we do not veto this bill. Appreciation of the correctness of the veto will be widespread if we do veto it.[76]

Still threatening a veto, the Senate did not take any significant action, as they had in 1977, to move the bill closer to what the president wanted. The Senate passed its version of the bill by an overwhelming margin of 89-5. A bipartisan group of forty-five senators wrote to Carter on September 20, 1978 encouraging him to accept the final legislation expected to be reported out of the Senate. "We urge you to give your careful attention and your every consideration to the strong and overwhelming

[76] Frank Moore, Anne Wexler, Stuart Eizenstat to Carter, September 20, stated a team had been working for three weeks. Kathy Fletcher to Stu Eizenstat, September 6, 1978, Gus Speth to Jody Powell, September 20, all quoted in Samuel D. Hoff, "Veto Strategy and Use by the Carter Administration," in *The Presidency and Domestic Policies of Jimmy Carter* edited by Herbert D. Rosenbaum and Alexej Urginsky (Westport, CT: Greenwood Press, 1994) 306-7. For Andrus support see Andrus to Carter, September 15, 1978, Andrus Papers, box 6, folder 5

congressional support of this highly important measure before acting on any [veto] recommendations."[77]

As the conference committee met to work out differences between the two versions of the bill, Carter agreed to meet with Congressmen Tom Bevill and Jim Wright, the House Majority Leader, at the White House to try and work out a compromise. However, the two were unable to offer Carter anything substantial enough to move from his position. In Carter's mind, Congress had simply gone too far. Not only did the final version of the bill fund six of the nine projects that had been cut previously, it contained new construction starts for fifty-three projects, mandated the hiring of 2300 new civilian staff for the Corps of Engineers, and eliminated funding for the Water Resources Council, which the White House intended to oversee the implementation of the comprehensive water policy reform proposals submitted to Congress for June. Despite suggestions that a veto could impact Carter's energy bill that was also in the final stages of passage, Carter remained committed to veto the bill. Stating it was a decision that he did not enjoy and that was not easy to make, Carter, singling out his concern for inflation, vetoed the bill on October 5, 1978.[78]

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[77] Frisch and Kelly, 101.

[78] Frisch and Kelly, 103-107. For other's treatment of the veto see, Mark Reisner, 321-3; William Ashworth, Under The Influence: Congress, Lobbies, and the American Pork-Barrel System, New York: Hawthorn/Dutton, 1981), 166-7; and Samuel D. Hoff, 306-7. Carter's veto message is found in *Public Papers of the Presidents, Jimmy Carter*, 1978, book 2, 1706. The paraphrase about "enjoy" and "not easy" come from remarks to reporters that day, also from the same source.
Hoff sees inconsistencies with the president's remarks on the day of the veto and in his memoirs. He stated to reporters "this has not been an easy decision for me to make. It's something I do not enjoy" (public papers of the Presidents: Jimmy Carter, 1978, 2:1706). From his memoirs, Hoff points out Carter's statement "I made some mistakes in dealing with Congress, and one that I still regret is weakening or compromising the first year on some of those worthless dam projects... later, on this issue, I was not so timid. In October 1978 I vetoed the annual Public Works bill because it included some of the same projects." I would argue that there is no inconsistency here between these two statements. Just because you are not timid about using the veto power does not make it "an easy decision." And

The White House had continued its efforts to build support in the House to sustain his veto between the passage of the bill and the veto. In their analysis, political scientists Scott Frisch and Sean Kelly, observed the administration developed a two-pronged strategy. Not only did they take the issue to the media—in Carter style, you make a direct appeal to the public to put pressure on Congress—the congressional liaison staff mounted an intense lobbying effort directly with members of the House. The authors contend sustaining the veto was the most difficult the liaison's office had undertaken up to that point in Carter's presidency. At one point, the White House hosted 200 House members at a briefing on the president's concerns. The president also became intensely involved directly briefing House members, media, and making phone calls and writing personal notes as prescribed by the liaison office.[79]

As he was lobbying for support from House members, Frisch and Kelly argue that Carter was operating at a disadvantage; he was unable to offer "substantive benefits to a member of Congress in order to curry favor." They contend that to do so would have gone against his personal beliefs and alienated core supporters. They also cite statements by Frank Moore that they never engaged in "buying votes." While he may not have had much to offer, others suggest that Carter in a limited degree offered some incentives. In his biography on Tip O'Neill, William Farrell states that the White House did trade in favors, "a bridge in Arkansas, an Army base in New York, a

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just because he felt it was the right thing to do did not make it enjoyable. And when one considers the context of the 1977 decision, something Hoff may not have done, the statement about "timid" is understandable. That is, the president made the decision quickly and by himself at a time the president was willing to compromise and maintain relations with Speaker O'Neill. Further, the comment in the president's memoirs is also made with the benefit of hindsight. It could be argued that Carter only came to see the 1977 compromise as a mistake after Congress reinstated funding for the projects in 1978.

[79] Ibid, 107-113.

presidential photo opportunity for one congressman, some public work support for the New Jersey delegation"[80]

In their detailed analysis of the White House lobbying effort in the vote, Frisch and Kelly found that as of the evening before the veto, more than 100 votes were unknown or undecided. The House moved to override the veto the same day Carter signed it, October 5. During the floor debate several representatives noted that the White House and Democratic Congressional leadership had intensely lobbied for votes.[81] Representative Robert Michel (R-IL) stated:

> I don't suspect I can turn any vote around on the Democratic side of this issue, for you have all been subject to the greatest pressure already. Your leaders both in this body and the other are all against your president. I cannot imagine if the situation were reversed that we Republicans would treat our President that way.[82]

Jim Wright, stated in his remarks that the administration's lobbying effort was "The most intense and extreme pressure I have ever seen emanating from the White House in the 24 years in Washington." But not all of Carter's efforts were successful. Frisch and Kelly noted that the Liaison's office had asked Carter to phone Congressman Sid Yates (D-IL). Carter reported back that he thought Yates sounded "brainwashed" but that he thought he shifted him around. Despite the phone call, Yates voted against the president.[83]

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[80] Frisch and Kelly, 141; Ferrell, 462. James A. Speer notes that Carter's consistent public position was against "horse trading" for votes, but also states that he did reluctantly engage in it on a few occasions. See, "A Baptist President" in *The Presidency and Domestic Policies of Jimmy Carter* edited by Herbert D. Rosenbaum and Alexej Urginsky (Westport, CT: Greenwood Press, 1994), 104. 83-116, 104

[81] Frisch and Kelly, 134; the House debate is contained in *Congressional Record*, 124 part 25 (October 5, 1978): 33704-28.

[82] Remarks of Robert Michel, *Congressional Record*, 124 part 25 (October 5, 1978): 33710.

[83] For Jim Wright see, *Congressional Record*, 124 part 25 (October 5, 1978): 33723. The phone call to Yates is discussed in Frisch and Kelly, 141. They pointed to Carter's effort as an example of his success, but must not have checked how he actually voted. For the vote see the voting results in, *Congressional Record*, 33727-8.

Some argued that if Carter's primary objection in vetoing the bill was because Congress reinstated the cut projects, it suggested ignorance or misrepresentation of the facts. Frank Evans, for example, pointed out that while the Savory-Pot Hook and Fruitland Mesa projects had been included, it was only a small sum to conduct a restudy to see if the projects could be changed to meet the president's objections. He explained, "We want to go back to the drawing boards, yet the president is treating these projects as though we were trying to go the way we were last year, and that is not correct." He also argued that the Narrows Unit, the third Colorado project that had been cut in 1977 and had been included again was because the Bureau of Reclamation had restudied the President's five stated objections, and "gave a clean bill of heath. The people upstairs on the other end of Pennsylvania Avenue disagreed with the experts in that regard."[84]

Tom Bevill's remarks are particularly revealing. Bevill reminded the House about what he considered "the most misunderstood" part of the bill and the president's subsequent veto, the agreement reached when the President signed the public works bill in 1977. Bevill stated that he believed "the language of the conference report was very explicit." It contained three points. First, that Congress had retained the right to select projects; second, all authorized projects would be considered on their merits in the 1979 appropriations bill; and third, the elimination of funding is a policy applied only to 1978 appropriations. "This language was specifically communicated to one of the President's top aides who voiced no objection to the specific nature of last year's agreement."[85]

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[84] Remarks of Frank Evans, *Congressional Record*, 124 part 25 (October 5, 1978): 33713.
[85] Remarks of Tom Bevill, *Congressional Record*, 124 part 25 (October 5, 1978): 33720.

Bevill also clarified that only three of the eight projects had received construction funding in the appropriations bill: Narrows, Yatesville, and Bayou Bodcau, while three others received funding for restudy, the Savory-Pot Hook, Fruitland Mesa, and Lukfata Lake in Oklahoma. The La Farge Dam in Wisconsin and the Meremec Park project in Missouri received no funding.

Despite the strong support in the House for the appropriations bill when it passed originally, the lobbying on behalf of the administration appears to have made a difference. Carter's key allies for the 1977 battle over the Hit List—George Miller, Silvio Conte, Tobby Moffet, Edgar, Butler Derrick—voted to support his veto. Showing further support for the president, the next month Congress rejected the Omnibus Rivers And Harbors Authorization bill of 1978 which contained $4 billion worth of future project authorizations. The vote did not resolve much. Congress and the president still had to negotiate appropriations funding for the fiscal year that had begun four days previously. They also had to work out other important issues related to water policy. But the vote did resolve the political drama of the Hit List that had been playing out in the White House and on Capitol Hill for an impressive run of twenty months.

But the sting of losing the fight over the veto remained with many members of Congress who had battled the president over funding water projects. They subsequently responded by unilaterally blocking the administrations attempted to push forward legislation to reform acreage limitation and to implement key elements of the comprehensive water policy reforms, as well as legislation unrelated to water. Thus, the story of the Hit List is critical to understanding the Carter presidency. In many

ways the initial announcement in February 1977 set the tone for the next four years. Daniel Beard explained that to him it felt like Carter had dug a twenty-four-foot deep hole and thrown them all into it. They would spend the next four years digging their way out.[86]

Because the administration's experience was so fateful, most histories of the Carter presidency include at least a brief discussion of the Hit List controversy. Further, because virtually everyone—including administration officials and even Carter himself—in retrospect consider at least part of the Hit List episode a mistake; it is presented, in most narratives, as an open and shut case. The reality is quite the contrary. Rather than a story about a brief episode over deletion of funding for dams, angering Congress in the process, the Hit List and the administrations continuing efforts to implement water policy reforms was an ongoing issue throughout the balance of Carter's presidency.

In his discussion of the Hit List controversy, Carter biographer Peter Bourne keenly observed:

> For Carter, it was a clear matter of principle. For Congress, his refusal to play by the rules was further evidence of his insensitivity to their needs. For the media, accustomed to the regular compromise of principle in Washington, that he canceled any of the projects suggested naiveté.[87]

The perceptions Bourne describes would only intensify as the three separate issues of water policy, acreage limitation, and water projects development now converged, like streams of water, into a river coursing through the West Wing in 1977

[86] Dan Beard Interview with Author, July 27, 2010.
[87] Peter G. Bourne, *Jimmy Carter: A Comprehensive Biography from Planes to Post Presidency* (New York: A Lisa Drew Book/Scribner, 1997), 373.

and 1978. Taking on Congress and their tradition of back-scratching, he had challenged them not once, but twice to cut controversial projects under construction. Taking a hard stance against the economics of western agriculture, they had challenged long-standing traditions ignoring acreage limitation provisions in Reclamation law. Pushing for rational comprehensive water policy reform, they had threatened the tradition of water law in the West that had left states in control of regulation. While he had taken the moral high road in every case, Carter found that because of perceived insensitivity, Congress became increasing difficult to deal with as the administration tried to push legislative proposals to implement his water policy initiatives and acreage limitation proposals. And for a President who had banked on using his bully pulpit to go over Congress's heads in such situations, he found that the media and public opinion increasingly found him naïve for even trying to continue with his proposals. But ever one to do what he considered the right choice that is exactly what he would try to do.

Chapter 4
River to Rebellion or Clouded Waters:
Division and Lack of Clarity in U.S. Water Policy During the Carter and Reagan Years.

> What is the top problem facing water users today? Section 404 (Dredge and Fill Permit program)? Section 208 (Water Quality Management Planning)? The Endanger Species Act? Project Funding? NEPA? Federal Reserve Rights? At a recent Colorado Water Congress-sponsored meeting of some 40 water leaders from through out the state … it was agreed that all of them represented a piece of the one, major, over-riding problem: UNWARRANTED FEDERAL INTRUSION INTO STATE AFFAIRS.
>
> —CWC Newsletter[1]

> By the time James Watt delivered his talk at the National Water Resource Association's 15th anniversary convention in October 1982, the water industry had come to recognize, rhetoric notwithstanding, that division and lack of clarity rather than consensus held sway in the administration's water policy debates.
>
> —Robert Gottlieb[2]

For a moment in October 1978, it seemed, President Carter had good reason to celebrate the House vote sustaining his override of the Public Worked Appropriations bill. Given his growing concerns about inflation, the bill represented too much spending on the wrong projects, and sustaining his veto was a victory. Some critics chided the President for vetoing the bill containing important energy appropriations

[1] *Colorado Water Congress Newsletter*, 21 No 9 October 1978, 1. Underlining and all caps in original.
[2] Robert Gottlieb, *A Life of Its Own: The Politics and Power of Water* (San Diego: Harcourt Brace Jovanovich, 1988), 65.

for the sake of his Hit List. In reality, his opposition had not just been about his Hit List projects, it had also been about construction authorizations for fifty-six new water projects, inflating the federal bureaucracy by 3200 employees. But more than anything Carter's motivation had been his determination to make the right choice. Carter historian, Charles Jones, wrote about the Hit List, "Carter was not willing to make just one symbolic foray right into this political hornets nest." Jones argues that Carter "persisted in his efforts to delete projects" and make policy improvements for the balance of his time in office.[3] But, as the President moved forward with efforts to implement new water policy, he soon found that his veto, combined with the ongoing concerns—particularly in the West about the water policy review and the enforcement of acreage limitations—severely hampered his administration's efforts to implement the water policy initiatives. Additionally, the administration also supported two other efforts that threatened to redefine water use rights and that greatly angered many in the West. To continue the water analogy, the streams of events—water projects, water policy, and acreage limitation—had met to form a river. The way forward down that river was strewn with boulders and rapids of Carter's own making. Despite his enthusiasm for paddling white water in kayak and canoes, the next two years would be a rough ride.

Between the fall of 1978 and 1980, the Carter administration fought for its water policy initiatives, successfully implementing many changes using executive orders and revising agency rules. But the biggest changes required congressional approval. During that time, the administration attempted to secure legislation

[3] Charles O. Jones, *The Trusteeship Presidency: Jimmy Carter and the United States Congress* (Baton Rouge: Louisiana State University Press, 1988), 146.

implementing its cost-sharing proposals, funding for the Water Resource Council, and its preferred solution to the acreage limitation question. In addition, the administration continued to back attempts to establish claims to water rights for federal lands and deal with implementation of Clean Water Act provisions.

Clean Water Act

In 1972 Congress passed the Water Pollution Control Act, also known as the Clean Water Act. The sweeping law implemented many new policies and rules to prevent and clean up water pollution. Three specific provisions had a direct impact on water development projects. Section 208 and Section 303 of the law respectively required states to implement plans to control water pollution from specific sources, and from the cumulative impact of dispersed sources. Section 303 required states to identify and report to the Environmental Protection Agency (EPA) which waterway failed to meet quality standards. Section 404 of the law required the Army Corps of Engineers (ACOE) to regulate the disposal of fill material, specifically from dredging operations. Concern had grown that the muck removed from rivers and harbors, and other excavation operations had been used to fill in wetlands. The law's impact became even more significant after court challenges broadened the interpretation and application of the Act.

Under section 404, the Army Corps of Engineers had limited its regulation of dredge and fill operations to navigable rivers and streams. The courts had long maintained that the federal government had jurisdiction over navigable waterways under the commerce clause of the constitution. However, after the passage of the law, the National Resource Defense Council and the National Wildlife Federation (NWF)

filed lawsuit to force the ACOE to broaden their regulation of "dredge and fill."[4] The District Court in DC ordered the Corps of Engineers to expand its existing permit program for "discharge and dredge" and "fill material" to cover all waters of the United States.

In early May 1975, the ACOE released a press release bemoaning the new burdens the courts had imposed on the agency. The press release from the Office of the Chief of Engineers claimed that "federal permits [might] be required for ranchers enlarging a stock pond or the farmer who wants to deepen an irrigation ditch or plow his field." It was a strategy that Thomas Kimball, President of the National Wildlife Federation, felt was aimed "to scare farmers and ranchers into support for the narrowest definition of the Corp's responsibility possible. Kimball complained about the tactic largely on the basis that even the broadest interpretation of the proposed regulations did not propose extending regulation to stock ponds and plowed fields.[5]

The NWF joined with National Resources Defense Council and eight other environmental groups and issued their own press release on May 16. The press release attacked the "national scare campaign" and chided the Corps for taking their interpretation to "such absurd extremes." They noted that the result of the lawsuit was to bring "areas of ecologically critical coastal and inland wetlands" into the permit program administered by the Corps. The groups further explained that the environmental groups had never asked for regulations which would extend the jurisdiction to extremes.[6]

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[4] The state of Florida joined the suit, intervening on the side of the environmental groups.
[5] Thomas Kimball to Howard Calloway, May 12, 1975, BSU MS 56 Frank Church Collection, Series 3.3.3, box 60 folder 13.
[6] NRDC, "Corps Scare Campaign Scored" May 16, 1975, copy in BSU MS 56 Frank Church

As a result of the court's action, the ACOE published new regulations on July 25, 1975, requiring a permit before undertaking any activity involving fill material. This covered any pond larger than 5 surface acres and all streams and creeks up to their headwaters and on adjacent wetlands. The regulation was being phased in and they were to be fully phased in by July 1, 1977.

Members of Congress in both houses recognized the impact of the regulations and began working on legislation to change the regulation. Action resulted in the passage of the Wright Amendment in 1976. The Senate passed a different version (Baker-Randolph) of the bill and the Congress adjourned before the differences could be worked out in conference.[7]

As a result, implementation of the new rules fell upon the Carter administration. Thus, in the early months of the administration—while it conducted the Hit List Review and initiated the policy review—Carter's staff also launched a review of the 404 permit system due to be completely phased in by July 1. Secretary of the Interior Cecil Andrus reported to the President in late March that the White House Staff had nearly created another water crisis in the process. Andrus reported that he had met with staff from OMB, CEQ, the Corps, and White House Domestic Policy Staff discussing options for revising 404 permits. He explained to the President, "When I discovered that not one of them had been West of the Mississippi,

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Collection, Series 3.3.3, box 60, folder 13.

[7] For a legal history of see, John R. Kramer, "Is there National Interest in Wetlands: The Section 404 Experience," in Richard E. Warner and Kathleen M. Hendrix, eds. *California* Riparian System: Ecology, Conservation, and Productive Management (Berkley: University of California Press, 1984), 242-256. Also See J. David Aiken, "Balancing Endangered Species Protection and Irrigation Water Rights: The Platte River Cooperative Agreement," in *Great Plains Natural Resources Journal* 119 (1999): 120-158 which takes up the issue of instream flow. For the use of Section 404 to stop later project see, David Gillilan, *Instream Flow Protection: Seeking a Balance in Western Water Use* (Washington D.C.: Island Press, 1997), 260-263.

I realized what the problem was. We resolved the problem and, in my opinion averted another clash over water."[8]

Andrus did not explain the nature of the averted crisis, but it could have been one of any of the three sections of the Clean Water Act mentioned above. Environmental groups had begun using the legislation in unexpected ways to try to slow or stop water projects. For example, according to section 404, under the court's interpretation, the earth or concrete used to create a dam now constituted "fill material" which now required a permit to place in river. Under sections 208 and 303, runoff or return flows from irrigated fields could be classified as a pollution source and face regulation. Because section 303 could also be applied to dissolved minerals in water, increased salinity in the Colorado River as a result of water development projects could be regulated, or even more significant, become grounds for litigation.

Both of these issues added to the discontent growing in Colorado. Water users expressed anger and pushed politicians to correct the problems. For example, Fred Caruso, a former director of the Colorado Water Congress, wrote to Governor Lamm urging his official support of the "Wright Amendment to bring Sec 404 back in line with the original congressional intent." Caruso was particularly upset because the Wright amendment which passed the House in 1976 failed in the Senate by a single vote and neither of Colorado's senators voted. Wright had reintroduced the measure in 1977 and Caruso encouraged Lamm to lobby the state's congressional delegation to ensure its passage.[9]

[8] Andrus to Carter, March 25, 1977, BSU, Andrus papers, box 8, folder 4
[9] Frank Caruso to Richard Lamm, June 15, 1977, Colorado State Archives, Papers of Governor Richard D. Lamm, box 67180, folder "Water Projects"

Caruso, the Colorado Water Congress, and other water users had legitimate reasons to want the law changed quickly. Environmental groups had begun to threaten Colorado projects with lawsuits or other delays. For example, in April, the Environmental Defense Fund (EDF) had threatened a lawsuit to require the Environmental Protection Agency (EPA) to enforce Colorado's implementation of state water quality standards. Arguing that "salinity was the most serious pollution problem in the Colorado River basin," EDF contended that the state needed to implement a regulatory mechanism.

The Colorado Water Congress had reported the threatened legal action in its newsletter and expressed concern for two reasons. First, the EPA had given notice in the Federal Register on January 7, 1977, that it intended to "fund legal actions against itself by organizations such as the Environmental Defense Fund." If the EPA was in fact supporting the EDF legal action, then it was essentially making laws by the courts. The second concern is that implementation for salinity control requirements could threaten some irrigated agriculture along the Colorado River. Lawsuits sought for the EPA to define the maximum salinity level for the Colorado River, and require the standards to be incorporated into state water quality management planning under section 303(e) and 208 of the Federal Water Pollution Control Act (Clean Water Act).[10]

Another development troubled the CWC's members in late June when the Environmental Defense Fund, Trout Unlimited, and the Wilderness Society had sent a

[10] "EDF Gets Into Salinity Issue with EPA" *Colorado Water Congress Newsletter* 20 (April-May 1977), 1-2.

letter requesting COE abstention from acting on 404 permits for any Colorado River Storage Project application until after a programmatic EIS of the Colorado River.[11]

That summer, the Environmental Defense Fund moved forward with its lawsuit against the EPA and Colorado to force stricter regulation of salinity. The case, and the escalating involvement of the water users and water development organizations, demonstrates the significance of the issue in their minds. In November the Colorado Water Congress (CWC) and the National Water Resources Association (NWRA) joined the case, challenging the Environmental Defense Fund. By the early spring, James Watt, President of the recently formed Mountain States Legal Foundation filed motion to join suit on behalf of NWRA and CWC charging that "the environmentalists [were] seeking to upset a proven basin management program in order to pursue their objectives of limiting growth in the region by restricting the use of available water resources."[12]

After hearing the case, the District Court ruled in the EPA's favor October 3, 1979. Subsequently, the EDF appealed the ruling. The appeals court upheld the decision in 1981. However, the application of the Clean Water Act and water development projects continued to be a point of controversy through the Reagan Administration. The uncertainty of the law and its application to irrigated agriculture and water development continued to cause concern, and raised fears about increased federal intervention under the Carter administration. These concerns and fears

[11] "EDF-Trout Unlimited-Wilderness Society Urge Use of Sec 404 to Block Dallas Creek and Dolores Projects." *Colorado Water Congress Newsletter,* (July 1977), 1.
[12] "State Urged to Fight EDF Suit," *Colorado Water Congress Newsletter,* (August 1977); "CWC to Join Salinity Suit," *Colorado Water Congress Newsletter,* (November-December, 1977); "Salinity Suit Filed by legal Group" *Colorado Water Congress Newsletter* (March 1978).

contributed to the overall anxiety and anger against the Carter administration's efforts to implement its water policy initiatives.[13]

Water Policy Initiative

Implementation of the Water Policy Initiatives began in earnest in July of 1978. After announcing the water policy reforms in June, Cecil Andrus continued to lead the water policy task force. Carter sent his thirteen water policy initiatives to federal agencies on July 12, 1978. Separate interagency task forces were developing plans and specific implementation activities for all federal agencies. This also involved the creation or revision of regulations relating to water use and water conservation hands sending legislative proposals to Congress.

One of the thirteen initiatives included improving coordination between federal, state, and local governments. The Intergovernmental Task Force convened for its first meeting on December 12. The meeting, led by Cecil Andrus, met in the White House and brought together representatives from the National Governor's Association, National Conference of State Legislatures, National Association of Counties, and the National League of Cities. After the meeting, Andrus reported to the President that the meeting was largely successful; however, he noted some water interests were working to slow it down. Colorado continued to lead the opposition, though he thought other states were starting to yield. And he noted in conclusion, "Gary Hart will be cautiously helpful in the Congress."[14]

[13] 657 F.2d 275, Environmental Defense Fund v. Douglas M. Costle, April 21, 1981, United States Court of Appeals, District of Columbia Circuit; *Environmental Law Report* 20: 459,
[14] Andrus to Carter, November 9, 1978; December 15, 1978, Andrus papers, box 8, folder 5.

After the new Congress convened in January 1979, the administration continued to push the water policy reforms. The success of the veto override in the long run had soured relations between President Carter and Congress. As a result, the White House determined to change its tactics and focus its efforts. Specifically, they worked to secure funding increases for the Water Resource Council, implement cost-sharing policy, and to implement full funding criteria for water projects.

In mid-February, Andrus met with Senator Hart in an attempt to craft a plan to help Hart create constructive dialog on Colorado's water concerns in a tacit exchange for hard support of the administration's legislative agenda. Colorado's governor and delegation, among Carter's harshest critics, posed a serious political threat to slowing down the efforts in Congress. Hart believed that if they could find a compromise on the Narrows project, he could help the administration overcome the opposition of the other members of the delegation to the administration's policy proposals. Andrus reported back to the President after the meeting, "I don't think it will change our chances in 1980, but it will help Gary and keep the anti-West feeling from spreading," Andrus reported to Carter.[15]

As a result of the new political strategy, and in an effort to reduce the cost of projects by completing them on a faster timetable, the administration proposed a generous budget for water projects development, including funding to initiate construction on twenty-six projects. *National Journal* reporter, Dick Kirschten noted that one consequence of the changed strategy was complaints from allies in the

[15] Andrus to Carter, February 23, 1979, Andrus papers, box 8 folder 5.

previous year's water battles. For example, Brent Blackwelder at the Environmental Policy Center issued a press release condemning the decision. [16]

But even with its focus narrowed to water policy issues, the administration still found considerable opposition in Congress. Many members of Congress thought that implementing independent evaluation of projects by the Water Resource Council and the full funding provisions amounted to giving up its turf. For example, Kirschten reported that "Representative Doug Bereuter (R-NE) complained to OMB's executive associate director that Congress is 'not about to give up our stewardship' over water projects." He also reported Representative John P. Meier (R-IN) declared Congress would not become a "rubber stamp" letting the White House set project preferences. He explained that under full funding, control over spending shifted to OMB once Congress had appropriated the full project cots. Congress feared this could theoretically allow the White House to slow down or even kill projects they opposed.[17]

Moving forward with its three priorities, despite the opposition, Carter wrote to the Chairman and members of the Water Resources Council (WRC) on January 4, 1979, announcing that he had signed an executive order that day to establish the review function with in WRC. The White House expected to have funding in place by the FY 1981 budget to implement the review.[18] To accomplish this and other new tasks under his Water Policy Initiative, Carter wanted to quintuple the WRC's budget. He proposed increasing its budget for planning grants from $1 million to $25 million a

[16] Dick Kirschten, "Carter's Water Policy Reforms -- Trying Not to Make Waves," *National Journal* 10 number 10 (March 10, 1979): 395.
[17] Ibid.
[18] Carter to Chairman and members of the Water Resources Council, January 4, 1979, Andrus papers, box 8, folder 2.

year and providing another $25 million in new funds annually for state technical assistance grants to promote water conservation.[19]

However, Tom Bevill blocked efforts to include funding for the Water Resource Council. Not only was he not willing to appropriate money for the following year's budget, but he also blocked Andrus' efforts to reprogram funds from other parts of the Interior's budget for the current fiscal year to set up an independent review capability for water projects. As a result, in May Andrus reported to Carter that he did not think they would get any money in 1979. He explained Congressman Harold "Bizz" Johnson (D-CA) had joined forces with Bevill to reject the proposal because Andrus thought they knew "their pet projects can't stand a technical review."[20]

Despite the setback, Stu Eizenstat told Kirschten for his March article, "We are far from giving up in terms of reforming the whole water area, but our major battle this year is to sell Congress on such concepts as full funding and state participation. It is going to take all our resources."[21]

Thus, emphasis on state participation in funding water projects, or cost-sharing as termed by the administration, became the next big legislative push. Trying to build support ahead of submission of legislation, Andrus met with different water user and planning agencies. For example he attended the Missouri River Basin Governor's Conference Regarding Cost-Sharing Proposals, held May 1, 1979. By mid-month, the White House was ready and sent its proposed cost-sharing legislation to Congress.

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[19] Dick Kirshten, "Carter's Water Policy Reforms -- Trying Not to Make Waves," *National Journal* 10 number 10 (March 10, 1979): 397.
[20] Andrus to Carter May 18, 1979, Andrus papers box 8, Folder 5
[21] Kirschten, "Carter's Water Policy Reforms."

While Andrus thought the water developers would oppose the bill, he wrote the President there seemed to be "strong support from those looking to reform the pork barrel and also from some states."[22]

The official press release sent from the Interior described the proposal as a "key element" of Carter's water policy reforms. Noting that states had been inadequately involved in setting project priorities Andrus explained "the Administration measure will put states in a position of opportunity and responsibility for meaningful involvement in Federal water resource project selection, development, and operation.' Although various national water policy groups had advocated for water project financing reforms unsuccessfully for decades, Andrus expressed a measure of confidence: "Water developers will oppose as they always do, but we have support from those who object to the pork barrel. Some states are also supportive so we are not alone."[23]

Despite his expressed optimism, it quickly became apparent that none of the supportive states were in the West. Jack Barnett, the former director of the Western States Water Council wrote to Senator Hart a few days later that the seventeen "reclamation states," in addition to Iowa and Minnesota, unanimously opposed the legislation. Soon after, a letter arrived from the former director of the Colorado Department of Natural Resources, Harris Sherman, to Hart's legislative aide stating that the Lamm Administration strongly opposed the President's cost-sharing

[22] Andrus to Carter May 18, 1979, Andrus papers box 8, folder 5.
[23] DOI, Office of the Secretary, "Water Cost-sharing Proposal Sent to Congress," May 16, 1979.

legislation. Sherman noted that they would work with other states', farming and water organizations to defeat the legislation.[24]

While Congressional committees held hearings, Carter's cost-sharing proposal was essentially dead on arrival. Despite having increased appropriation requests for several projects and recommending twenty-six new project starts, Congress would not budge on the cost-sharing proposal. On top of that, Congress once again saw Carter as negotiating from a point of weakness. The respective congressional appropriations committees loaded up the pork.

Not only did that year's appropriations bill increase spending beyond the President's request, it also contained a provision that exempted the Tellico Dam from the Endangered Species Act. Even though government reports indicated that the government would save money by not completing the dam that was ninety percent finished, its Congressional supporters wanted it anyway. The dam also threatened a small fish known as the snail darter. It was originally thought that it only lived in the portion of the Little Tennessee River to be inundated by the dam's reservoir. In a well-documented controversy, many people saw the dam as the perfect poster child for Carter's crusade against wasteful, environmentally destructive water development project. They lobbied the president to once again veto the public works bill. Many on the other side of the argument saw the tiny fish as representing everything that was wrong about the environmental movement.[25]

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[24] Jack Barnett to Gary Hart, May 18, 1979; and Harris Sherman to Stephen Saunders, May 24, 1979, Gary Hart Papers, box 153, folder "water."

[25] Marc Reisner provides a colorful narrative of the Tellico Dam and snail darter controversy. 323-329. A thorough analysis of the project, which the TVA saw as a model to stay in the construction business is William Bruce Wheeler and Michael J. McDonald, *TVA and the Tellico Dam 1936-1979: A Bureaucratic Crisis in Post-Industrial America* (Knoxville: University of Tennessee Press, 1986). Wheeler and McDonald's history documents that the TVA had engaged in serious manipulation of the

In the end, Carter signed the bill. William Ashworth called it "one of the worst pork barrel bills of all time" in his book on the subject. In addition to exempting the Tellico Dam from the Endangered Species Act, the $10.6 billion energy and water development act of 1979 authorized nine projects which had not been included in either the presidential or congressional budgets and on which the Corps of Engineers had not completed either economic or environmental reviews. The bill also failed to fund the Water Resource Council. The President faced a tough decision, but the politics were against him. The message had come from the House leadership that the Tellico was nonnegotiable.

> They had given notice that Tellico was nonnegotiable. House majority leader Jim Wright told the President that if he vetoed the legislation "it would just add fuel to the fire and he probably wouldn't get anything else out of Congress." Then just to make sure, the House began to attach identical Tellico riders to virtually every bill that passed.[26]

By the end of the session as Congress recessed for its holiday break, it was clear that the Carter administration had not accomplished any of its water policy goals. The cost-sharing legislation died in committee, the appropriations committee rejected the proposal for full cost appropriations, and Congress not only denied Carter's request for increased funding for the WRC to take on independent evaluations, coordinated planning, and a water conservation grant program, they had cut its budget to zero.

Frustrated by the complete lack of progress, Carter attempted to gain a tactical position to bargain from. In an effort to increase pressure on Congress to approve the administration's water policy reform, the administration excluded any new starts from

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projects cost-benefit analysis, like the ACOE and Bureau of Reclamation had done one other Hit List projects.

[26] Ashworth, 168.

its 1981 budget proposal. The President outlined this reasoning in his budget message. The reaction in the West was predictable. For example, the *Denver Post* ran an editorial headlined, "Carter Revives the 'Hit List.'" The newspapers editors wrote that Carter was "holding water projects hostage." After reminding its readers about the original Hit List controversy, the paper continued, "But now it appears the old wounds have been reopened—this time over a backdoor attempt by the administration to grab control of national water policy from congress." Later the editorial stated, "Carter is telling citizens their lawmakers will not be allowed to function in the public interest unless they approve the President's pet policy measures. [27]

Judging by the *Post's* coverage of every aspect of Carter's water policy issues as an attack, one imagines that the scabs over any wounds must have been thin. The editorial also shows that it was easy to argue that Carter's tactics often appeared to infringe on closely guarded turf. As more proof of this, a month later twenty-nine senators wrote the President, concerned that the move to withhold new construction starts was "a first step in an Administration effort to block all new water projects—regardless of their merit—until Congress approves the Administration's policy reforms."[28]

Acreage Limitation

The one piece of water related legislation that the Carter administration had had any influence on was acreage limitation. There had been several different versions of legislation tackling the issue. Numerous hearings had been held. The

[27] "Carter Revives the "Hit List"" *Denver Post*, Feb 3, 1980.
[28] John Melcher, et. al to Jimmy Carter, March 19, 1980, BSU, MSS 56, Frank Church Collection, Series 1.1 box 108, folder 7.

Senate, under the guidance of Frank Church (D-ID) and Malcolm Wallop (R-WY), passed an acreage limitation bill friendly to big growers. In the house, H.R. 6520, which had the administration's support, had successfully been reported out of committee. But at the beginning of September, Andrus learned that White House staff had succeeded in holding the legislation up in the Rules Committee. In his weekly memo to Carter, Andrus strongly encouraged the President to send the message to release the legislation to a vote, warning, "This is a mistake, and a serious mistake, when the newspapers are aware that we are holding it from the floor." Andrus noted that parts of the bill were unacceptable, but was confident changes could be made on the floor. The differences with the Senate version of the bill—which had a cap but not a residency clause or participation clause—he felt could be worked out in conference.

Andrus explained that in a worst-case scenario, where the bill was not changed to have a cap or residency provision, that Carter could veto the bill in a manner that sides with the family farmer, not national corporations. Without a bill, Andrus was under court order to enforce the existing law which would be widely unpopular. His statistics indicated that 98 percent of farmers receiving subsidized water owned less than 320 acres, and 97 percent of farm operations were under 960 acres if leased land was included. However, the three percent of farm operations larger than 960 acres farmed 31 percent of the land. Carter wrote in the margin "Cecil, you need to talk to Frank, Stu, & Ham re HR6520. Then advise me. J." The conversation bore fruit as the Rules Committee cleared the bill for floor debate on September 29, 1980.[29]

[29] Andrus to Carter, September 5, 1980, Andrus papers box 8, Folder 5.

The corporate farms had lobbied hard all year for the bill, and made campaign contributions to those who supported it or to the candidates running against people who opposed it. Despite the lobbying effort, George Miller (D-CA) succeeded in opposing the bill. Even after the rules committee had given it a green light, he had been able to keep it from a floor debate. The biggest objection to the bill was that it exempted the farmers using water from Kings River. As discussed previously, the Army Corps of Engineers had constructed the Kings River Dam, and the large farmers thought that it should thus be exempt from Bureau of Reclamation limitations. The courts had decided otherwise. The biggest landowners included J.G. Boswell Co., the world's largest cotton growers with over 88,000 acres. Other massive corporate farms in round numbers were Sayer Land Co. 29,000 acres; Southlake Farms, 27,000 acres; Westlake Farms, 20,000; Chevron, 13,000; and Getty Oil, 4,000. Both the Senate bill and the House Interior committee bill reported out in September included a provision to exempt these farms from acreage limitations. [30]

But after Carter's loss to Reagan that November, Andrus changed his position. He announced that he was not opposed to exempting the big farms. A *Washington Post* article reported on the change and stated that Andrus had changed his mind after visiting the area for the first time at the suggestion of Morris Udall (D-AZ), Chairman of the House Interior Committee. In the past, Andrus indicated he would recommend a veto of any bill that did not meet his standards, which included exempting Kings River. That threat had given George Miller a strong position to block the bill. Andrus changing his position left Miller high and dry. The intense controversy over the Kings

[30] Ward Sinclair, "Andrus Flip-Flop Would Exempt 1,000,000 Acres from Water Law," *Washington Post* November 27, 1980.

River and other issues had allowed Miller to keep the Bill from floor debate. In an eleventh hour attempt to move the bill forward, Udall tried to craft a compromise. In the end, despite Andrus' support for the exemption, Miller succeeded in keeping the bill bottled up and it died with the 96th Congress.[31]

Reserved Rights

The Supreme Court ruling in the case Arizona v. California cleared the way for the Central Arizona Project. But it also had an unexpected outcome. While adjudicating the various claims to Colorado River water made by California and Arizona, the Supreme Court also examined other claims in the lower basin that could be made to those same waters. The court recognized various American Indian tribes had reserved water rights to the Colorado under the longstanding precedent of the Winters Doctrine. Additionally, the court found that other federal reservations, specifically the national recreation areas, wildlife refuges, and national forests in the drainage area of the lower Colorado River also had a reserved right.[32]

A few years later in the Cappaert v. United Sates case, the Supreme Court extended federal reserved rights to include lands in the national park system. In that case the Cappaert family owned a ranch one mile away from Devil's Hole, a part of Death Valley National Monument. The monument had been created to preserve the cave and a pool of water inside it that was the only habitat of the pupfish. In 1968 the Cappaerts began pumping water from wells in the same aquifer as Devils Hole. As a consequence, the water levels there began to drop, threatening the pupfish. The

[31] Ibid.
[32] For the history of the Winters Doctrine see Donald J. Pisani, *Water, Land, and Law in the West: The Limits of Public Policy, 1850-1920* (Lawrence: University Press of Kansas, 1996). 38-48.

federal government sued to restrict the pumping, and preserve the habitat of the pupfish. The Supreme Court ruled in 1973 that because the purpose in setting aside the land in the monument had been to preserve the fish, the government had at the same time also reserved water rights to preserve the fish's habitat.[33]

One did not need to be a legal scholar to understand that traditional land and water users in the West would be troubled by the expansion of federal reserved rights. For water users in the West, the threat that federal government could lay claim to an unknown quantity of water at any time was disconcerting. To paraphrase Frank Trelease, a scholar of water law, it was as if someone gave the government a blank check to your account that they could fill at any time and in any amount.[34]

But the issue became more complicated in 1978, when the Supreme Court ruled on the United States v. Mexico, also known as the Mimbres Case. The Forest Service had claimed reserved water rights to the Mimbres River in the Gila National Forest in New Mexico to maintain minimum stream flows. New Mexico claimed that the Forest Service did not have any vested rights to the water and filed suit. The court delivered a mixed ruling. Following the precedent in the Cappaert decision, the court held that the Forest Service could only claim rights to water to fulfill its primary purpose under the Organic Act. Justice William Rehnquist, writing for the majority, found two purposes: "to preserve water flows for downstream use, and to produce a continuous supply of timber," rejecting the Forest Service's argument that Congress had "intended to reserve water for aesthetic, recreational, and fish-preservation

[33] Rand Hoffman, "Extension of the Federal Reserved Water Rights Doctrine for Environmental Protection" *Harvard Environmental Law Review* 1 (1976), 174-5.
[34] See Frank Trelease, "Federal-State Relations In Water Lot: Final Report.." (Arlington Virginia: National Water Commission, 1971).

purposes." While Congress recognized those uses in the Multiple Use Sustained Yield Act of 1960; that was not the *original* purpose of the reservation. Further, the court found that the legislative intent stated those uses were to be "supplemental to, but not in derogation of" the original purposes.[35]

Krulitz Ruling

After the Supreme Court ruling in the Mimbres Case on July 3, 1978 and in response to Carter's 1978 Water Policy Message calling for quantification of federal water rights, the Department of the Interior's Solicitor, Leo Krulitz, studied to see if the reclassification of forest lands under the Wilderness Act granted reserved right. His opinion, issued July 25, 1979, stated that federal reserved rights could be claimed to fulfill the purpose of wilderness areas. Some attorney's, like Christopher Meyer, the counsel to the National Wildlife Federation, believed "the opinion broke no new ground on the issue of federal reserved water rights." However, that was not how the ruling was received in the West. [36]

In his ruling, Krulitz maintained that current state laws would prevail to acquire water rights on non-reserved land; however, federal claims to water trumped state water laws in cases where there was a federal responsibility to protect federally owned resources. While Krulitz had not gone any further than the Supreme Court in its ruling in asserting a federal reserved right, Krulitz had given the Department of the Interior grounds to move forward in its efforts to quantify and secure those rights.

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[35] Janice L. Weis, "Federal Reserved Water Rights in Wilderness Areas: A Progress Report on a Western Water Fight," *Hastings Constitutional Law Quarterly*, 15:1(Fall 1987), 132-4.
[36] Christopher Meyer to Western Affiliate Representatives, January 9-10, 1982, Papers of Governor Scott Matheson, Natural Resource Working Files, Utah State Archives, Series 19161, reel 36, box 17, folder 13.

That threat scared western water users. Andrus attempted to reassure the West. At a meeting with governors on February 4, 1980 Andrus reassured that he would negotiate with states whenever possible, and that the Krulitz Ruling would be "used sparingly." His reassurance aside, many thought that if push-came-to-shove, Andrus could use it at a minimum as a bargaining chip. Failing that, there would be nothing stopping him if he chose to use it. As water attorney Northcutt Ely explained to the National Water Commission, November 6, 1969:

> The Federal Reserve water rights doctrine is "a first mortgage of undetermined and undeterminable magnitude which hangs like a sword of Damocles over every title to water rights on every stream which touches a federal reservation.[37]

Evaluating Carter's Success

For many in the West in 1980, Carter himself must have seemed a sword of Damocles. They waited to see where, not when, the next "attack" might come. For them, Carter's water policies, indeed perhaps all of his natural resource polices had been a failure. Ironically, many with strong environmental convictions also considered much of Carter's environmental policies a failure for not going far enough, fast enough.

Up to now, there have been few studies that have considered the success and failure of Carter's water policies from a historical perspective. As has been noted, the bulk of the scholarship on the Hit List has been conducted by political scientists. The recent work of Frisch and Kelly, mentioned previously, is one example. Their book investigated Carter's veto strategy. They conclude erroneously:

[37] Quoted in,. Weis, 125.

> Jimmy Carter's demand for changes in the way that water projects were considered by Congress was largely successful. The purpose in challenging Congress and using the veto was to eliminate "wasteful" spending and change the standards by which future water projects would be evaluated… the leverage afforded the administration by sustaining the veto allowed several important long-lasting changes in future water policy. The most important to the administration was that appropriations bills should include estimates of the full costs of water projects in order to unmask the long-term costs of water projects.[38]

Later they state, "President Carter and his team wrung significant concessions out of Congress due to Carter's willingness to carry through on his veto threat and then to defeat the override attempt after investing considerable personal and organizational resources in the fight."[39] This conclusion is flawed. President Carter did not succeed in gaining any significant concessions from Congress. They failed to pass cost-sharing legislation or fund the Water Resource Council. Further, they did not, in fact, implement full funding of water projects. Water project authorizations had included estimates and cost ceilings, but Congress did not, during the Carter administration or since, switch from incremental funding to full funding of water projects.[40]

While they do not cover the water projects review in great detail, and do not discuss his efforts to change water policy at all, Daynes and Sussman concluded that Carter was moderately successful in implementing his environmental policies. Their overall discussion is limited to using the event to provide the evidence for Carter's

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[38] Frisch and Kelly 166-7

[39] Frisch and Kelly, 167.

[40] The source for their claim comes from a memo from Stu Eizenstat to The President, "Negotiating Points," JCL, Office of Congressional Liaison, box 45, public works appropriations [1]. Thus, they are basing their conclusions on a talking points memo of what was desired rather than what was actually achieved. To prove that the administration had actually achieved this concession they quote Frank Moore from his Miller Center oral history (see page 120) who said "That's what we did. We changed the standards on that and won. We said that 'from now on you have to do this.'" Moore in this case is mistaken. For more on incremental vs. full funding, and discussion of Carter's failed proposals to switch to full funding see, Christine E Bonham, et. al, *Budget Issues: Budgeting for Federal Capital* (Washington: GAO, 1996), 38-9.

difficulties in dealing with Congress. Unlike Frisch and Kelly, who discussed the veto in positive terms, they see it as a negative:

> His veto of that year's annual Public Works legislation increased tension between the President and Democratic members of Congress, showing that the President must be sensitive to the needs of Congressional partisans" and conclude their discussion by arguing that the issue demonstrated that presidents and legislators, despite common partisanship, often view public policy in very different ways.[41]

Garland Hass draws a similar conclusion:

> Ironically, the victory in the fight over the water projects turns out to be a political disaster for Carter as the injured Congressman took their revenge on his major legislative proposals -- including his energy conservation program. His announcement of the proposed cuts also set off a firestorm of protest in the Western states, where water subsidies and funds for road construction are as important as urban development aid or welfare are in the East. In the end, Carter was forced to back down, but by then he had hastened to the show several key Western states from the Democratic Party.[42]

But, while not disputing the political ramifications of his actions, William Ashworth argues Carter's entire method of reform was flawed. He believes the real reason the President's Valiant pork-reform efforts failed.

> It was not that they were ineffective or poorly enforced; it was not the Congress had run roughshod over them, nor that a weak president had given him, nor that the special interests had to get to them. The reforms failed because they were reforms of the wrong things. Jimmy Carter tackled water-project standards, but the pork barrel knows no standards. He had tried to reform the cost-benefit ratio, but he'd forgotten the Corps fix-it shop. He had written new rules of the game, but it wasn't his game. Congress held the cards and Congress didn't need to follow Jimmy's rules…. Standards are meaningless unless they are adhered to, and there is nothing short of the Constitution itself that can force Congress to adhere to anything.[43]

Robert Gottlieb makes a different argument. Rather then seeing Congress as unable to change, he argues that Carter's failure to significantly alter water projects or

[41] Daynes and Sussman, 91.
[42] Hass, 76.7
[43] Ashworth, 170-1.

policy resulted from poor execution of the process of change and lobbying Congress. Gottlieb states, “Both Carter and the environmental groups failed to mobilize constituencies at the local level in advance of these new policies [energy and water policies] and allowed industry groups to assume a local, grassroots stance as part of their pro-development counter mobilization.” Gottlieb sees this as evidence of the growing split between the big Washington D.C. based environmental groups and the plethora of grassroots environmental groups that started during the 1970s. He notes that while many local groups have sought the help of the Washington D.C.-based groups, interaction had been “a one-way street.” Compounding the problem created by failure to mobilize and strengthen support for environmental policies at the local level, was the simultaneous strengthening of a more organized movement against environmental and business regulations. He argues that "the industry lobbyists, through their anti-regulatory counterrevolution, put the mainstream groups and environmental bureaucracies increasingly on the defensive. Politically unprepared to fight back, the Carter administration in small-group envirocrats began a full-scale retreat regarding questions of efficiency, regulation, and resource development.”[44]

While these conclusions are mixed, the shared commonality is that the water projects review, and as an extension, the water policy initiatives were a political disaster. The President and his team made mistakes and miscalculations. Some of these came from inexperience. Others of them came by nature. Carter’s personality as a consummate technocrat and his need to do the right thing made it difficult to delegate authority, and caused him to over-analyze decisions that should have been

[44] Gottlieb, *Forcing the Spring,* 132.

quick to make; while simultaneously causing him to make quick decisions on other issues that required more caution.[45]

The interpretations of why those mistakes matter vary by author. But one interpretation that has not been considered is the impact of Carter's water policy on the West. Virtually every decision that Carter made with respect to water resulted in a back lash from the West. They interpreted either the policy, or his motivations, as attacks on traditional economic activities: Activities which in many cases helped to define western culture and attitudes. As was noted above in Chapter 3, many of the problems with the West began before his presidency. Further, they were not all limited to water issues. But, the original Hit List coming so soon after taking office seemed to confirm the region's worst fears.[46]

Adding fuel to the fire, the Carter administration did not make just one attack on the West. While it began with his Hit List, it was followed by a water policy review, acreage limitation enforcement, Clean Water Act rules and an expansion of federal reserved rights; all of which increased the federal power and bureaucracy

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[45] For more on Carter personality and the problems with Congress, including over water issues, see Kaufmann and Kaufmann, 2142.

[46] In the end it seems obvious why farmers in western states were so upset and felt that they were under attack by the Carter Administration. But why did Western agriculture have such a hold over politics? Why were politicians not more beholden to urban constituencies? It seems that because water projects in the West did not just reflect reclamation of arid lands in the late 1970s. A great many of those living in the cities of the West were only one or two generations removed from the farm. In the intermountain West, many Mormons looked to irrigated agriculture as part of their heritage. Further, the connection between irrigation and livestock is deeply established in the West. Thus, attacking irrigation was also attacking the mythical image of the Cowboy. Further, in the West that was still heavily connected to natural resources extraction, water was believed to be a key to economic development in these industries. Many were simply not ready for a "new West" advocated by others, but exemplified by Carter.

Further compounding this issue, many reclamation projects also provided municipal water. It was easier therefore for many Westerners to see a connection between all reclamation projects. Thus even when Carter was attacking agricultural projects it was easy for many Westerners to fear their municipal project might be next.

intruding into their lives. Within the broader context a growing constituency came to believe that environmental policies had gone too far and that "extremists" imperiled American jobs and economy at a time of high unemployment and high inflation as reflected by the spike in the misery index at the end of Carter's term in office. Thus, in the West, Carter faced not only the "anti-regulatory counterrevolution," but his "attacks" on water—and by extension the way of life in the West—Carter helped to inspire partisans to launch a revolt and fight alongside industry lobbyists.

Sagebrush Rebels

Within the context rose a strong movement in many western states to reduce the power and influence of the federal government. This movement became known as the Sagebrush Rebellion. Many "sagebrush rebels" believed the solution to increased regulation of federal land use, which increasingly restricted grazing rights, timber sales, mining, and some recreation activities was to convert federal land into state land. For this reason, most historians investigating the Sagebrush rebellion have not included much discussion about the impact of Carter's water development and water policy choices. This seems understandable given sagebrush rebels demands for state control over federal *lands*. But, threats to traditional water rights and uses played a significant role in creating the perception of a federal "war on the West" under the Carter's command.[47]

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[47] There were many reasons that for Westerners to dislike the Carter administration. Perhaps it is as simple as some have suggested that they could never like or trust a Southerner. This has been suggested as an explanation of Carter's poor electoral performance in the West in 1976, despite the success of many Democratic Governors Senators, and Representatives. As was pointed out earlier in this study, many at the time suggested that the fact that Carter only won Texas and Hawaii in the general election was a basis for the "War on the West." But, it could be pointed out that even in the primaries, Carter

As has been seen in the previous chapters, many of those in favor of water development projects in the West have extensively used language suggesting "attacks" or a "war on the West," and other language that expressed anxiety or dissatisfaction with Carter's treatment of water development. However, this type of language was readily in use by Sagebrush Rebels. Further, water issues are listed by many rebels among their top concerns.

Morgan Smith, the Commissioner of the Colorado State Department of Agriculture, in a discussion memo about the Sagebrush Rebellion placed water first on his list of specific issues motivating supporters of the movement. He wrote, "This includes the reaction to the Carter 'Hit List' as well as federal water quality programs that are perceived to be an intrusion into state water law."[48]

A briefing paper on the Sagebrush Rebellion by the National Association of Counties (NACo) contained the follow declaration which also listed water prominently.

> Why is the Sagebrush Rebellion gaining broad western support?
> It is a basic states rights issue regarding control of land, resources, and water
> It is a backlash of western water project battles
> It is a backlash of Alaska lands, RARE II, and BLM wilderness proposals
> It is a backlash concerning FLPMA, clean air, flood control, grazing, and other regulations on land use, especially during the past 3 year void without advisory committees to allow state and local input on federal land management programs.[49]

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performed poorly in the West. Further the West was the home of the ABC movement—"Anyone But Carter"—during the 1976 campaign with western candidates Senator Frank Church of Idaho and Governor Brown of California.

[48] Morgan Smith to James Kurtz-Phelan, Dec 11, 1980, Lamm papers, box 64451, folder "Sagebrush Rebellion [No 1]"

[49] "NACo Breifing Paper -"The Sagebrush Rebellion,'" Dec 14, 1979, Lamm papers, box 64451, folder "Sagebrush Rebellion [No 1]"

In his 1980 *Utah Law Review* article, Richard Clayton investigated the Sagebrush rebellion movement. He argued at the time that the discontent and causes extended beyond the enactment of the Federal Land Management Policy Act (FLPMA) in 1976. He contended that there were three underlying causes: "The West's ineffectiveness in Congress, the imbroglio of federal regulation, and adverse economic impact." Explaining the first point he wrote, "Proponents of the rebellion argue that the West has no clout in the decision making processes that directly affect them. They cite as example President Carter's restrictive water policies."[50]

In a six-page memo updating Gary Hart and his office on the politics surrounding the debate of a "Sagebrush" bill in the Colorado Legislature, one of his advisors wrote, "… the issue of water-rights is now emerging in the Colorado Sagebrush bill. Such divergent people as Senator Yost and Senator Harvey Phelps appear to be zeroing in on that aspect—especially with water originating primarily on FS [Forest Service] lands, rather than BLM."[51]

All of these examples suggest that water was an integral part of the emotions and thinking driving the demand for state control of lands. However, the actions that newly elected President Ronald Reagan and his Secretary of the Interior, James Watt—who both styled themselves as Sagebrush Rebels— provide an even more compelling example of the significance of water in understanding this western movement.

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[50] For Clayton's list see, Richard D. Clayton, "The Sagebrush Rebellion: Who Should Control the Public Lands?" *Utah Law Review,* (1980), 509-12; for the first point and "restrictive water policies," see 509.

[51] Steve Labriola to Gary [Hart], Stephen, Sue [Furniss], February 25, 1981, Gary Hart papers, box 157, folder 15.

Tasked with resolving the concerns of western states, Watt implemented what he called his "Good Neighbor Policy." Ostensibly this policy returned more input and power to states in determining uses and regulations of federal lands. While more complicated in practice, Watt explained that it simply meant that when dealing with a problem between federal and state governments, he would ask, "What would a good neighbor do?" His policy was effective in defusing much of the anger felt by sagebrush rebels.[52]

One of the first tasks that Watt undertook to implement his policy was meeting with western governors on February 25, 1981. At the meeting, Utah Governor Scott Matheson presented Watt with five water policy recommendations.

> A. Assertion of Non-reserved Federal Water Rights
> Recommend that the secretary direct the new Solicitor too undertake a thorough reexamination of his predecessor's opinion and that opinion should be withdrawn pending review.
> B. Financing of Water Projects.
> Recommend close consultation with the states in the development of any proposals for altering the present system of authorization and appropriations of water resource projects.
> C. Carter Administration Water Policy Reform
> Urge the Secretary of Interior, who was formerly designated by President Carter as the lead official in the water policy reform effort, to seek immediate suspension of implementation of President Carter's water policy decisions pending a thorough review and full consultation with the Governors and their representatives, in order that the states can be full and participating partners in establishing a truly national water policy.
> D. Endangered Species Act
> Recommend a thorough review of the administration of the act, with the goal of seeking avenues of minimizing, within the framework of the law, potential adverse impacts on vested water rights, and the authority of the states to allocate water resources for the achievement of other important national goals.
> E. Section 404 of Clean Water Act

[52] Ron Arnold, *In the Eye of the Storm: James Watt and the Environmentalists* (Chicago: Regnery Gateway, 1982), 226-7; James Watt interview with author, April 25, 2011.

> Instruct the FWS to avail itself of state laws and procedures in representing its interest in the protection of instream resources.[53]

Matheson had worked closely with Secretary Andrus in the effort to craft President Carter's water policy initiatives. But the list illustrates that even that effort did not yield satisfactory results. Matheson advocated the rollback of essentially every major point of Carter's water policy. At the top of the list was the reexamination of non-reserved federal water rights.

Coldiron Decision

Following the February meeting with Secretary Watt, Governor Matheson worked closely with Watt's office and the new Department of the Interior Solicitor, William Coldiron. Matheson was still the chair of the National Governors Association committee on water issues. He also was heavily involved in the Western Governor's Policy Office (WESTPO) with Governor Lamm. By June, Matheson and his staff at WESTPO and the Western States Water Council had crafted a draft of a ruling that reinterpreted the Krulitz Decision, overturning the concept of federal reserved right. The document returned control of water rights back to the states. On June 8, 1981, Matheson forwarded a draft of the proposed Solicitor's opinion to Dave Russell at DOI. At a follow up meeting with the Governors on Sept 11, 1981 in Jackson, Wyoming, Secretary Watt announced that Solicitor Coldiron had issued his opinion repudiating the theory of federal non-reserved water rights. The lead counsel for the National Wildlife Federation noted at the time that Coldiron's final draft and Matheson's draft bore "a noticeable resemblance" and summed, "It is essentially a

[53] "Meeting of western governor's with Watt on Feb 25, 1981" Papers of Governor Scott Matheson, Natural Resource Working Files, Utah State Archives, Series 19161, reel 36, box 17, folder 24.

move to undermine the government's ability to protect instream flows from future appropriators."[54]

Water Policy 1981

In addition to moving quickly on the governors' request to reexamine the Krulitz decision, Watt moved forward with several of the other agenda items on Matheson's list. A month after the meeting in Reno, Watt had announced proposals to eliminate the Water Resource Council. In its place Watt proposed to transfer oversight to the President's Cabinet Council on Natural Resources and Environment which he chaired as the Secretary of the Interior in the short term and the creation of a new Office of Water Policy at the DOI. Watt's planning group had not decided in the new DOI office would review all water projects, or only focus on advising the President on broad policy issues.[55]

At the same time Watt was considering this policy, the Senate also was considering legislative proposals to replace the WRC. Senator Abdnor (R-SD), chair of the Water Resources Subcommittee, drafted an alternative plan that proposed to rotate control over water policy between the EPA, DOI, and ACOE. As Abdnor moved forward with hearings on his legislation, Watt announced on July 15 that he would not pursue the creation of the new office of Water Policy and "would leave any further water policy initiative to Congress."[56]

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[54] Christopher Meyer to Wester Affiliate Representatives, January 9-10, 1982, Matheson Papers, Series 19161, reel 36 box 17, folder 13.
[55] Joanne Omang, "Watt Wading into Water Policy" *Washington Post*, April 18, 1981.
[56] Omang, "Watt Wading into Water Policy; for any further see, Lawrence Mosher, "If There's a National Water Crisis, You Can't Tell It in Washington," *National Journal* 13 No 30 (July 25, 1981), 1332.

Watt did move forward with plans to eliminate the WRC. He also discarded the policy manual created under Andrus' leadership that outlined the guidelines for reviewing new projects. Watt included these among the many accomplishments he claimed in his first annual report to President Reagan.[57]

Acreage Limitation

After failing to pass acreage limitation in the last hours of the Congressional session, several members of Congress reintroduced their various versions of reform legislation. Both chambers made significant progress on the issue during the second session of the Ninety-Seventh Congress in 1982. Senator Malcolm Wallop (R-WY) shepherded his version of the bill, S. 1867. The Senate Energy committee approved the bill on April 21, 1982 for floor debate. The senate debated the bill over July 15 and 16.

During consideration of the measure in July, Ohio Senator Howard Metzenbaum (D) attempted to block passage of the bill, or force changes. Metzenbaum thought it was unfair to subsidize farmers in the West while farmers in other parts of the country were struggling. Wallop's original version had increased the acreage limit to 2080 acres. Metzenbaum creatively used a quasi-filibuster. Under the time agreement for the debate, no time limits had been placed on amendments. He was thus free to call up as many amendments as he wanted without fear of being muzzled either by a time limit, or by the Senate voting to force an end to a filibuster.

His first amendment failed by a vote of 75 to 7, but he remained determined to continue despite the vote and the consternation of other senators. However, he did not

[57] *A Year of Change: To Restore America's Greatness* (Washington: Department of the Interior, 1982).

have to persist long in his threat. Indicating that he was willing to compromise, Wallop agreed. After a two-hour closed door negotiation, the bill was amended to reduce the limit to 1280. The senate approved the bill by a vote of 49 to 13.[58]

The house passed a similar version of the bill, but had a lower cap of 960 acres. This forced the bill to a conference committee. In the end, the Senate approved reducing the cap to the house level. Further, this limit applied to individuals and corporations with fewer than twenty-five shareholders who would receive federally subsidized water on up to 960 acres of owned or leased land. But corporations with more than twenty-five shareholders could get water for up to 640 acres, but have to pay the full cost of water to farms more than 320. Thus in the end, the final version was strikingly similar to the version that the Carter administration supported, setting the same upper limit. The primary difference between the bill was that Congress had already enacted provision exempting the Imperial Valley and Kings River from acreage limits under Reclamation law.[59]

Cost-sharing for Water Projects

Another similarity between Carter and Reagan is that they both believed that the nation could not afford to construct numerous large-scale water development projects due to the poor economy and significant budget deficits. Both proposed that users pay a fair price for the benefits received from projects, and that state and local government share a portion of the construction costs up front through cost-sharing plans. As mentioned above, Carter proposed a ten percent local cost share for water

[58] Ward Sinclair, "Bowing to Metzenbaum, Senate Amends, Passes Reclamation Bill," *Washington Post*, July 17, 1982.
[59] UPI, "Senate passes Bill to expand irrigation land," *Washington Post* September 25, 1982.

projects. The Reagan administration would propose much higher figures, but differences of opinion between the Department of the Interior and the Army Corps of Engineers hampered efforts to recommend a formula to Congress.

Initially, the administration did not propose any cost-sharing program. Secretary Watt had focused his attention on problems that could be corrected quickly. One of the top priorities was diffusing the tense emotions in the West underlying the calls for a Sagebrush Rebellion. Meetings with western governors resulted in many changes to DOI policies. Proposing that states front a large portion of construction costs for Bureau of Reclamation projects was not the best medicine to treat sagebrush fever.

Instead of originating from the administration, the cost-sharing proposals being debated in 1981 came from within the halls of Congress. The proposal was the product of a unique pairing of Senators Pete Domenici (R-NM) and Pat Moynihan (D-NY). The latter had expressed concern throughout the Carter administration over the lopsided water development funding which favored the South and West. It will be remembered, for example, that he made this point during the debate over the March 10, 1977 amendment to the Public Works bill rebuking president Carter for the Hit List. Moynihan and Domenici proposed converting all water programs into block grants with a twenty-five percent local cost share. Moynihan saw this as a way to increase aid to eastern state facing with aging municipal water systems. Domenici saw the proposal as a way to resume construction of stalled water projects in his state and throughout the West.[60]

[60] "An Age of Economies and Stilled Water Projects," *New York Times,* Aug 8, 1981.

There was not a lot of enthusiasm in Congress for the use of block grants proposed in the Domenici-Moynihan National Water Resources Policy and Development Act. But, there was growing interest in Congress and within the Reagan administration in cost-sharing as a way to make water projects more affordable. In the spring of 1982, the Cabinet Council under the director of Secretary Watt began debating the merits of such a policy. They were now considering a local cost share up to thirty-five percent.

By late May they had a draft memorandum for the President briefing him on the issue. At that point there were only minor suggestions from the council members. Bill Niskaanen, representing the Council of Economic Advisors, and Bill Gianelli both suggested that cost-sharing should not be made a part of the revised "Policies and Standards" document that the Council was drafting to replace the Carter era version. Garrey Carruthers, the DOI Assistant Secretary for Land and Water suggests a text change to emphasize "the largest feasible reduction in federal cost should take place." The original draft had used the words "reduction in subsidy." The change was largely semantics, but Carruthers obviously saw the potential for a western reaction from Reclamation water users who insisted they repaid projects costs and failed to see interest free repayment on irrigation projects as a subsidy.[61]

In June 1982, someone in the administration leaked Watt's memo to the President. This resulted in what one observer—James Maddy at the WESTPO office—termed a "blast of adverse reaction from the West." While there had been talk of implementing a cost-sharing plan, the administration had been tight lipped.

[61] Boggs to Harper, et. al., May 24, 1982; for suggested changes see, Boggs to Harper, et. al., May 27, 1982, Reagan Library, Danny Boggs papers, OA11962, folder "Natural Resources-Water Cost-sharing 1 of 7."

Gary Hart had sent a letter to Watt in April complaining that DOI officials "have been locked down for months in internal disputes over the details of the department's cost-sharing criteria."[62]

While Maddy could see the adverse reaction from his office in Denver, political correspondent Peter Oginbene observed that in Washington it appeared as if most western politicians would "probably accept it with little or no crumbling." He had interviewed Garrey Carruthers; J.W. O'Meara, the executive vice president of the National Water Resources Association; and Neil Sampson, executive vice president of the National Association of Conservation Districts. All noted the difference was not the amount proposed for cost-sharing, but the overall attitude of the administration towards water projects. For example, Neil Sampson stated specifically:

> Carter set the tone with the Hit List. When you compare the proposals, it was 10% plus a heavy federal hand on what [the states] do with water projects versus Reagan's 35% with a much lighter federal hand. And it looks to me like [the Reagan administration is] going to be able to strike a better bargain.[63]

J. W. O'Meara stated:

> The distinction is very clearly a matter of philosophy. The Carter administration said, 'No development. All we have to do is conserve the water we had; we didn't need to develop anymore.' This administration says, 'we will develop all we can within the budgetary restraints that we have.' [64]

These quotes, and the others cited in the article show that despite numerous claims by the Carter administration to the contrary, the widely held perception was that Carter was against the West and against water development projects. Ironically,

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[62] For "Blast" see James Maddy to Lamm, June 21, 1983 Lamm Papers, Box 6445; for Hart letter see Peter J. Ognibene, "Selling Water Users in the West on Sharing Reclamation Project Costs," *National Journal* 14 (8/14/82), 1424.
[63] Oginbene, 1421.
[64] Oginbene, 1421.

in September 1981 Reagan issued an executive order giving OMB the power to veto proposed water projects. [65]

Watt tried to conciliate water users at a National Water Resources Association meeting that November. He announced ten new construction starts. Most were minor projects or loans and did little to help pacify those upset over the cost-sharing proposal. On January 25, 1983 Watt sent a personalized telegram to all western governors asking them to provide any input on the proposal over the next two months. [66]

> We all recognize that if our nation is to enjoy continued economic growth and prosperity, there must be a recommitment to economically viable, environmentally sound water projects. Over the last year the cabinet council on national resources and environment has deliberated on the extremely complex and difficult issue of water project cost-sharing. No cost-sharing policy had been announced. However, it is clear beneficiaries of water resources development must share a larger portion of project costs.[67]

Reacting to Watt's telegram, the WESTPO governors met on February 27 to coordinate a strategy and response. An advisor to Governor Lamm, Chips Barry briefed the governor prior to the meeting. Barry noted that while the request for comments might indicate the administration finally expected to announce a policy, all the intelligence indicated the opposite.

> What we are hearing is that Watt's request is only a face-saving political gesture and that he in fact has no intention of ever announcing a formal polity or enunciating formal guidelines. The reasons for this appeared to be significant differences in opinion between Carruthers (interior) and Giannelli (COE). Second, Watt wants to back away from the issue gracefully since Congress has been so adamant in stating it alone will formulate and put in place any new requirements.[68]

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[65] Oginbene, 1425..
[66] James Maddy (WESTPO office) to Lamm, June 21, 1983 Lamm Papers, Box 64451.
[67] Watt to [Governor], January 24, 1983, Lamm papers,
[68] Chips Barry to Dick Lamm, February 22, 1983, Lamm papers.

Barry also reported that the issue was further complicated by politics in Congress. Word had gotten back to Barry's office from Ival Goslin, the former director of the Upper Colorado River Commission who now acted as a legislative consultant for water districts in western Colorado, Congress wanted to protect their turf. Goslin reported that Tom Bevil's staff informed him that Bevill believed his committee—the House Appropriations subcommittee onverseeing water development—should determine any cost-sharing policy. If a state and DOI reached an agreement on cost-sharing, Bevill's committee would not act on it until Congress had acted on cost-sharing.

In April 1983, rumors surfaced that Watt and Gianelli were at opposite poles on cost-sharing. Watt advised the subject be dropped and Gianelli kept pushing to get a policy in place. On April 27, Senator Paul Laxalt (R-NV) joined by fourteen other western Senate Republicans wrote President Reagan, warning the cost-sharing issue would be viewed as anti-West and anti-water in the 1984 election campaign. Encouraging him not to approve the policy they wrote, "We have yet to initiate construction on any new Western projects in the past two years, and we are now contemplating an up-front financing scheme even more Draconian than that proposed by Jimmy Carter." [69]

Gianelli charged that Watt put the senators up to it, and responded himself. Gianelli had been advocating from the beginning that cost-sharing would not only make the projects more economical for the federal government, allowing progress to

[69] James Maddy (WESTPO office) to Lamm, June 21, 1983 Lamm Papers, Box 64451; "Prospects Uncertain: Water Projects Await Funding as Debate Over Cost-sharing Stall Action on Capitol Hill" July 30, 1983, *Congressional Quarterly*, 1553.

be made on stalled projects, but he also held—like those in the Carter administration—that forcing states to carry part of the cost would weed out bad projects. He was the former head of Reagan's California Department of Water Resources where he advocated for the California State Water Project. However, because California paid for the project, Gianelli saw it as a role model of cost-sharing. As a result, he disappointed water industry insiders who expected him to be gung-ho to build federal water projects.[70]

In contrast, Robert Gottlieb notes Commissioner Robert Broadbent fought against cost-sharing and clashed with the OMB over the size of the Bureau's budget. His boss, Garrey Carruthers, argued some cost-sharing was appropriate. Gottlieb contends that James Watt was "decidedly ambiguous" about cost-sharing and refused to take a position.[71]

While the internal debates continued within the DOI and between the Army Corps of Engineers, little progress was made on moving authorizations and appropriations forward in Congress. But in July, Gianelli charged that Congress was to blame for the hold up.

> In years past the Congress has pretty well blamed the administration for any deadlock with respect to water development and now it is interesting that Congress is actually up approval of at least 14 new starts that have been proposed by the administration. The message here as far as I'm concerned is that this administration wants to move ahead with new water projects. It doesn't have a Hit List. It's not against them--but it feels they have got to move ahead under new guidelines.[72]

By late summer Western governors questioned whether cost-sharing would actually achieve the stated purpose for reducing federal deficits. In a briefing prepared

[70] Robert Gottlieb, *A Life of Its Own*, 65-6.
[71] Ibid,, 66-7.
[72] "Prospects Uncertain," 1556.

by the Western States Water Council for the upcoming WESTPO governor's meeting, the council also pointed out that given the economic conditions prevailing at the time, that most state or local governments would find it "difficult, if not impossible," to finance water projects. They also noted that because of federal spending cuts, state and local government budgets would be stressed to make up the differences. While noting other concerns with the cost-sharing formula Watt proposed, the memo concluded that, "One of the biggest questions left unanswered is the effect on projects currently under construction." [73]

By the fall of 1983, the administration had still not made an official decision regarding cost-sharing. While the WESTPO analysts debated the administration position, David Stockman—Reagan's head of OMB—was seeking help from Congrassman Silvio Conte, the ranking Republican on the House Appropriations Committee and an ally of Carter during the water wars and well known for fighting pork. In an October letter, Stockman emphasized the administration had attempted to break "the deadlock" over water development projects by proposing cost-sharing. The administration had also made a reasonable budget recommendation of fifteen proposed new starts with total costs of $700 million. However, in approving HR 3958, the House Appropriations Committee added twenty-nine additional new starts raising the total cost to $4.4 billion.[74] Exacerbating the issue, over half of that amount went to projects in four states—Alabama, California, Colorado, and Louisiana. In making his

[73] "Western States Water Council Recommendations for WESTPO Governor's Meeting," Received Aug 30, 1982, Matheson papers, reel 36, box 17, folder 13.
[74] Members of Congress introduced three different appropriations bills for water projects funding. The House and Senate had both taken positive action on HR 3958. It was the least expensive of the three bills, less than half of the total cost of the HR 3678, the Roe bill, S. 1739, the Abdnor bill which both topped $10 Billion in new starts.

case to Conte, Stockman took a stance very reminiscent of the Carter administration. He stated:

> As I noted above, this administration has been trying very hard to implement changes in policy that will enable this nation to get on with the job of building essential new water development projects. It is with considerable regret that I must inform you that unless the serious deficiencies in HR 3958 are corrected, the President's senior advisers could not recommend that he approve the legislation. I urge you to exercise leadership in removing the obstacles to favorable action on this very important matter.[75]

In other words, Stockman now threatened to do the very thing that Carter had done, veto the appropriation bill. Despite the threat, Congress or water proponents did not howl in protest as they had done with Carter. In much the same way that they had done over the issue of cost-sharing itself, there was less effort to sell the public the idea of a new war on the West. Instead Governor Lamm, who had been one of the most outspoken of Carter's critics, worked with other western governors primarily through the political process to lobby for the best.

In January, President Reagan decided to forego a set formula for cost-sharing on water projects and instead directed each agency to negotiate financing arrangements on a case by case basis. William Clark, who replaced Watt after his resignation the previous October, wrote individually to each western governor announcing the decision. He wrote that, "The comments and suggestions offered by the western Governors played a key role in developing this policy."[76]

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[75] David Stockman to Silvio Conte, October 4, 1983. Simpson papers box 305 folder 3. The bill passed the house, and was cleared by the Senate Appropriations Committee for consideration by the Senate. However, due to disagreements between the Senate and House over appropriations generally, Congress failed to pass any regular appropriation measure that fall and resorted to a stop gap, continuing resolution. See, Helen Dewar, "Stopgap Funding Approved: President Signals His Intent to Sign Spending Measure Congress Approves Scaled-Down Stopgap Appropriation Measure," *Washington Post*, November 13, 1983.

[76] Reagan to Paul Laxalt January 24, 1984; William Clark to Matheson, January 24, 1984, Matheson

The Army Corps of Engineers, under Gianelli and his successor Robert Dawson, used cost-sharing to secure authorization for over 200 projects and planning studies in bills passed in1984, 1985, and 1986. Although many of these 200 projects enlarged or modified existing projects, the total cost of the projects is nearly $16 billion, with $4 billion provided by non-federal sources.[77]

The following spring, President Reagan vetoed a bill authorizing water resources research funding performed in partnership with state universities around the country. The bill re-authorized establishment of water resource research institutes in the states and authorized $10 million in federal matching grants to them annually for fiscal 1985 through 1989. Reagan thought that the institutes were at a point they could stand on their own and then they primarily did work that was local or at best regional in nature and not appropriate to federal funding. Congress overrode his veto in March. While the spending measure was a minor one, it is interesting to contrast the reaction to Reagan's veto. There were no vitriolic cries about attacks on the West, or on the states. Congress simply argued that the program provided valuable research and that it widely disbursed funds that benefited many state universities. One can only imagine the type of reaction that Carter would have received had he taken a similar action at any point in his presidency after the announcement of the Hit List. It seems that those who had complained so bitterly about Carter's War on the West—Member of Congress, as well as traditional natural resource users in the West and their

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papers, Reel 36 Box 17 Folder 13; see also, Gottlieb, *A Life of Its Own*, 66.
[77] Gottlieb, *A Life of Its Own*, 69.

lobbyists—were less willing to see a conspiracy against them by someone whose rhetoric matched their own.[78]

[78] "Congress overrides Reagan the water bill veto," *Congressional Quarterly* (March 24, 1984), 687.

Chapter 5

The Ugliest Dog: The Garrison Diversion

> The usual slugfest over 'pork barrel' projects is on the agenda again, as was evident by the grilling of Secretary of the Interior before a Senate Appropriations committee Wednesday. North Dakota Senators took strong exception to Andrus' recent characterization of the Garrison Diversion project as 'a dog.' Andrus made no apologies.
>
> -Margot Hornblower, *Washington Post*[1]

When Jimmy Carter began his initial review of water projects, his administration singled out the worst Bureau of Reclamation projects then under construction. These included some of the last massive federal water projects Congress approved, and also some of the worst. As discussed in Chapter 1, Carter's transition team created what became known as the Hit List. While not opposed to the process and politics Carter used to push his Hit List, Secretary of the Interior Cecil Andrus did favor cutting the worst of the projects which he liked to call "dogs." When ranking the projects in terms of bad economic investments, ecological disasters, or creating some other major problem, the Garrison Diversion Project in North Dakota topped all of the lists. Had Carter never proposed his Hit List, it is clear that the administration still intended to stop this project. It was the one that Andrus had first started calling a dog, and it was the ugliest.

[1] Margot Hornblower, "Water Policy, Whether Timid or Menacing, Needs a Hard Sell," *Washington Post*, March 18, 1979.

The Bureau of Reclamation's Garrison Diversion Project deserves further discussion here for many reasons. As the project the Carter administration deemed the worst, tracing its history, particularly after 1978, provided a good way to test the relative success or failure of Carter's effort to stop costly and destructive water development projects. Second, in many ways the project and its defense by the traditional iron triangles in 1977 are reflective of the majority of projects on the Hit List. Finally, what happened to the Garrison Diversion after the Carter Hit List demonstrates the growing power of environmental interests on both a local and national level while reflecting the over shift in federal water development that accompanied the reciprocal decline of traditional iron triangles.

At the beginning of the Carter Presidency, the administration singled out one Bureau of Reclamation project more than any other for reform, the Garrison Diversion. Had Carter chosen to move forward with the limited water projects review, as advocated by Andrus and Mondale, Garrison would have been their primary test case. The worst of the worst, Garrison epitomized the problems that the administration wanted to fight. It was outrageously expensive, had limited benefits, had a vocal opposition, and created significant environmental damage. Like other projects placed on the Hit List, it was a relic of what Marc Reisner dubbed "the Go-Go years." Reclamation envisioned the project to ultimately be its largest, irrigating one million acres. Like other projects Carter opposed, Garrison had already been embroiled in National Environmental Policy Act (NEPA) controversies and a court challenge. However, it was now embroiled in a second NEPA court case. Unlike

other projects, Garrison was also involved in diplomatic entanglements. The Canadian government opposed the projects which it believed violated a longstanding treaty. The project was so fraught with problems that the administration had already prepared plans to stop the project, even if they had chosen not to pursue any type of water policy reform.

The project shared additional similarities with its companions on the Hit List. The Governor, Congressional Delegation, a majority of the state legislature, along with many Local politicians, newspapers, and businessmen ardently supported the project. They maintained the federal government had promised to build the project to mitigate for the inundation of prime agricultural lands behind the Garrison Dam; keeping that promise outweighed virtually any economic, social, or environmental costs. Like other projects on the list, their support of the project won continued congressional funding in 1977. And like other projects, Garrison was subject to continued efforts by the Carter administration to solve objections to the project. It also faced continued Congressional scrutiny during the Reagan administration. Thus, these similarities and the project's history make it worthy of closer inspection as it helps to illuminate the evolution of federal water policy under Carter and Reagan.

Compensating North Dakota

The Garrison Diversion cannot be removed from the context of the 1930s. The severe, multi-year drought of the 1930s led to renewed calls for irrigation development in the Missouri River Basin and across the West. Conceived to protect against future catastrophic droughts, the Central Arizona, Central Utah, Garrison, Oahe, Narrows, and other Bureau of Reclamation projects on the Hit List all include the 1930s drought

as a significant part of their origin narratives. The Bureau of Reclamation planned the Garrison Diversion Project in the late 1930s in response to the severe drought which plagued the West that decade. As part of its comprehensive scheme for developing the Missouri Basin, it outlined a project to irrigate a million acres, justified in part to compensate North Dakota for the loss of prime farm lands to the Garrison and Oahe Dams.[2] Motivated by severe flooding on the Missouri River in 1943, Congress authorized these dams and the Garrison Diversion as part of the Pick-Sloan Plan in the Flood Control Act of 1944.[3]

In addition to surveying canal routes, and preparing cost estimates, the Bureau of Reclamation established development farms in the area to study the suitability of the land for irrigation. In March 1950, Regional Director Kenneth Vernon shocked project supporters by announcing experiments at the Bureau-sponsored Bowbells

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[2] ; "Reclamation's Hall of Fame: Nomination No. 11, W. G. Sloan Co-author of the Missouri River Basin Plan," *Reclamation Era* 37, no. 4 (April 1951): 79.

[3] U.S. Department of the Interior, Bureau of Reclamation, "Overview, Pick-Sloan Missouri Basin Program," by Toni Rae Linenberger (Denver: Bureau of Reclamation History Program, 1998), 7-13. Under the guidance of regional director William Glen Sloan, the Bureau of Reclamation investigated a comprehensive development plan for the entire Missouri River which would later evolve to become the Garrison Diversion. The largest scheme was the proposed Missouri-Souris Project. Originally, Sloan proposed an irrigation diversion using a long canal from the Missouri River below Fort Peck in Montana, running through the Souris River Basin in North Dakota, and extending to Devils Lake. See, "Reclamation's Hall of Fame: Nomination No. 11, W. G. Sloan Co-author of the Missouri River Basin Plan," *Reclamation Era* 37, no. 4 (April 1951): 79.

As planning for the Missouri-Souris moved forward, Sloan also began investigation of an additional diversion project utilizing the newly authorized Garrison Dam. He had originally opposed the dam because it flooded existing irrigation projects and an additional 50,000 acres he had proposed to develop. However, the agency concluded in a 1946 preliminary report on the Garrison Diversion that while Garrison Dam closed the door on the 50,000 acres, the loss could be compensated by the development of the Garrison Diversion. Over the next several years the Bureau of Reclamation continued to study the two projects, anticipating construction of all or part of both. This is an important point. Many discussions of the history of the Garrison Diversion assume that the project had always been planned as a *replacement* for the Missouri-Souris Unit. For example see Robinson, 463. The 1946 report indicates that at least early on, Reclamation did anticipate construction of both projects. See U.S. Department of the Interior, Bureau of Reclamation, "Report on Garrison Diversion Investigations" (Billings: Bureau of Reclamation, Upper Missouri Region, 1946), 4, 38 in Box 63, Accession 8NS-115-95-076, National Archives and Records Administration, Rocky Mountain Region, Denver.

Development Farm had disqualified 500,000 acres of the proposed project lands west of the Des Lucas River. While they were arable and productive under dry farming techniques, the soil had heavy clay layers within a few feet of the surface that would impede irrigation drainage and damage crops.[4]

The Bureau rejected plans to engineer its way out of the problem,[5] and rather than abandon the project by simply moving the project farther east to the better drained soils in the eastern Souris River Basin.[6] After years of study and review, Secretary of the Interior Fred Seaton gave his final approval to the Garrison Diversion plan on June 21, 1958.[7]

North Dakota Congressman Otto Krueger introduced legislation to authorize the Garrison Diversion. However, Congressman Wayne Aspinall (D-CO), who chaired the powerful House committee overseeing water development projects, cautioned that the authorization of such a massive and expensive reclamation project would be extremely challenging.[8] Aspinall's prediction, based no doubt on his recent experience securing passage of the Colorado River Storage Project the previous year, proved accurate. But the size and cost of the proposed project would have made it an easy prediction for anyone to make. Congressman Krueger's bill sought the authorization of the entire one million acres, and carried a price tag of $695 million.

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[4] Paul Edward Kelly, "Under the Ditch: Irrigation and the Garrison Diversion Controversy" (master's thesis, University of North Dakota, 1989), 56-7; Kenneth F. Vernon, "Oral History Interview" Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Brit Allan Storey, April 24, 1995 in Fullerton, California, 127-136.
[5] Kelly, 62, 83-4; "Reclamation's Hall of Fame: Nomination No. 11," 70.
[6] Kelly, 108-11.
[7] *Garrison Diversion Unit*, xiii-xviii.
[8] At a special hearing in Devils Lake, North Dakota, on October 30, 1957. House Committee on Interior and Insular Affairs, *Garrison Diversion Unit, Missouri River Basin Project: Hearing before a special subcommittee on Irrigation and Reclamation of the Committee on Interior and Insular Affairs on H.R. 7068*, Eighty-Fifth Congress, First Session (Washington D.C.: U.S. Government Printing Office, 1958), 1-9.

While the Garrison Diversion anticipated the ultimate development of over one million acres, the Bureau of Reclamation pared down the proposal to a 250,000 acre initial stage.[9]

Even the costs of the 250,000 acre plan remained high enough that the Eisenhower administration opposed Garrison. Additionally, both the Department of Agriculture and the Bureau of Budget released critical reports questioning Reclamation's cost-benefit analysis—demonstrating that manipulating data was not a bureaucratic vice limited to just the 1970s. The Bureau of the Budget also complained about the heavy reliance on secondary benefits. It noted that without the considerable amounts of secondary benefits credited to recreation and wildlife enhancement, the direct benefits of the project over a fifty year period versus the project costs dropped to a ratio of 0.53 to 1.[10]

After sitting on the shelf for three years, the stalled project began to gain traction when President Kennedy gave the project his strong endorsement after taking office in 1961. However, even the support of a popular president did not smooth the project's path through Congress. Like other projects on the Hit List, Garrison faced significant challenges and roadblocks before Congress approved the project. Congressman Aspinall raised serious objections, fearing that rising construction costs

[9] *Garrison Diversion Unit, Missouri River Basin Project: Hearing before a special subcommittee…*, 7. In his letter to President Eisenhower endorsing the project, Secretary Seaton stated that "A 250,000 acre unit is the smallest independent plan that I consider to be consistent with sound development," *Garrison Diversion Unit*, ix.

[10] Because of the numerous methods of calculation, cost-benefit ratios always have the potential to generate controversy. In the case of the Garrison Diversion, the debate between Reclamation and Budget involved two main points: the projected period of operation, and the inclusion of secondary benefits. Reclamation stated that a life expectancy of one hundred years was reasonable. The Bureau of the Budget's official formulas only allowed for a fifty year life expectancy. This decrease affects how long benefits accrue and reduces the overall total benefits of the project, reducing the benefit to cost ratio. *Garrison Diversion Unit*, ix-x, 215-8.

and low hydropower revenues had eroded the projected surpluses underwriting Missouri Basin irrigation projects. In 1964 Aspinall succeeded by adding a provision to a bill seeking to increase the maximum authorized costs of the Pick-Sloan project—something that had become an annual occurrence—requiring Congress to reauthorize all Pick Sloan units not already under construction.[11]

Aspinall's move subjected the proposed project to further congressional review and debate. The House Rules Committee kept legislation to authorize Garrison—which had passed the Senate in February and was favorably reported by the House Committee on Interior and Insular Affairs—from a floor. Making the project a campaign issue, its supporters persuaded President Johnson to pressure House leadership to push the bill to the floor arguing that Eisenhower had been heavily criticized by Democrats for his "no new starts" policy with regard to water projects and that now the roles had been reversed. Running for reelection that year, North Dakota Senator Quentin Burdick's reelection campaign met critical opposition from his Republican opponent over his perceived failure to get the Garrison authorization through Congress.[12]

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[11] The measure passed the House of Representatives in 1963, but was shot down by Missouri Basin senators who succeeded in removing the language from a substitute version of the bill passed later that year. Because the legislation had only provided an additional $16 million increase for the Missouri Basin, the issue returned to Aspinall's committee again in 1964. That year's legislation increasing authorized spending of $120 million contained Aspinall's limiting language from 1963. The bill passed both houses before the summer recess that August. The 1964 bill containing the provision was H. R. 9521 which became Public Law 88-442. *Congressional Record* 109, 11413-7; 110, 8380-1; U.S. Department of the Interior, Bureau of Reclamation, *Federal Reclamation and Related Laws Annotated*, Volume 3, (Denver: U.S. Government Printing Office, 1972), 1737, 1755.

[12] John Kamps, "Water Bill Leg[islation] Likely Issue," *Denver Post*, September 1, 1964; Deputy Assistant Secretary of Water and Power to Frank Burnett, Congressional Liaison Office, Sept 9, 1964 in Folder 18, Box 48, Carl Albert Collection, Departmental Series, Carl Albert Center Congressional Archives, University of Oklahoma; and Tom Kenan to Carl Albert, September 14, 1964 in Folder 65 Box 78, Carl Albert Collection Legislative Series, Carl Albert Center Congressional Archives, University of Oklahoma.

Despite the heavy pressure tactics, the Rules committee prevailed, keeping the Garrison Diversion bottled up. Undaunted, North Dakota's Congressional Delegation reintroduced bills to authorize the project in January, which made it to the House floor for debate in mid-June. After years of delay, the Garrison Diversion quickly made its way to President Johnson's desk who signed the bill at noon on August 5, 1965 at a White House ceremony.[13]

The 1965 plan for the Garrison Diversion approved by Congress was similar to the other massive irrigation works approved in the two decades following WWII. Like the CAP, CUP, Oahe and Auburn-Folsom Unit of the California's Central Valley Project (CVP), it included massive, expensive engineering feats to move water great distances towards subsidized farms. Garrison's plan anticipated pumping Missouri River water from Lake Sakakawea impounded behind Garrison Dam. Using a series of gravity canals and regulating reservoirs, the water would irrigate farmlands along the Souris, James, and Sheyenne Rivers. To get the water from the Missouri to the distribution canals and farms, the Bureau of Reclamation planned what it termed the Principal Supply Works consisting of the Snake Creek Pumping Plant, the McClusky Canal, and Lonetree Reservoir.

An embankment carrying U.S. Highway 83 serves as a dam across the right arm of Lake Sakakawea (Garrison Reservoir) forming a sub-impoundment called Lake

[13] The full House debated the bill for the first time on June 16, 1965. After years of opposition and tactical delays, the House passed the bill after an hour of debate on a voice vote. On July 1, the Senate Reclamation Subcommittee unanimously approved amendments to the Senate version of the bill to conform to the version passed by the House. The bill moved to the Senate floor on July 22 and passed on a voice vote. Associated Press, "Garrison Project is Voted by House," *Washington Post*, June 17, 1965; Associated Press, "Senate Approves N.D. Water Project," *Washington Post*, July 2, 1965; "Garrison Diversion Unit, Missouri River Basin Project," *Congressional Record* Volume 111, Part 13 (July 22, 1965): S 17872-6; *Federal Reclamation and Related Laws Annotated*, Volume 3 (Washington D.C.: U.S. Government Printing Office, 1972), 1841-4.

Audubon (Snake Creek Reservoir). When Lake Sakakawea is below the full level, three large pumps at the Snake Creek Pumping plant lift water into Lake Audubon. From the lake's east end, the water enters the McClusky Canal.

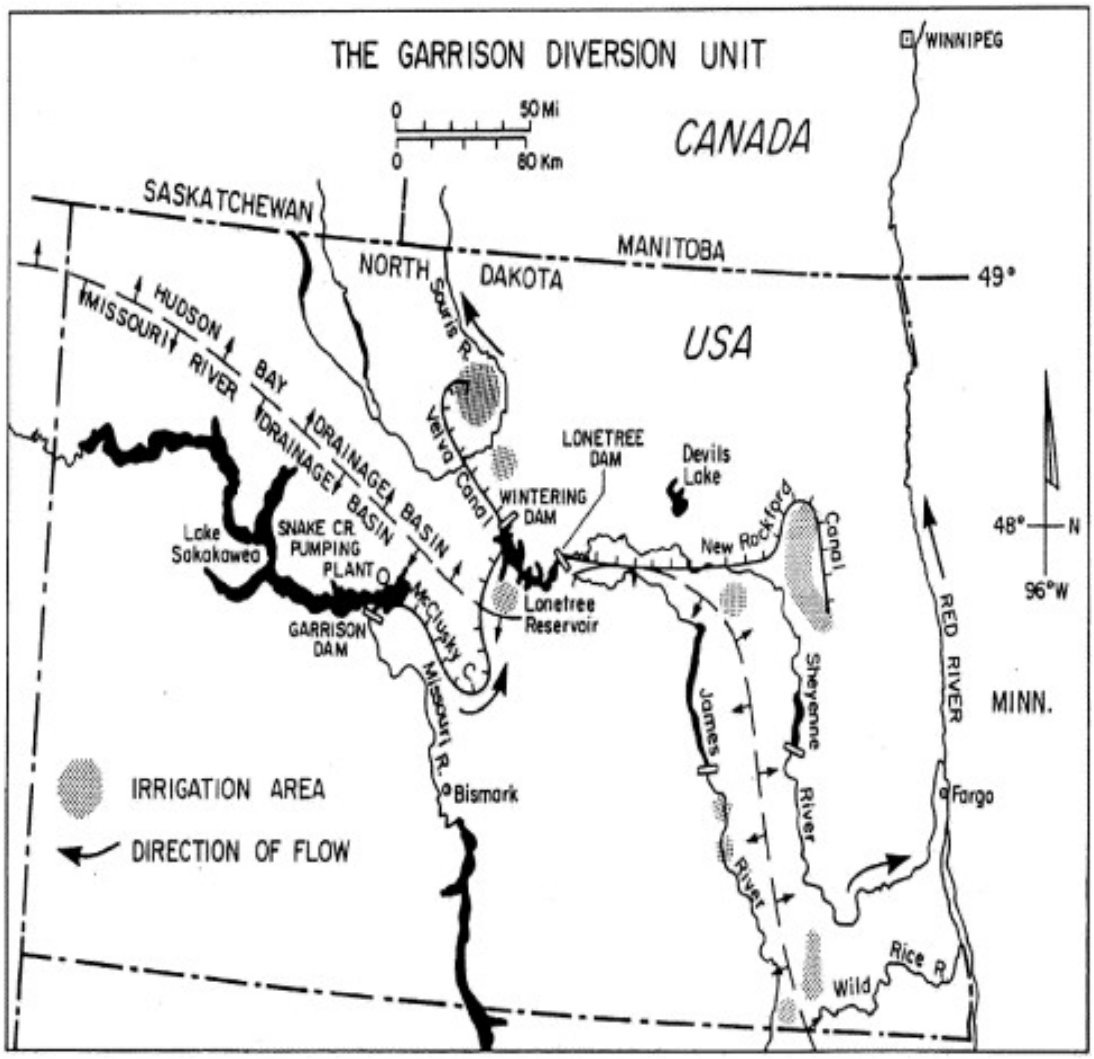

Figure 8 Map of Garrison Diversion showing Principal Supply works and watersheds.

The controversial McClusky Canal lies at the heart of the project. The canal begins at a headworks structure at the east end of Lake Audubon, and meanders to the southeast and then forms a giant u-shape as it swings back to the northeast. The canal terminates at the site of the proposed Lonetree Reservoir in the headwaters of the

James and Sheyenne Rivers. Reclamation planned for Lonetree Reservoir to serve as a hub in the project's principal supply. A canal would convey water from its northwest corner to irrigate the lands along the Souris River as it arcs through the top of North Dakota and to provide a supplemental municipal supply for the City of Minot. From Lonetree's northeast corner, the New Rockford Canal would convey water eastward to irrigate lands in the Sheyenne, Devils Lake, and James River Basins.

Prior to the authorization of the Garrison Diversion Unit, the Army Corps of Engineers had completed the Garrison Reservoir and the Snake Creek Embankment. While not constructed by the Bureau of Reclamation, the completed reservoir provided the water supply for the project, while Lake Audubon, formed by the Snake Creek Embankment, serves as a regulating reservoir and maintains the proper level in the McClusky Canal. In April 1953, construction crews dumped loads of earth, closing the dam and forcing the river into the outlet tunnels. Construction continued for two more years before crews completed the dam in 1955.[14]

The Bureau of Reclamation inaugurated construction on the project on July 14, 1968 at a festive groundbreaking ceremony for the Snake Creek Pumping Plant that attracted an estimated 3,600 people. In the interim between the ceremony and Carter's

[14] Construction of the dam had been highly controversial as it flooded the Fort Berthold Reservation, home of the Three Affiliated Tribes. While the three tribes had never been at war with the United States and always been friendly, the Army Corp of Engineers, led by General Pick treated the Native Americans poorly. One account states that Pick had been personally insulted by a member of a small dissident group who burst into a negotiation settlement. After that incident, Pick refused to offer the tribe any concessions. As a result, the tribe has maintained a legitimate grievance against the government which would later be addressed as Congress reconsidered the Garrison Diversion in the mid 1980s and late 1990s. Billington, David P., Donald C Jackson and Martin V. Melosi, *History of Large Federal Dams* (Denver: Bureau of Reclamation, 2005), 278-80; Marc Reisner, *Cadillac Desert: The American West and Its Disappearing Water* Revised and Updated Edition (New York: Viking Penguin Books, 1993), 186-91; Michael L. Lawson, *Dammed Indians: The Pick-Sloan Plan and the Missouri River Sioux, 1944-1980* (Norman: University of Oklahoma Press, 1982), 60-2, On the personal insult to Pick, see Reisner, 189.

review of the Hit List, the Bureau of Reclamation completed construction of the pumping plant and McClusky canal.[15]

The Snake Creek Pumping Plant is a monolithic concrete structure. Its construction is not unlike a concrete dam. The concrete is placed in sections to form the larger building. These sections interlock for strength and form the foundation, walls and floors of the building. Because the bulk of the structure normally lies below the water line, it is often difficult to appreciate the mass of the structure in pictures or in person. The building measures 130 feet across, 80 feet wide and 180 feet tall and required over 10,000 cubic yards of concrete to construct. Complicated by groundwater problems and a landslide, the structure took seven years to complete the concrete work and install the plant's massive pumps. The contractor turned over the keys in December 1975. [16]

Contractors began construction on the massive seventy-three-mile McClusky Canal in 1970. In reality, the word canal does not seem to adequately describe this man-made river. The project's engineers designed the canal to deliver enough water to meet the needs of the project when expanded to its ultimate size of irrigating one million acres. The canal is twenty-five feet wide at its bottom and ninety-four feet wide at the water surface, and operates at a depth of over seventeen feet. Construction of the canal required the excavation of 55 million cubic yards of material. The deepest

[15] "Garrison Diversion Project Starts with a Bang as 3,600 Observe," *Bismarck Tribune*, July 17, 1968; Marilyn Hoegmeyer, "Groundbreaking Will Launch N.D. Garrison Irrigation Project," *Minneapolis Tribune*, July 14, 1968; "Site, Program Set for Groundbreaking," *Minot Daily News*, July 3, 1968.
[16] Annual Project History Volume I, 85-6; Annual Project History Volume II, 59-60; U.S. Department of the Interior, Bureau of Reclamation "Garrison Diversion, Snake Creek Pumping Plant, Weekly Progress Reports" 1970 Folder 2 Box 21, Accession 8NN-115-85-008, NARA Rocky Mountain Region, Denver. Garrison Diversion Unit, North Dakota, Monthly Construction Progress Report (L-29), February 1972. Hereafter cited as L-29 with the corresponding month(s) and year(s). "Final Construction Report on Snake Creek Pumping Plant No. 1," 3-4,. 7; L-29 June, and July 1972.

cut required on the canal was 115 feet which required a right-of-way over one-half mile. The minimum right-of way width required was 360 feet.[17]

Acquisition of the right-of-way proved to be extremely controversial because of the size and the canal's meandering nature. The topography of the area prevented the canal in many cases from following section or property lines. In some cases, the canal effectively divided farms into two or more pieces. With only twenty-two crossings planned along its length, many of these farmers would have to travel miles to access portions of their severed farms.

In addition to the right-of-way issue, another controversy plagued the canal and, indeed, the entire project. Over its course, the canal crossed the divide between the Missouri River and Hudson's Bay drainages. Because of Canadian government concerns over the passage of water pollution and biota—invasive plants, fish and fish diseases—between the two basins, two plugs currently prevent water from passing into the Hudson's Bay drainage. An earth plug at milepost 59 blocks the canal, and at milepost 58 a short section of canal linking two lakes was not excavated, forming the second plug.

Canal excavation also raised serious environmental and safety concerns. As excavation of the canal proceeded using scrapers and draglines. it crossed through wetlands, potholes, and lakes. In some cases, Reclamation incorporated the lakes into the canal; in others it drained these areas, devastating aquifers, natural springs, and many a farmer's water wells. This destruction of prairie wetlands sparked additional

[17] United States Department of the Interior, Water and Power Resource Service, *Project Data.* (Washington: US Government Printing Office, 1981), 874.

controversy. In response, Dr. Glen Sherwood, a wildlife biologist, wrote *New Wounds for Old Prairies,* in 1972.[18]

The short booklet was among the first to point out the many problems with the project. Sherwood noted the high costs of the project, estimated at the time to be $900 per acre, of which farmer's would repay $1.20 per year for 40 years. The balance of the repayment would mostly come from hydropower revenues. However, there was serious concern at the time if the Pick-Sloan hydropower revenues would be sufficient to repay the projects already constructed, let alone the massive Garrison Diversion.

Sherwood also documented the high human and environmental costs of the project. He chronicles the plight of a representative group of farm families whose had farms severed and well dry up as a result of project construction. Many environmental impacts also went unstudied or underrepresented by the Bureau of Reclamation. Construction of the McClusky Canal resulted in the desiccation of several lakes, springs, and wetlands. Sherwood discovered that the government's mitigation plan which claimed a net increase of 16,000 acres infact would result in a probable net loss of 42,000 acres due to counting existing wetlands in mitigation plans and underestimating or misrepresenting the impacts of drainage on additional wetlands. The loss of these wetlands would significantly impact important breeding area for duck populations.[19]

Near-record rainfall during construction triggered numerous landslides in some of the canal's deep cut sections, while a 300-foot-long slump occurred elsewhere. In spite of repeated repair efforts, sliding continued to be a problem in several sections of

[18] Annual Project History Volume IV (1971), 87, 8NS-115-93-241 Box 2; Glen Sherwood, *New Wounds for Old Prairies* (Pequot Lakes, Minnesota: Country Printing, Inc., 1972).
[19] For costs and farm impacts see 40-46, for environmental impacts see 51-57.

the canal. Repairing these slides increased project costs and critics used these failures to question the judgment and competence of the Bureau's engineers and the safety of the project.

The problems associated with the construction of the Garrison Diversion are not unlike those of other large Bureau of Reclamation projects on the Hit List. The passage of the National Environmental Policy Act (NEPA) in 1970, followed by Earth Day on April 22, 1970, marked increased public concern for the environment. As noted elsewhere, water development projects had played an important role in the growth of the new "environmental movement," particularly the loss of Glen Canyon and the fight over the "Grand Canyon dams." Taking a cue from these fights, continued water development project continued to attract the attention of national environmental and conservation organizations. But all of the Hit List projects increasingly began to attract more local opposition questioning the Bureau of Reclamation about the environmental and social costs, demanding accountability and enhanced mitigation of these costs. These opponents joined together to form grass roots organizations to fight the projects, and found support from national environmental organizations. The enactment of NEPA in 1970 also provided a new and powerful forum for redress.

Construction of the McClusky Canal sparked new criticisms of the Garrison Project. Disgruntled land owners felt cheated and bullied by the Bureau of Reclamation. They felt frustrated by the low prices offered for their land, and believed they deserved compensation for the hardships the division of their farms would cause. The Bureau responded by threatening recalcitrant land owners with

condemnation if they did not accept the governments offer. Undaunted they fought back. One Farmer, Ben Schatz, who had his farm divided into three pieces, famously erected a huge billboard facing a local highway which read: "My farm ruined by the U.S. Bureau of Reclamation." Disgruntled farmers joined with increasingly vocal environmentalists and in 1972 formed the Committee to Save North Dakota. The new group quickly filed suit against the Bureau of Reclamation on December 11, 1972, claiming that the bureau had violated NEPA by continuing the Garrison Diversion without a final environmental statement.[20]

In the initial period after the passage of NEPA, there remained considerable ambiguity over the requirements of environmental statements, and the status of projects like Garrison, CUP, Oahe, Auburn, and others on which construction had begun prior to the passage of the law. On the Garrison project, the Bureau of Reclamation attempted to comply with the law by preparing an eleven-page draft environmental statement for review. Reclamation released the statment on January 8, 1971, soliciting comments for review by interested agencies. These comments were incorporated into a draft environmental statement submitted to the Council on Environmental Quality (CEQ) on April 23, 1971. However, CEQ determined that this flimsy draft did not meet the requirements of NEPA.

As the Bureau of Reclamation worked on revising a second draft, the Committee to Save North Dakota filed its lawsuit in Federal District Court in Bismarck. Within about six weeks, by the end of January 1973, Reclamation released

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[20] Peter Carrels, *Uphill Against Water: The Great Dakota Water War* (Lincoln: University of Nebraska Press, 1999), 69-70; Gary L. Pearson, Walter L. Pomeroy, Glen A Sherwood, and John S. Winder, Jr., eds., *A Scientific and Policy Review of the Final Environmental Statement for the Initial Stage, Garrison Diversion Unit* Volume 1 (Washington D.C.: Environmental Impact Assessment Project of the Institute of Ecology, 1975), 5.

a 145-page "Preliminary Final Environmental Statement." Subsequently, the district judge denied the plaintiff's petition for an injunction, allowing construction to continue while the court determined if Reclamation had met the requirements of NEPA. After the court denied the injunction, Reclamation released an expanded 246-page "Draft Environmental Statement" on April 5, 1973 to replace the earlier "preliminary draft."[21]

Following the release of the draft statement, the Bureau of Reclamation held the mandatory public hearings. Over a period of two days in Minot, North Dakota, eighty-four speakers provided a variety of comments for and against the project, and the sufficiency of the environmental document to address the project impacts on the environment. An additional thirty-four individuals and organizations submitted written comments. The hearing transcript runs to 900 pages. Perhaps the toughest critic to testify was the Environmental Protection Agency. Under the direction of the CEQ, the EPA compiled a list of recommendations to reduce the project's negative effects on the environment. Reclamation responded to these recommendations and filed the revised "Final Environmental Statement" with the CEQ on January 10, 1974. Subsequently, the CEQ accepted the document and allowed the project to continue. This decision also rendered the case of the Committee to Save North Dakota moot, and the organization began preparing new strategies to stop the project.[22]

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[21] *A Scientific and Policy Review of the Final Environmental Statement for the Initial Stage, Garrison Diversion Unit,* 5.

[22] U.S. Department of the Interior, Bureau of Reclamation, "Testimony at Public Hearing and other Comments received on Draft Environmental Statement, Initial Stage of Garrison Diversion Unit" (Bismarck: Missouri-Souris Projects Office, 1973), Box 522, accession 8NS 115 -95-083. NARA Rocky Mountain Region, Denver; John E. Carroll and Roderick M. Logan, *The Garrison Diversion Unit,* Canada-U.S. Prospects (Montreal: C.D. Howe Research Institute and National Planning Association, 1980), 27-28.

With a final environmental statement completed, the Bureau determined to move forward with the completion of the McClusky Canal and to initiate construction of the Lonetree Reservoir. The reservoir site is situated near the headwaters of three distinct river drainages; the Wintering River (Souris Drainage), the Sheyenne River (Red River Drainage) and the James River (Missouri River Drainage). To contain the reservoir, Reclamation planned to build two dams and a series of dikes. The Lonetree Dam would be across the Sheyenne River southwest of Harvey, North Dakota. To keep the reservoir from flowing into the James River Drainage, a series of dikes would be constructed along the low ridge dividing the Sheyenne and James River basin.

The Wintering Dam would serve a similar function along the divide between the reservoir site and the drainage of Wintering River.[23] Reclamation had begun acquiring land for the Lonetree Reservoir in 1969. In 1975 the Bureau of Reclamation's contractor began excavation work for the dam. Construction of the dam proceeded at a rapid pace facilitated by the lack of any outlet works or spillways, functions filled by the proposed Lonetree Dam. The contractor completed the dam on December 3, 1976, a year ahead of schedule.[24]

While Reclamation and the Garrison Diversion Conservancy District celebrated the completion of the Wintering Dam ahead of schedule, they no doubt felt under attack from all sides. Simultaneous to the construction of Lonetree Reservoir,

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[23] The completed dam, located approximately 12.5 miles southwest of Anamoose, ND, is a zoned earthfill dam with a maximum height of 40 feet above its foundation, or 34 feet above the existing ground level. The dam is 2,750 feet along the length of its crest. A companion dike, located to the west of the dam along the same general line has a height of 22 feet and length of 2,550 feet. U.S. Department of the Interior, Bureau of Reclamation, "Final Construction Report, Wintering Dam: Garrison Diversion Unit, Garrison Division –North Dakota, Pick-Sloan Missouri Basin Program. (Bismarck: Missouri-Souris Projects Office), 15, box 541, accession 8NS-115-95-083, NARA Rocky Mountain Region, Denver.

[24] "Final Construction Report, Wintering Dam," 8, 11, 17, 21.

the Committee to Save North Dakota and its allies published a critique of the 1974 Environmental Statement, the National Audubon Society filed suit to stop the project, the Carter Administration placed the project under review, and the Canadian Government worked through diplomatic channels to stop the project.

Canadian Concerns

One of the biggest obstacles and challenges to the construction of the Garrison Diversion unit proved to be the concerns of the Canadian government over increased water pollution in the Souris and Red Rivers from farm runoff as well as potential biota transfer —invasive fish, fish eggs, fish diseases, plant material, snails, and other forms of aquatic life—from the Missouri to the Hudson's Bay drainages. They feared the introduction of invasive species could devastate the commercial fishery on Lake Winnipeg. Either condition would violate long standing treaties. The Canadian government had expressed these concerns since the authorization of the project. Despite attempts to address these concerns via official diplomatic channels at the state department in 1969 and 1971, the Bureau of Reclamation pushed construction forward. In October 1973, Canada requested urgently "that the Government of the United States establish a moratorium on all further construction of the Garrison Diversion." In its official reply on February 5, 1974, the State Department recognized the U.S. obligation and assured the Canadian government that no construction affecting Canada would be undertaken until it was clear the treaty obligation would be met.[25]

[25] Carroll and Logan, 29-30.

Continued official discussion through 1974 resulted in a formal request in 1975 that the International Joint Commission (IJC) take up the issue. The two governments had established the IJC in 1911 to meet the provisions of the International Boundary Waters Treaty of 1909. Specifically, its principal task was to deal with issues such as Garrison Diversion, which affected the waters shared by both nations. To deal with the question of the Garrison Diversion, the IJC established the International Garrison Diversion Study Board. The board undertook a year-long investigation, which it began by holding three hearings in November 1975 to obtain opinions on the possible effects of the project.

Despite maintaining a rigorous schedule to determine existing conditions and estimate the impact of Garrison Diversions return flows, the amount of data forced a delay in the completion of the board's report. When the International Garrison Diversion Study Board announced that it was forced to delay the completion of its report, the two governments issued a join communiqué on August 16, 1976 that reiterated that the United States would meet its obligations under the 1909 treaty. However, despite these assurances, the ongoing construction of the Wintering Dam caused the Canadians to question those assurances. Essentially, they maintained that the continued construction of the Lonetree Reservoir would be a powerful argument for its operation, and complicate the implementation of the IJC's findings. As a result they issued another call for a construction moratorium on October 12, 1976.[26]

The government's attitude toward the project and its tone toward the Canadians made a dramatic turn following the election of President Carter. Thus when Carter took office, the unresolved treaty concerns and environmental concerns

[26] Carroll and Logan, 35.

made the Garrison Diversion an easy target. At the end of December the Carter transition team had requested that action—independent of any larger efforts to review water projects or implement policy reform—to prevent the award of a contract for Garrison's Lonetree Reservoir. Within three weeks of taking office, Secretary Andrus informed the president that the Department of the Interior recommended postponing the bidding process on Garrison's Lonetree Reservoir. Andrus wrote in his weekly memo to Carter, "Frankly this project is a dog and should never have been considered in the first place."[27]

After returning to work after the weekend, Andrus learned from Carter his plans to move rapidly forward to eliminate multiple water projects from his revisions to the Ford Budget due out in just over a week. In his memo objecting to the president's plan, Andrus suggested as an alternative selecting a few of the worst projects he felt merited review and deferral. Garrison topped the list because of the Canadian concerns. Andrus's language makes it clear a second time that Garrison would have been stopped even without the Hit List as Andrus and the Carter administration were prepared to "recommend deferral of the Lonetree Dam contract until after the IJC review [was] completed."[28]

By the end of the week, Carter had decided to move forward with the Hit List. In an official reply on February 18, 1977, timed to coincide with an official state visit by Canadian Prime Minister Pierre Trudeau beginning on February 21, the Carter administration promised via State Department communiqué, that the government

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[27] Eizenstat to Carter, Mondale and Secretaries-designates, December 27, 1976, JCPL, Domestic Policy Staff-Stu Eizenstat. Box 119, Folder 7 "12/21/76-12/31/76; Andrus to Carter, February 11, 1977, Boise State University, Andrus papers Box 8 Folder 4.

[28] Cecil Andrus to Carter, February 14, 1977, JCPL, White House Central File, Subject File, Natural Resources, Box NR 14, Folder NR 7-1 1/20/77-3/15/77.

would not award a contract for the construction of Lonetree Dam until after the IJC had reported its findings. Although the newspaper reports spoiled some of the surprise, President Carter also informed Trudeau he had included the Garrison Diversion in recommended funding cuts.

After analyzing a mass of data, and compiling its findings, the board held an additional five hearings in March 1977 to receive comments. In its final report, the board concluded that the Garrison Diversion would cause significant impacts to the waters and commercial fisheries of the province of Manitoba. While the report acknowledged that most of the impacts could be mitigated by modifying Garrison, it declared that no mitigation measure existed which could fully address the possible transfer of biota. The IJC endorsed the report on August 12, 1977, recommending that the portion of the Garrison Diversion affecting waters flowing into Canada not be built at that time.[29]

Simultaneous to the controversy with Canada and President Carter's "Hit List," local and national opponents continued their fight against the Garrison Diversion. During 1975, the Institute of Ecology published a review of the Final Environmental Statement for Garrison. One of the four editors of the project was Dr. Glen Sherwood, the author of *New Wounds for Old Prairies.* The report attempted to build a case for a moratorium on further development of the project. The Bureau of Reclamation reviewed the report, finding the "principal conclusions drawn and recommendations made in the review are based largely on misconceptions and erroneous assumptions." Despite the errors pointed out by Reclamation, the report became *prima facie* evidence

[29] International Join Commission. *Transboundary Implications of the Garrison Diversion Unit.* Canada and United States: International Joint Commission, 1977), 2, 7-9, box 524 accession 8NS 115 -95-083, NARA, Denver.

motivating the National Audubon Society to file a second NEPA lawsuit in May 1976.[30]

Even while Congress debated Carter's Hit List, both Houses ultimately providing continued funding, the Carter administration shifted the destiny of the project out of Congressional hands—at least temporarily. On May 11, 1977, after Secretary Andrus had concluded the water project review recommending scrapping most of the project, the Department of the Interior reached an agreement with the Audubon Society to settle the suit. The settlement came through a legal mechanism called a Stipulation and Order. The government agreed to cease all construction activity on the project—with the exception of the completion of the McClusky Canal—pending the completion of a comprehensive supplementary environmental statement to implement the President's proposed modified plan. Following the completion of the environmental statement, the Stipulation and Order required the Department of the Interior to propose legislation requesting authorization of an option for project development based on the study's findings.[31]

After Secretary Andrus signed the agreement, the State of North Dakota—which had entered the Audubon case along with the Garrison Conservancy District as interveners—made a motion to dismiss the original case, arguing the settlement rendered it moot. However, Federal District Court Judge Charles R. Richey ruled on December 8, 1977, that the original case was not moot, but only stayed the

[30] *A Scientific and Policy Review of the Final Environmental Statement for the Initial Stage, Garrison Diversion Unit* Volume 1; Sherwood, *New Wounds for Old Prairies*; United States Department of the Interior, Bureau of Reclamation, "Response to A Scientific and Policy Review of the Final Environmental Statement for the Initial Stage, Garrison Diversion Unit," (Bismarck: Missouri-Souris Projects Office, 1975), 1.
[31] National Audubon Society v. James G. Watt, 678 F.2d 299 (D.C. Cir. 1982), 301-2.

proceedings. Thus, Judge Richey had left the door open for the National Audubon Society to proceed with the case if it believed that the Department of the Interior did not meet the conditions of the Stipulation and Order.[32]

In addition to the above motion, the State of North Dakota filed a separate lawsuit in the North Dakota Supreme Court against the Department of the Interior, the Bureau of Reclamation and other individuals claiming that by implementing the Stipulation and Order they had violated the Flood Control Act of 1944, and the Garrison Diversion Unit Reauthorization Act of 1965, and the Impoundment Act of 1974. The court subsequently moved this case to the District Court of North Dakota.

While this case began working its way through the courts, the administration took additional steps toward its goal of revising the Garrison Diversion. First, on January 23, 1978 President Carter submitted his budget to Congress for fiscal year 1979. He proposed cutting funds for Garrison Diversion. Because North Dakota had claimed the Stipulation and Order had prevented the expenditure of funds appropriated in the fiscal 1978 budget and amounted to a violation of the Impoundment Act, on May 12, 1978, Carter submitted a formal proposal to Congress to defer spending the appropriation, citing the agreement with the Audubon Society and the agreement between the State Department and the Canadian Government.[33]

The Impoundment Control Act stipulates that only one house needs to pass a resolution to deny the president's requests. Further, the act states that Congress can reject the request by simply taking no action, which has become the normal course of

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[32] National Audubon Society v. Cecil D. Andrus, 442 F. Supp. 42 (D.C. Dis. 1977).
[33] Garrison Diversion Conservancy District, "Public Information: Chronology," <http://www.garrisondiv.org/pages/ publicinfo/chronology/index.epl>; Remarks of Robert C. Byrd, "Disapproval of Deferral of Budget Authority for the Garrison Diversion Unit," *Congressional Record* 124 (August 9, 1978): S 25048.

action. North Dakota's senators, however, wanted to send a clear message to President Carter. On July 25 they introduced Senate Resolution 525 to disapprove the request. The Senate Appropriations Committee reported favorably on the resolution on August 7, and the Senate passed the resolution on August 9, 1978 on a voice vote. In approving S.R. 525 the sponsors and Senate Appropriations Committee agreed in the committee's report that in accordance with the findings of the International Joint Commission, construction should only proceed on portions of the project where return flows were to the Missouri Basin.[34]

Believing that S.R. 525 nullified the Stipulation and Order, Secretary Andrus allowed the Bureau of Reclamation to resume limited construction activity on the Garrison Diversion. Operating under this authority, the agency awarded a contract on October 12, 1978, for a fish screen testing facility on a turnout from the McClusky Canal. Lakes Brekken and Holmes are two shallow saline lakes located in a closed basin near the McClusky Canal about 1 mile north of the town of Turtle Lake, North Dakota. Reclamation and the Garrison Conservancy District had planned to raise the level of the lakes seventeen feet and to freshen their waters to provide a fishery and create a recreation area at the lakes as a part of the project's mitigation plan. The Bureau of Reclamation now selected the lakes as the site for field testing a prototype fish screen to test the effectiveness of the fish screens proposed for the McClusky Canal. [35]

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[34] Impoundment Control Act of 1974, Public Law 93-344, 88 Stat. 297, 2 U.S.C. § 601–688; Excerpt of Senate Appropriations Committee report number 95-1068, "Disapproval of Deferral of Budget Authority for the Garrison Diversion Unit," *Congressional Record* 124 (August 9, 1978): S 25048.
[35] U.S. Department of the Interior, Bureau of Reclamation, "Special Report on Reevaluation and Modification of the Garrison Diversion Unit, February 1983" (Bismarck: Missouri-Souris Projects Office, 1983), 27, 32, in box 63 accession 8NS-115-95-076, NARA Rocky Mountain Region, Denver.

The project involved the construction of a small inlet canal from McClusky Canal to Lake Brekken. However, the decision to resume construction met with opposition from the Audubon Society, which filed suit for an injunction. On November 8, 1978 the district court granted a temporary restraining order halting construction. Judge Richey subsequently ruled on December 11, 1978, that the stipulation order was not valid. As a result of Richey's decision, Bureau of Reclamation resumed construction on the fish screen after the weather warmed in the early spring of 1979, completing it that fall.

But, while the experiment ran, the project had enough ups and downs to make the observer motion sick. In February 1978, the Department of the Interior released the draft environmental statement which evaluated the 96,000-acre plan proposed by Secretary Andrus during the Hit List review. The Department of the Interior held a hearing to solicit comments on the draft statement in Minot, North Dakota, on March 28, 1978. At the hearing a number of project proponents voiced strong opposition to the plan, favoring instead the retention of the original plan. The State of North Dakota's official statement—in light of the state's continuing litigation to force the continuation of the 250,000 acre plan—did not even recognize the need, or the validity, of the Department of the Interior's action.[36]

"A Dog is a Dog"

The Department of the Interior and Bureau of Reclamation released the "Final Comprehensive Supplementary Environmental Statement in February 1979. The

[36] For North Dakota's view see testimony of Charles Metzger in U.S. Department of the Interior, "In the Matter of : Environmental Impact Statement on the 96,000 Acre Plan and Alternatives" (Rochester, Minnesota: Carnery and Grausam Court Reporters, 1978), 6-16.

following month, Andrus had to make the difficult decision whether to push Congress to amend the project's authorization to fit the 96,000 acre model, push for de-authorization of the project, or allow it to move forward. Prior to making his recommendation to Congress, the *Washington Post* interviewed Andrus. The resulting article focused extensively on the Garrison Diversion, and got Andrus into a little hot water.

As noted above, during the Hit List controversy, in private conversations, Secretary of the Interior Cecil Andrus started referring to the worst water projects as dogs. The practice became public when Andrus made a flippant comment in a moment of candor he thought was off the record. After giving a formal interview to the *Washington Post* editorial board outlining the administration's solutions for fixing the Garrison Diversion, reporter Margot Hornblower walked Andrus to the elevator. As they walked, she asked him his personal feelings about the projects. The formal interview had ended, and Andrus flippantly replied, "A dog is a dog." When the story was published the following day Andrus took a lot of heat from supporters of the project. The following week Andrus appeared before the Senate Appropriations Subcommittee. In a follow-up article after his appearance, Hornblower reported that Andrus had taken a grilling from North Dakota's senators who "took strong exception to Andrus' recent characterization of the Garrison diversion project as a 'dog.' Andrus made no apologies." [37]

Andrus's plan presented the 96,000-acre irrigation development as the recommended plan. It retained Lonetree Reservoir at a reduced size-cutting the

[37] Interview with David Weiman, July, 29, 2010. Margaret Hornblower, "Andrus wants to shrink Dakota Water Project, Hill Favorite," *Washington Post*, March 7, 1979. Margot Hornblower, "Water Policy, Whether Timid or Menacing, Needs a Hard Sell," *Washington Post*, March 18, 1979.

maximum operating level by twenty feet and increasing the amount of space allocated to flood storage. It excluded the Taayer Reservoir and irrigation development in the Oakes Area.[38] But his plan had the same flaw as the original 250,000-acre plan; both destroyed about the same amount of farmland they created. Andrus' plan called for purchasing 56,000 acres of farmland for project wildlife mitigation. For this and other reasons, Andrus held reservations about his own plan. He told the Washington Post:

> Gut instinct tells me that I ought to just say deauthorize the whole thing. That would be the right thing to do but if I fail, then they could shove the whole 250,000 acres down your throat. So what's best -- to go down in the flames of being morally right or to reduce the plan to about 90,000 acres?[39]

In response to Andrus's plan, North Dakota officials proposed an alternative they termed "phased development." Essentially, they proposed keeping the 250,000 acre plan authorized by Congress, but completing facilities to irrigate lands only in the Missouri River Basin.

But as the Bureau of Reclamation concluded fish screen tests and North Dakota pushed for phased development, the National Audubon Society took legal action and appealed the December 1978 ruling. In September 1979, the National Audubon Society exercised their prerogative to resume litigation on the original case over the deficiency of the Environmental Statement. Two years later, the appeals court reversed the decision of the lower court, remanding the case back for consideration. After reconsidering the case, Judge Richey ruled on May 6, 1981, that the stipulation and order was in effect, that neither the 1978 Senate impoundment resolution, nor subsequent appropriations had nullified the order. Because Congress

[38] U.S. Department of the Interior, *Garrison Diversion Unit, Final Comprehensive Supplementary Environmental Statement* ([Bismarck]: Bureau of Reclamation, 1979), Section II, 60-6.
[39] "Andrus wants to shrink Dakota Water Project, Hill Favorite," *Washington Post*, March 7, 1979.

had not yet acted to "reauthorize, deauthorize, or modify the project as provided by the stipulation," Judge Richey ordered all work on the project to stop.[40]

The government appealed Judge Richey's decision. The three sides—the Department of Interior, the State of North Dakota, and the National Audubon Society—each made different assertions regarding the interaction of NEPA, the powers of the executive branch, and Congress. The District Court of Appeals in Washington D.C. heard arguments in the case on January 18, 1982. After hearing the case, Judges Wright, MacKinnon, and Wilkey ruled on May 7, 1982, that the Secretary of the Interior had met the conditions of the stipulation when he submitted the completed environmental statement to Congress as required. The judges accepted the position of the government that Congress had a reasonable amount of time to act, and failing to do so, the stipulation order was no longer binding.[41]

The National Audubon Society had previously petitioned the court to postpone proceeding on their original 1976 lawsuit pending the outcome of the government's appeal on the stipulation and order. In making their decision on the stipulation, the appeals court remanded that original 1976 lawsuit back to the lower court for a decision on the original suit. On October 15, 1982 the U.S. District Court for the District of Columbia ruled, and dismissed the Audubon Society's suit without prejudice.[42]

So, after the many legal contortions which had started and stopped the project three times, the court's 1982 decision allowed land acquisition, planning, and construction activities to resume on the Garrison Diversion. In that intervening

[40] National Audubon Society v. Watt, 304-5.
[41] National Audubon Society v. Watt, 311.
[42] "Annual Project History, Garrison Diversion," Volume XIV (1982), 2.

period, the policies and attitudes toward the project had changed with the election of Ronald Reagan and the appointment of James Watt as Secretary of the Interior. Following Watt's "good neighbor policy," Watt's office accepted the recommendations of the state of North Dakota and used the ruling to justify dropping Andrus's 96,000 acre plan and reverted the project to a phased implementation of the original 250,000 acre plan authorized by Congress. With a green light from the courts and from Watt, the Bureau of Reclamation began moving forward with preparation of contracts to initiate construction on the West Oakes Test Area, the New Rockford Canal, and the Lonetree Reservoir.[43]

During the legal controversy, Bureau of Reclamation engineers and biologists conducted three years of tests at the Lake Brekken Holmes screen facility. During the tests, the fish screens operated a total of 8,500 hours. Based on data from the experiment, it concluded that a fish screen facility could be constructed and operated in the McClusky Canal to effectively remove undesirable fish, fish eggs, and larvae of fish species which the Canadian Government deemed objectionable. However, the tests also revealed that an entirely new fish screen facility would need to be built at a cost of $40 million as it was infeasible to modify the existing facility already on the McClusky Canal. The report further concluded that the annual operation and maintenance costs of the facility would be $1.3 million per year.[44]

Because of the costs involved, Canada's reluctance to recognize the reliability of the facility, and because the project would not transfer Missouri River into the

[43] "Annual Project History, Garrison Diversion," Volume XIV (1982), 2; James Watt interview with author, Wickenburg, Arizona, April 15, 2011.
[44] Department of the Interior, Bureau of Reclamation, "McClusky Canal Fish Screening Facility: Development and Verification" (Bismarck: Missouri-Souris Projects Office, 1982) 1, in box 65, accession 8NS-115-95-076, NARA, Denver.

Canadian drainage the Reagan administration simply determined not to construct the fish screen on the McClusky Canal.[45]

Of the three major projects scheduled for construction—Lonetree Dam, New Rockford Canal, and the West Oakes Test area—the latter was the first one ready for construction. The Bureau of Reclamation planned on developing irrigation along the James River as a part of the original 1965 plan for the Garrison Diversion. It completed an environmental statement on the proposed irrigation along the James River in 1976. The following year, the International Joint Committee recommended that a test irrigation area be developed along the James River in order to evaluate the potential impact of return flows in the Canadian watershed. In 1978, Congress instructed the Secretary of the Interior to comply with this request by constructing a 5,000-acre project in either the LaMoure or West Oakes irrigation area with interim water service from Jamestown Reservoir. Reclamation subsequently examined both areas and determined that West Oakes was more representative and more economical.

The Bureau of Reclamation attempted to begin construction on the Oakes Test Area project in early 1981. However, shortly after awarding a contract, Judge Richey's ruling suspended all work on Garrison and the Bureau subsequently canceled the contract. The following spring, with the Audubon Case settled, Reclamation readvertised the project and awarded a new contract.[46] However, concerned the impacts of the proposed irrigation and diversion from the James River had not been adequately addressed in the project's environmental statement, landowners joined with

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[45] Chairman, [James M. Verzuh] McC Fish Screen Facility Task Force to Regional Director Billings, December 7, 1982 in Department of the Interior, Bureau of Reclamation, *McClusky Canal Fish Screening Facility: Development and Verification,* (Bismarck: Bureau of Reclamation, 1982), frontpiece, box 65, accession 8NS-115-95-076, NARA, Denver.
[46] "Annual Project History, Garrison Diversion," Volume XIV (1982), 73.

the James River Flood Control Association—located downstream from the Oakes Area in Brown and Spink Counties of South Dakota—and filed suit to stop the project. The action caused a temporary delay until the appeals court lifted a restraining order in June. District Court Judge Potter ruled in favor of the project on Dec 22, 1982.[47]

The second major construction effort following the resolution of the court cases that had halted work on the Garrison Diversion was the New Rockford Canal. The contractor began construction of the canal in the spring of 1983. Actual construction of the New Rockford Canal proceeded in much the same manner as the McClusky Canal, using scrapers and draglines. But New Rockford differed from the McClusky Canal in that it tended to follow section and property lines, which reduced the impact on adjoining farms. The canal was also smaller, and required less right-of-way and less excavation. Another difference was a difference in the topography the canals crossed. New Rockford crossed an area with much drier soils and much fewer potholes and lakes, simplifying construction.[48]

The third major construction project the Bureau of Reclamation initiated was the Lonetree Reservoir, by constructing the Lonetree Dam and James River Dike, which together with the previously completed Wintering Dam and Dike would complete the reservoir. To meet the concerns of the Canadian Government, the design included an emergency outlet to allow any flooding in the reservoir to drain to the James River rather than the Sheyenne—a feature recommended by the International Joint Commission's 1976 report.

[47] James River Flood Control Association v. James Watt, 680 F.2d 543 (8h Cir, 1982), 544; and James River Flood Control Association v. James Watt, 553 F. Supp. 1284 (Dis S.D., 1982), 1286.
[48] L-29, December 1982, January 1983.

As a consequence of the litigation against the Oakes Pumping Plant, Reclamation proceeded with the completion of a revised environmental statement for phased construction, incorporating the changes to Lonetree Reservoir. The statement also included the proposed construction of drainage facilities to direct return flows to the James River and Devils Lake Basins. Reclamation completed a "Supplemental Environmental Statement on July 15, 1983. With the Environmental Statement completed, Reclamation proceeded with the construction of the Lonetree Dam. The contractor, Central Excavating, began work on the dam in September 1983.[49]

With major construction now underway on the Lontree Dam and New Rockford Canal, Garrison's opponents continued to fight the project on Capitol Hill. The National Audubon Society and other environmental groups began lobbying congress to end appropriations for the project. In 1977 the majority in Congress had voted to continue the projects on President Carter's Hit List. But attitudes had begun to shift as budget deficits continued to rise and the economy declined. More importantly, several congressmen who allied themselves with Carter during the Hit List controversy grew frustrated by the failure of Congress to act prudently. For them, Reclamation reform became personal goals and they made concerted efforts to win seats in key committees and move their proposals forward.

For example, soon after the appeals court ruled in 1982, Congressman Silvio Conte succeeded in stripping appropriations for Garrison from the House appropriations bill. However, when the bill went to the conference committee to resolve the differences between the House and Senate versions, North Dakota's

[49] U.S. Department of the Interior, Bureau of Reclamation, *Final Supplemental Environmental Statement on Features of the Garrison Diversion Unit for Initial Development of 85,000 Acres* (Billings: Bureau of Reclamation, 1983), 1,box 65, accession 8NS-115-95-076, NARA, Denver.

senators—both of whom were on the appropriations committee at the time—succeeded in keeping funding for Garrison intact. Undaunted, Garrison opponents tried to cut funding for the project again in 1983. In the Senate, an amendment to cut funding to the Garrison Diversion led by Senators Humphrey and Proxmire failed after lengthy floor debate on June 22, 1983, by a vote of 35-62. The following day Congressman Conte attempted to pass an amendment requiring the House conferees to insist on keeping the Garrison cuts intact. Feeling the amendment could "unduly limit" the committee members during the negotiations, the amendment failed by a vote of 150-215.[50]

Prior to the vote, Wyoming Senator Alan Simpson's staff prepared a brief on the project. The memo reveals that the North Dakota delegation had exerted considerable political pressure to defeat the Humphrey-Proximire amendment. For example, North Dakota Governor Allen Olson (R) had personally visited Simpson's office to encourage the Senator to "stick with the Pick-Sloan states and support the Garrison Project." Simpson's aide noted, however, that Simpson had "voted to curtail the project in the past evidently because of its cost and the 'porkness' of the project." To remain consistent he recommended voting for cutting the funding.[51]

Simpson, however, decided to vote in favor of the project. In a draft letter to the five constituents who had written opposing the project, Simpson explained that he believed the modified plan keeping irrigation water in the Missouri Basin resolved the Canadian concerns. His letter also suggested that the North Dakota delegation's

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[50] "Amendment 1430," *Congressional Record* 129 (June 22, 1983) S:16758-16778; Appointment of Conferees on H.R. 3132, Energy and Water Appropriation, 1984," *Congressional Record* (June 23, 1983) H:17152-17162

[51] Randall to Alan K. Simpson, June 21, 1983, American Heritage Center, University of Wyoming, Alan Simpson papers, ACC 10449, box 303, folder 2.

lobbying had been effective. He explained in the letter that since Wyoming had benefited from the overall Pick-Sloan program, that he felt some obligation to support North Dakota, which he felt had a justification for seeking compensation for giving up prime farmland for the Missouri River reservoirs.[52]

Undaunted, Garrison's opponents in Congress tried again in 1984. But this time they tried a different tactic. The House version of the Energy and Water Appropriations bill approved that May once again cut all funding for Garrison. Congressman Conte strongly opposed any attempt to develop alternatives while construction moved forward to make modifications meaningful. But the National Audubon Society was ready to try to reach a compromise with North Dakota's senators.

On June 1 Audubon President Russell Peterson and Chairman of the Board Donald C. O'Brien Jr. wrote to North Dakota's congressional delegation. The letter stated plainly, "We now recognize and accept the position of North Dakota that it is entitled to compensation for the acreage inundated by the creation of the Garrison Dam and the formation of Lake Sakakawea. Further, we recognize and accept that North Dakota by its participation in and support of the Pick-Sloan plan has waited almost 40 years for project benefits." The letter offered to negotiate proposals that would ensure North Dakota would receive what North Dakota Senator Mark Andrews summarized as "a sound, responsible, water resource development program."[53]

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[52] Six units of the Pick-Sloan Missouri Basin Project are located in Wyoming, Boysen Unit, Glendo Unit, Keyhole Unit, Kortes Unit, Owl Creek Unit, and Riverton Unit. These provide hydropower, irrigation, recreation and flood control benefits. Alan K. Simpson to Constituent, Draft, July 7, 1983, American Heritage Center, University of Wyoming, Alan Simpson papers, ACC 10449, box 303, folder 2.

[53] Silvio O. Conte, "Additional Views of Silvio O. Conte" *Congressional Record* 130 (May 22, 1984) H:13391; Audubon Society's letter is reproduced as "Exhibit 1," *Congressional Record* 130 (June 21,

By acknowledging the point, Peterson and O'Brien had bridged a gulf separating the two sides. Previously, the National Audubon Society and other opponents had worked to kill Garrison and essentially denied the state had any claim to a federally supported water project. Such claims had long been a primary contention of Garrison's supporters, and for them it was much more than a rhetorical flourish designed to gain sympathy and votes for their water project. Senator Andrews characterized Audubon's previous position as "unreasonable and irresponsible negotiating demands." As Andrews explained to his colleagues on the Senate floor, "In essence supporters of Garrison were told, 'Stop everything, then we will negotiate whether you will receive something we really don't think you deserve.'"[54]

Andrews agreed to a meeting and, after lengthy and heated discussions, the two sides reached a compromise. Andrews presented the compromise agreement to the Senate. His amendment to the 1985 Energy and Water Appropriations bill agreed to cut funds for Garrison until December 31, 1984, temporarily suspending all construction, while a special commission investigated the Garrison Diversion to recommend modifications to the project both sides could live with. With support from both sides of the issue, the amendment easily passed on a voice vote on July 21, 1984. The temporary halt to construction helped Conte and the rest of the House agreed the amendment was a good compromise. The House voted to accept the Senate version of the bill on June 27, 1984.[55]

1984) S:17759-60.

[54] Debate on Amendment No. 3291, *Congressional Record* 130 (June 21, 1984) S:17758

[55] "Amendment No. 3291," *Congressional Record* 130 (June 21, 1984) S:17757-62; "Energy and Water Development Appropriation Act of 1985," [55] Department of the Interior, Bureau of Reclamation, *Federal Reclamation and Other Laws Annotated (Preliminary)* Volume V (Denver: U.S. Government Printing Office, 2001), 3402.

The immediate effect of the bill was to halt construction by September 31, 1984. At the time of the vote, it was not clear what the outcome of the study would be. As a result, the Bureau of Reclamation determined to continue some work to make the construction sites safe during the shutdown period. At the site of the Lonetree Dam, the contractor completed the excavation of the dam's foundation and the placement of foundation material. The placement operations continued through September when the height of the dam was slightly higher than the original ground and the entire site was capped. [56]

On August 11, 1984, the Secretary of the Interior appointed the twelve members of the Garrison Diversion Unit Commission to review the controversy surrounding the authorized project. On December 20, 1984 the Commission submitted its final report to the Secretary of the Interior. The report also contained the same crucial recognition of a federal obligation to North Dakota for the Garrison Dam. The Commission recommended an alternative plan, labeled the Commission Plan which proposed reducing the size of the project from 250,000 to 130,000 acres. They proposed that Lonetree Reservoir not be completed, but that a canal be constructed as a functional replacement and that the project treat Missouri River water for release into the Sheyenne River for rural, municipal, and industrial use in Red River Valley. It anticipated serving a population of 376,000 in 130 towns and rural areas throughout the state. The commission proposed making some of the municipal, rural, and industrial water project available to Indian reservations, and for Indian irrigation projects on 17,580 acres—15,200 on Fort Berthold Reservation and 2,380 on the

[56] L-29, July, August, September 1984, January 1985.

Standing Rock reservation.[57] As a result of the recommendation, Bureau of Reclamation terminated the contract for Lonetree. The Reagan administration's support of moving forward on the Garrison Diversion, despite the ongoing legal and international concerns, resulted in the government effectively wasting $7.2 million, just on the unneeded dam.[58]

The commission recommended reformulation legislation and that Reclamation proceed with advance planning leading to preconstruction reports, NEPA compliance, final design, and prompt implementation. The commission's recommendation came at an opportune time. Another Carter ally during the Hit List, California Congressman George Miller, had recently won appointment as the Chairman of the House Subcommittee on Power and Water. Like Silvio Conte, Miller had made Reclamation reform a personal goal. Miller also had the benefit of a constituency which supported him in those efforts. Miller represented Contra Costa County, California. Because the area's water supply was affected by agricultural runoff from irrigated farms in the Central Valley, he and his constituents supported reforming Bureau of Reclamation projects and water policy. Dan Beard, Miller's assistant at the time, reports that Miller often stated "he can't be too unreasonable for his constituents on water issues." Miller was now in the position to become influential in moving that work forward, something that had been missing during the Carter administration.[59]

Miller eagerly took up reforming the Garrison Diversion. Not only did it remain symbolic of the worst of the worst from the Hit List, but the stage had been set

[57] Garrison Diversion Unit Commission, "Final Report to the Secretary of the Interior…" (Washington D.C.: Garrison Diversion Unit Commission, 1984), i-iii and 1-2.
[58] L-29, January, and February 1985.
[59] Dan Beard Interview with Author, July 27, 2010.

for comprehensive reform thanks to the preliminary work of Senator Andrews and the Reform Commission. Miller felt that the project would be an excellent test case to prove to his colleagues that he could broker the political compromises necessary to reform the projects and move them forward.[60]

The Reformulation Act, which had the support of the State of North Dakota, the Garrison Diversion Conservancy District, the National Audubon Society, and the National Wildlife Federation passed with relative simplicity. Since the act resolved the concerns of many project opponents, they supported the project. George Miller helped work out the compromise legislation which both sides supported. The House passed the bill by a vote of 254 to 154. The senate followed five days later on April 28, 1986.[61]

With its passage, Miller had done something that Carter and Andrus had wanted to do, but did not have the power to accomplish. Miller's reforms even went a step further than Andrus's plan by eliminating the Lonetree Reservoir from the plan. In its place Congress authorized studies to link the McClusky and New Redford canals directly using the proposed Sykeston Canal as recommended by the commission. This was to appease Canadian concerns and to also lessen the project's environmental impacts, thus solving what had been sticky issues during the Carter administration.

Understanding Miller's efforts and success are important. As indicated previously, the Garrison Diversion serves as a good case study of the projects Carter proposed to discontinue. While no other project had such contorted or lengthy legal battles, nor such international implications, it is still representative of the last large

[60] Ibid.
[61] *Congressional Record* 132 (April 23, 1986), H:8465; *Federal Reclamation and Other Laws Annotated (Preliminary* Volume V, 3465-74.

Bureau of Reclamation projects. Like its peers on the Hit List, it faced environmental opposition, a NEPA challenge, complex engineering, and a giant price tag. Because it had been singled out as the worst of the worst projects, or the ugliest dog, understanding the Carter administration's motivation to stop, and later to reformulate the project provides deeper understanding of the political challenges they faced; and, how they shifted their tactics to achieve their overall goal of cost savings and comprehensive policy reform.

But the Garrison Diversion does not just illustrate the Carter administration's challenges and failings, it shows us some of its success and how they influenced the success of reformers like Silvio Conte and George Miller. Further, Garrison's history helps one see the continued difficulties encountered by environmental groups lobbying Congress to stop controversial projects.

Finally, understanding the history of the Garrison project also demonstrates an example of the stark contrasts between the Carter and Reagan administrations' attitudes towards water projects. While it is true, that budget constraints kept the Reagan administration from moving forward with new water projects, its willingness to support large appropriations for the Garrison project, despite continued Congressional and environmental opposition, uncertainties about the project's ability to overcome Canadian concerns, and uncertainties about the ability to find an acceptable solution for the Sykeston Canal is revealing. Notwithstanding these concerns, the Reagan administration requested, and Congress approved, the appropriation of millions of dollars to complete the New Rockford Canal. As it turns out, finding a solution that addresses all of the environmental and Canadian opposition

to the project proved to be a monumental challenge for a federal bureaucracy dedicated to building monumental projects.

The Garrison Diversion Unit Reformulation Act of 1986 authorized implementation of the commission's other recommendations, but mandated a two year moratorium on construction of the James River Feeder Canal, the Sykeston Canal, and any channel improvements on the James River until their effects on the environment could be determined. [62]

After the special commission reported its recommendations on the project, and the Garrison reformulation legislation worked its way through Congress, the Department of the Interior lifted the order to suspend work on the West Oakes Area and the New Rockford Canal. In cooperation with the State of North Dakota, US Fish and Wildlife Service, and the Environmental Protection Agency, the Bureau of Reclamation prepared a Draft Supplemental Environmental Statement on the reformulated plan prior to the authorization of the bill. Reclamation filed this draft on March 6, 1986. [63]

As the New Rockford Canal progressed to completion, the Bureau of Reclamation tried to find an alternative to link it with the McClusky Canal now that the Lonetree Reservoir was off the table. Reclamation studied thirteen possible canal alignments to bridge the gap. However, it could not find an alternative which balanced the cost of the canal, the environmental impacts, and minimized the risk of biota transfer. The best option to minimize biota transfer, an alignment that stayed completely or mostly within the Missouri River basin was the most costly, required

[62] Helen Hoehn Correll, "Until the Old Men Die: A Case Study of the Garrison Diversion Project in North Dakota," (PhD. Dissertation, Michigan Technological University, 2000), 80.
[63] L-29, February 1985.

more property, and affected more property owners. Unable to find a solution that satisfied everyone, the engineers concluded that despite the higher risk of biota transfer in a flood event, the best route for the proposed canal would be through the Lonetree Reservoir site.[64]

The Canadian government declared it an unacceptable solution. In a formal diplomatic note, it responded that the risk assessment report did not adequately address many of their concerns about biota transfer. As a result, on September 26, 1989, the United States-Canada Consultative Group reestablished the Joint Technical Committee (JTC), a new name for the IJC, which had produced the evaluation of the project in the mid-1980s. In November 1990 the JTC reported on three alternatives to connect the two existing canals. The reports recommended three possible solutions, proposed a Missouri Valley alignment for the Sykston Canal with no Lincoln Valley Irrigation, the Mid Dakota Reservoir with relocated outlet and a fisheries/recreation management plan to minimize the risk of "bait bucket transfer," or the southern alignment with a relocated east end.[65]

As a result of the continuing controversy, and the rising costs of completing the Sykeston Canal, the Department of the Interior's Office of the Inspector General simultaneously completed cost estimates for finishing the Garrison Diversion. It concluded that the reformulated project was so expensive; irrigators could not even afford to pay the project's operating costs. A February 1991 report announced the

[64] U.S. Department of the Interior, Bureau of Reclamation, "Projects Report on Sykeston Canal: Evaluation and Risk Assessment, Garrison Diversion Unit, North Dakota" (Biskmark: Mo-Souris Projects Office, 1989), S1-S2,
box 63,accession 8NS-115-95-076, NARA, Denver.
[65] Garrison Joint Technical Committee, "Garrison Diversion Unit: Joint Technical Committee Report to the United States-Canada Consultative Group" (1990), 1-3.

Bush Administration's withdrawal of support for funding completion of the Garrison Diversion principal supply works and non-Indian irrigation based on the Inspector General's report. However, the administration continued to support funding of the other authorized features of the project.[66]

As a result of this action, local project supporters attempted to find a financing mechanism for the project, including increasing the local cost share which until now they had avoided. During its 1992 session, the North Dakota State legislature defeated a proposal by Governor George Sinner to increases taxes to support water development, including Garrison Diversion. As a consequence, the North Dakota Water Users Association and the Garrison Diversion Conservancy District supported a state-wide ballot initiative in 1992 to create a water tax. Two-thirds of North Dakota voters sent the new tax down the drain.

At the same time, the Garrison Diversion Conservancy District began meeting with Congressman George Miller, The National Audubon Society and the National Wildlife Federation, concerning the status of the project. Prior to the water tax vote, the Garrison Diversion Conservancy District pushed the North Dakota delegation to try and find a way to move the project forward. The district proposed major amendments of the Reformulation Act to Congress and asked Congress to push forward the Environmental Impact Statement on alternatives to the proposed Sykeston Canal. As a result, the 1993 Energy and Water Appropriation Act (H.R. 5373, Title II, Section 207) required that the Bureau of Reclamation continue the process of selecting

[66] U.S. Department of the Interior, Bureau of Reclamation, "Sykeston Canal Alternatives Study, Garrison Diversion Unit, North Dakota" ([Billings]: Bureau of Reclamation, 1994), I2-3.

a Sykeston Canal Alignment. Congress set March 31, 1994, as the deadline for the completion of the report.

The study evaluated the concerns and recommendations outlined in the 1990 Joint Technical Report in response to the 1989 Sykeston alignment study. The 1994 report eliminated the northern route through the Lonetree area, and eliminated the Lincoln Valley irrigation area. The report also noted that landowners were adamantly opposed to any further land acquisition for any Sykeston alternative.[67]

As could be expected, the report did not magically discover a new inexpensive canal alignment that minimized environmental and landowner impacts, while promising to eliminate any possibility of biota transfer. As a result, project supporters began what they described as the "Collaborative Process" meeting with all the stakeholders to discuss options and negotiate yet another reformulation that would allow the project to continue. The National Audubon Society pulled out of the discussions in 1995 after recently retired Bureau of Reclamation Commissioner Daniel Beard had taken the position of Senior Vice-President for Public Policy of the National Audubon Society.[68]

The meetings produced enough consensus that in October 1995, the Garrison Conservancy District Board voted to endorse the proposed legislation package, which essentially converted the project from irrigation to a municipal and rural water supply similar to what had been done to the Oahe Project in South Dakota a decade earlier. Despite the radical change, without the support of project opponents like the National Audubon Society, the project continued on life support.

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[67] "Sykeston Canal Alternatives Study, Garrison Diversion Unit, North Dakota," S1-S4, and I-1.
[68] Correll, 82.

Two years later, North Dakota Senator Kent Conrad held a "summit meeting" with stakeholders and succeeded in hammering out the first draft of the Dakota Water Resources Act. They had intentionally left the name Garrison out of the name because, according to Senator Conrad, "Garrison had become too pejorative."[69] Because the conservancy district had drafted the bill without consulting the environmental groups which had been present at the summit meeting, they withdrew their support. Daniel Beard testified at a hearing on the proposed legislation in Bismarck. He contended that the bill was deeply flawed. Beard and other project opponents remained critical of the reauthorization attempt. However, North Dakota's congressional delegation pressed forward, and other environmental groups agreed to continue to negotiate. In 1999 the North Dakota Delegation introduced versions of the bill in the House and Senate. After two years of debate the project squeaked through at the eleventh hour as part of an omnibus bill, and the bill became law on December 21, 2001.[70]

The final compromise had been over two decades in the making. Essentially, North Dakota followed the pattern and precedent laid out by the Carter administration when it supported the construction of a municipal-rural water supply to replace the Oahe Project. Even though Garrison supporters had agreed to a similar conversion in 1986, the logistical problems related to trying to utilize the portions of the project already constructed ended in more delays. And even though the Dakota Water Resources Act authorized the construction of two municipal water supply projects to

[69] Correll, 84-86.
[70] Congress managed to squeak passage of the bill just under the wire. The Senate had passed the bill on October, 13, 2000. The House passed the omnibus bill on December 15, 2000 just before adjourning for the season. See *Congressional Record* 146 (October 13, 2000), S:10530-5; Public Law 106-554.

replace the Garrison Diversion, neither project has been completed. One project would import treated Missouri River water through a pipeline to the City of Minot, North Dakota, replacing the original Minot Extension of the Garrison Diversion Unit. A second project would provide municipal water to the Red River Basin. Both projects have been delayed due to extensive environmental studies. Continued objections by Manitoba to the transbasin diversion of Missouri River water have resulted in court cases requiring further studies making delivery of Garrison water to Minot unlikely until 2016.[71]

Following the passage of the Dakota Water Resource Act, the Bureau of Reclamation developed the Red River Valley Water Supply Project to meet future demands for water in the Red River Valley. Environmental studies completed in December 2007 recommended importation of Missouri River water from a treatment plant near the eastern terminus of the McClusky Canal. After treatment, a pipeline would convey the water into the Red River Basin to possibly several points. Because the study recommends an importation scheme, Congressional approval of the project is needed. Congress has yet to act on the project.[72]

[71] Jill Schramm, "Study Means More Delays," *Minot Daily News*, May 27, 2010.
[72] U.S. Department of the Interior, Bureau of Reclamation, *Red River Valley Water Supply Final Environmental Impact Statement* (Bismarck: Bureau of Reclamation, 2007), 46; "Garrison Diversion Hosts Drought Conference in Fargo" October 2, 2012. http://www.garrisondiv.org/pdf/Drought_Conference_NRSept2012FINAL.pdf. Accessed January 15, 2010.



Figure 9 2007 Map showing the "preferred alternative" for the Red River Water Supply, largely an effort to find some return on the investment into the failed Garrison Diversion

The massive Snake Creek Pumping Plant helps to maintain the water level in Lake Audubon and the McClusky Canal. As a result, property owners on the shores of the lake enjoy relatively constant water levels. The McClusky Canal remains the most visible reminder of the project. In July 2012 the Garrison Diversion Conservancy District signed the first contract with the Bureau of Reclamation for delivery of irrigation water from up to 24,000 acres in the area around the canal. The cost of the irrigation "Central Supply Works" will be split evenly between the State Water

Commission and local water users. Using non-federal funding with a 50% local cost share is a sharp contrast to the cost-share proposals advocated by Carter or Reagan.[73]

While it seems safe to predict that the municipal water projects replacing the original Garrison Diversion will be constructed someday, the municipal water development, like the irrigation project recently approved will come at a high price. What is certain at this point is that Glen Sloan's original dream of irrigating millions of acres on the Northern Plains has been crushed. The Garrison Diversion, in any of its iterations as an irrigation project, has been altered almost beyond recognition. Perhaps more than any other project on the Hit List, the Garrison Diversion epitomized how the Bureau of Reclamation came to be seen as anachronistic and abusive by many at the end of the 1970s. The Bureau had manipulated cost estimates, overstated benefits, bullied landowners, flaunted treaties, and bulldozed the prairie. The subsequent legislative reviews suggest that the project should have been stopped during the Carter administration until the Canadian government could support the project. The continued construction during the Reagan administration in spite of the Canadian objections wasted millions on a buried dam, and ultimately produced a true boondoggle, the New Rockford Canal. Further, the fact that President George H.W. Bush stopped the project in February 1991 seems to vindicate Carter's actions fourteen years earlier. An additional two decades of political machinations, environmental and engineering studies, and litigation have further limited and delayed the skeleton of a project attempting to make use of the enormous federal investment in monuments to a generation of water buffalos that did not know when to call it quits.

[73] Garrison Diversion Conservancy District, "Garrison Diversion Signs Long-Term Water Contract," July 10, 2012. Accessible online, http://www.garrisondiv.org/pdf/long_term_contract_with_directors.pdf. Accessed January 15, 2010.

But understanding why those water development proponents have refused to abandon the project is also an important part of understanding the significance of the Hit List and President Carter's efforts to create a comprehensive national water policy. It is true that many of the proponents of the Garrison Diversion fit the model of the iron triangle. But, in the case of Garrison, the state politicians and the North Dakota Congressional delegation pressed the hardest to save the project. This is not to say that local water users, politicians or the board members of the Garrison Diversion Water Conservancy District did not push for the project as well. They were certainly involved, but North Dakota's governors, senators, and congressmen have labored to ensure that the state receive its due. They refused to give up on the project that was to compensate for the loss of lands, tax revenues, and economic stimulus lost under the waters of Lake Sakakawea—with the bulk of the flood control and navigation benefits accruing not to North Dakota but to downstream users.

Robert Gottlieb may be right that had Carter not initiated a large-scale water project review, which rallied the dam builders and water development proponents, the era of large federal water projects may have ended sooner. But, when one considers the history of Garrison Diversion, that thesis seems inadequate to describe how the events and processes kept the ugliest dog alive. Thus it seems that the adamant belief held by locals that the federal government promised to build the project, and keeping that promise outweighed virtually any economic, social, or environmental costs, would have kept the Garrison Diversion going regardless of Gottlieb's alternative ending. Of all the similarities Garrison Diversion shares with its companions on the Hit List, this may be the most important. Local politicians, newspapers, and businessmen ardently

supported the project. Like other projects on the list, their support won it continued congressional funding in 1977. And like other projects, Garrison was subject to continued efforts by the Carter administration to solve objections to the project. It also faced continued Congressional scrutiny during the Reagan administration. The new-found power of Carter's Congressional allies from the Hit List controversy made possible reforms that addressed their concerns, but kept the project moving forward to "keep faith" with promises made to local project beneficiaries. For evidence of this, one need only look from the ugliest dog, to the Cadillac of water projects in the Mountain West, the Central Utah Project.

Chapter 6

From Cadillac to Chevy: The Central Utah Project[1]

> We have presented Congress with a fiscally responsible project—one which we can argue should be authorized for valid reasons. The Central Utah Project is now a Chevy instead of the Cadillac; now we asked Congress to support our efforts to complete this project, to begin delivering water to the Wasatch Front and beyond to Southern Utah, and to mitigate the damages with the same sense of urgency.
>
> —Congressman Wayne Owens[2]

As Utah interests pushed for the "Cadillac" of Utah water projects—the Central Utah Project [CUP]—concern over the project's high economic and environmental costs began to erode the congressional support that had kept the project alive during the Carter Administration. As a result, the CUP faced new legal and political challenges that delayed the completion of the project, and altered the project's design, scope and beneficiaries. The fight over the CUP climaxed in a five year congressional battle to rescue and reauthorize the project. The resulting compromise legislation converted the "Cadillac" into what Utah Congressman Wayne Owens called a "Chevy."[3]

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[1] This chapter draws on my master's thesis and an essay distilled from it with the same title which has been published as "From Cadillac to Chevy: Environmental Concern, Compromise, and the Central Utah Project Completion Act," in *Utah History in the Twentieth Century*, ed. Brian Q. Cannon and Jessie Embry (Logan, Utah: Utah State University Press, 2009).

[2] Remarks of Congressman Wayne Owens, Congress, House, Committee on Interior and Insular Affairs, Subcommittee on Water and Power Resources, *Proposals to Raise the Authorized Cost Ceiling for the Colorado River Storage Project: Hearings before the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs*, 100th Cong., 2nd sess., 18 April 1988 and 4 May 1988, 40.

[3] Ibid. Also see, 422-6.

The Central Utah Project shared many characteristics with the Bureau of Reclamation projects on the Hit List. Local politicians, newspapers, and businessmen ardently supported the project. Like the other projects, locals maintained Congress had committed to build the project, which was necessary for the state to utilize its allocation of Colorado River water. As with other projects, the lobbying activities of local water interests played a key role in winning continued congressional funding in 1977. The project also faced continued scrutiny by the Carter administration and like the Garrison Diversion, underwent a major congressional revision during the Reagan and Bush administrations. Thus, like Garrison, the Central Utah Project provides general insight into both the workings of the Bureau of Reclamation that created an objectionable project and the steps that were taken to address those objections and bring to a close the end of the big dam era.

Cadillac Unveiled

Like most of the projects on Carter's Hit List, the Central Utah Project epitomized Bureau of Reclamation projects during the big dam era. Like many others, engineers had conceived the concept behind the project at the turn of the twentieth century. But like many potential projects identified during the early years of federal involvement in reclamation, the project posed serious technical challenges. New technologies pioneered on the monumental projects undertaken by the Bureau of Reclamation during the Great Depression reopened doors for many projects like the CUP that had previously been considered a pipe dream. The long tunnels of the Colorado-Big Thompson and the Provo River Project in Utah encouraged the

designers of the CUP, while the success of large hydroelectric dams like Hoover and Grand Coulee inspired the concept to subsidize the costs of the water diversion.[4]

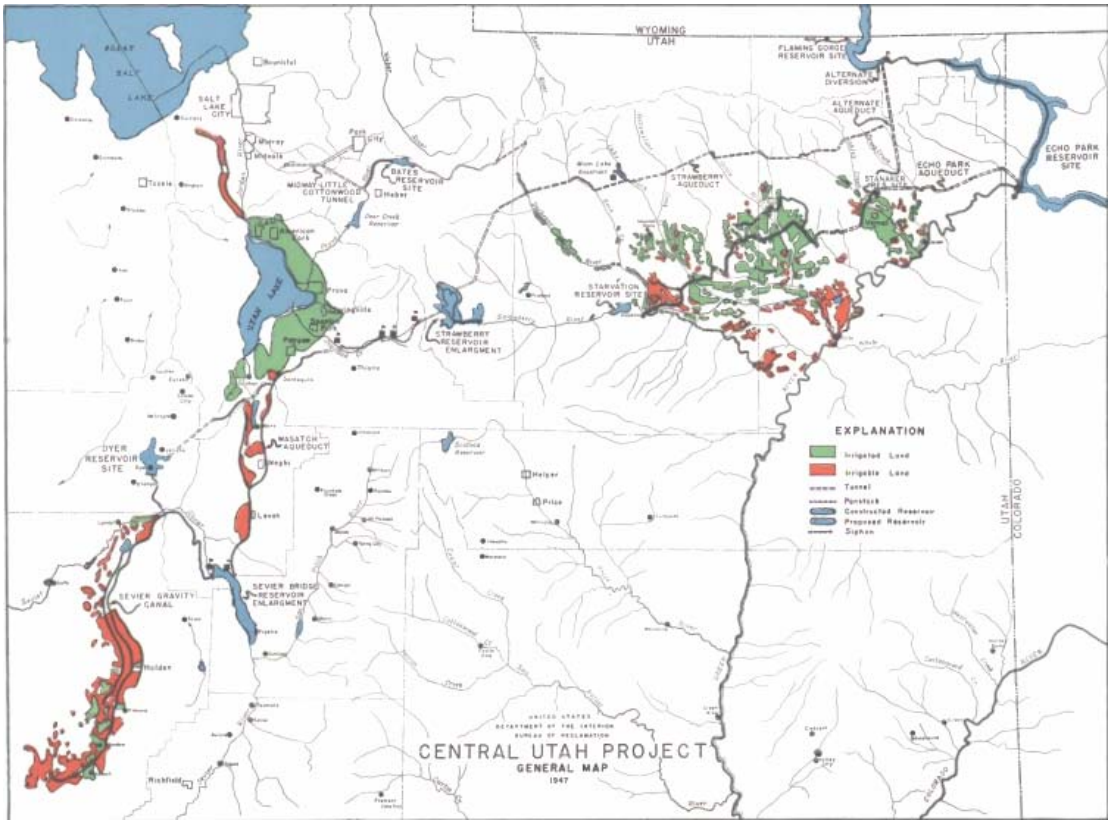

Figure 10 1947 Map showing the original plan proposed for the Central Utah Project.
The Bureau of Reclamation's evolving plans for the CUP were ambitious.

In the 1940s the agency proposed a massive dam on the Green River at either Flaming Gorge or Echo Park. Using gravity and a long tunnel from Flaming Gorge, or the hydroelectricity generated at Echo Park to power pumps, they planned to divert water

directly from the Green River to an expanded network of reservoirs, canals, and pipelines to supply the cities and farms of the Uinta Basin. The existing water from

[4] On the original concept that would become the CUP see, Abraham Fairbanks Doremus, *Third Biennial Report of the State Engineer to the Governor of Utah. 1901-1902* (Salt Lake City, Utah: Star Printing Company, 1903), 9-14; and U.S., Department of the Interior, Bureau of Reclamation, *Third Annual Report of the Reclamation Service 1903-1904* (Washington D.C.: 1905), 509.

virtually every stream and river along the southern slope of the Uinta Mountains would then be diverted through a series of pipelines into an enlarged Strawberry Reservoir, and then to the farms and cities of the Bonneville Basin. Further, the agency planned to construct dikes to close two shallow bays on Utah Lake in hopes of eliminating water lost to evaporation. The water saved would be stored in a new reservoir on the Provo River above Heber City. Additional water would be stored through a water rights exchange. Rights to Provo River water in Utah Lake held by Salt Lake County irrigators would be fulfilled by importing Colorado water from the Uinta Basin stored in Strawberry Reservoir, allowing the original Provo River water to be held upstream of Utah Lake for diversion to other users. The rest of the diverted Colorado River water would be sent to Central Utah farmers.[5]

But the complicated and expensive project, first introduced in Congress by Utah Senator Abe Murdock in 1946, quickly met with opposition. This opposition came first on economic grounds, to which later would be added the opposition of downstream users of the Colorado River and environmentalists concerned about a proposed dam at Echo Park inside Dinosaur National Monument. Despite opposition, a coalition of western senators and congressmen secured passage of the Colorado River Storage Project (CRSP) in 1956. The CRSP authorized the construction of "main stem" dams along the Colorado and its significant tributaries in the Upper Basin States. The power stations at these dams would develop hydroelectricity to generate revenue to offset the cost of irrigation projects, and the water stored in the reservoirs would guarantee water deliveries to the lower basin. Additionally, the CRSP

[5] United States Department of the Interior, Bureau of Reclamation, *Colorado River Storage Project and Participating Projects, Upper Colorado River Basin,* December 1950, particularly 13-14.

authorized thirteen participating irrigation projects, including the Central Utah Project, the largest of them all.[6]

In order to win approval, CRSP proponents, led by Congressman Wayne Aspinall, amended the legislation to remove the controversial Echo Park Dam. In exchange, the Sierra Club agreed to drop its opposition to CRSP. Utah politicians and water officials preferred the Echo Park alternative as it would have been cheaper to construct, produced more hydropower, and impounded more water of a higher quality

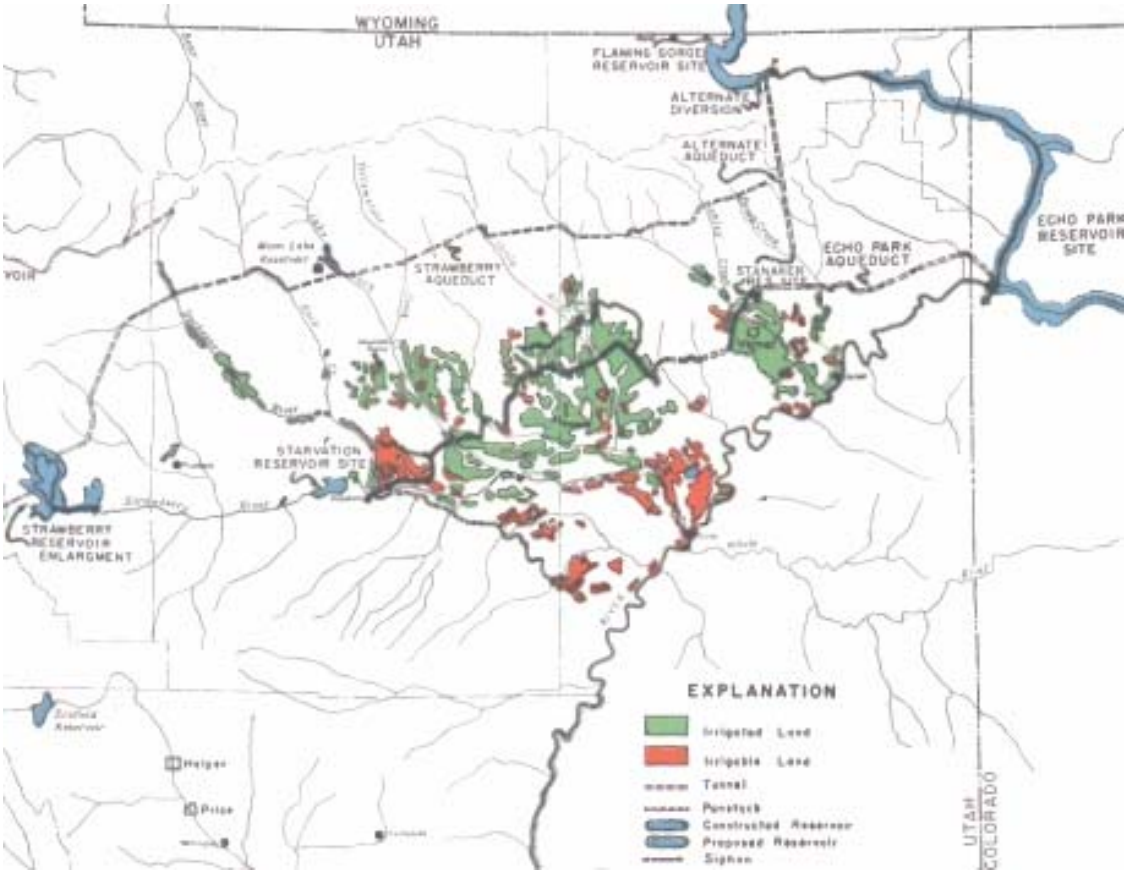

Figure 11 Exploded view of 1947 map showing both the Echo Park and Flaming Gorge Reservoirs and Aqueducts. Also note the Strawberry Aqueduct intercepting every river flowing south out of the Uinta Mountains.

[6] For Murdock's proposals see S. 2313, *Congressional Record*, June 7, 1946 Volume 92, Part 5, 6438 and "Echo Park Project Goes to Senate For Approval," *Vernal Express*, June 13, 1946. For Colorado River Storage Project Act, see Department of the Interior, Bureau of Reclamation, *Federal Reclamation and Related laws Annotated*, Volume 2 (Denver: Government Printing Office, 1972), 1248-1259..

than the Flaming Gorge alternative. However, as a result of the compromise, Reclamation altered plans for the Ultimate Phase of the CUP to include a diversion from Flaming Gorge to the Uinta Basin through a long tunnel.[7]

After the passage of the CRSP, work progressed quickly on the large main stem storage reservoirs—Flaming Gorge and Glen Canyon—but construction lagged on the CUP as the Bureau completed its detailed planning. Because of the size and scope of the CUP, the Bureau divided it into six units. Congress authorized the four initial units—Bonneville, Vernal, Jensen, Upalco—in 1956 in the CRSP Act. In 1968 Congress authorized the Uintah Unit, and advance planning for the Ute Indian Unit—also known as the Ultimate Phase. Because planning for the Vernal Unit had been completed as an independent project, it was the first to be started. In June 1958 the newly created Uintah County Water Conservancy District entered into a repayment contract with the Bureau for the Vernal Unit. Construction on Steinaker Dam—the Unit's primary feature—began on May 14, 1959.[8]

While scaled back from the ultimate phase plan, the Bonneville Unit was still large and ambitious. Construction began in 1967 with the Starvation Dam on the

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[7] On the compromise see Mark Harvey, *A Symbol of Wilderness: Echo Park and the American Conservation Movement* (Seattle: University of Washington Press, 2000), 223-227; Stephen C. Sturgeon, *The Politics of Western Water: The Congressional Career of Wayne Aspinall* (Tucson: University of Arizona Press, 2002), 47-50; Reisner, *Cadillac Desert* (New York: Penguin Books, 1987), 283-288; and John Upton Terrell, *War for the Colorado,* Volume 2 (Glendale, CA: The Arthur H. Clark Company, 1965), 237-238. On the preference for the Echo Park alternative see Harvey, 38-42.

[8] On construction and subsequent controversy of the Glen Canyon Dam see Russell Martin, *A Story that Stands Like a Dam: Glen Canyon and the Struggle for the Soul of the West* (New York: Henry Holt & Co., 1989) and Jared Farmer, *Glen Canyon Dammed: Inventing Lake Powell and the Canyon Country* (University of Arizona Press, 1999). On the Vernal Unit see, "Vernal Project Contract Signed in Washington," *Vernal Express*, June 12, 1958; "Vernal Project Groundbreaking Planned Today," *Vernal Express*, May 14, 1958; "Massive Bulldozers Plough Earth in Vernal Project Opening Rites," *Vernal Express*, May 21, 1958. In 1956 the Bureau of Reclamation also began construction on its second largest project in Utah, the Weber Basin Project which Congress authorized in 1949. See, Richard W. Sadler and Richard C. Roberts, *The Weber River Basin: Grass Roots Democracy and Water Development* (Logan: Utah State University Press, 1994).

Duchesne River drainage to store surplus flows and allow for the later diversion of Duchesne water into the Strawberry system. The diversion would be made by the Strawberry Aqueduct and Collection System. Reaching from the Strawberry Reservoir to Rock Creek, the 37 miles of tunnel and pipeline would intercept the flows of twenty-three streams and rivers, diverting a large portion of their flow. The Collection System also included two small diversion dams and two larger dams. The reservoirs behind the two larger dams, Currant Creek Dam in the middle and Upper Stillwater Dam on Rock Creek at the upper end would regulate the system.[9]

The water diverted through the Strawberry Collection System would be stored in the enlarged Strawberry Reservoir behind the new Soldier Creek Dam. Diversions to the Wasatch Front from Strawberry would be made via a new tunnel and pass through a series of reservoirs and power plants in Diamond Fork Canyon to generate hydropower. The Wasatch Aqueduct would allow the diversion of Strawberry water from Diamond Fork Canyon 83 miles to Sevier Bridge Reservoir passing through three tunnels, totaling 5.6 miles along the way. The Bureau also retained plans to dike Utah Lake and construct Jordanelle Dam and Reservoir to develop a large municipal supply for northern Utah and Salt Lake Counties.[10]

But almost as soon as construction began on the Bonneville Unit, the project encountered fiscal challenges. Due to budgetary pressures created by the ongoing Vietnam War and President Lyndon B. Johnson's "War on Poverty," and competition

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[9] For an early description of the CUP see, *The Colorado River, "A Natural Menace Becomes a National Resource:,"* 117-118. For complete description of the CUP see, Bureau of Reclamation. *Central Utah Project, A supplement to the Colorado River Storage Project Report.* February 1951, Synopsis 1-4 and U.S. Department of the Interior, Bureau of Reclamation, Region 4, Salt Lake City, *Central Utah Project Initial Phase Bonneville Unit, Definite Plan Report* (Salt Lake City: August 1965), summary sheets 1-3; Bureau of Reclamation, *Final Environmental Statement, Authorized Bonneville Unit, Central Utah Project, Utah,* 19.

[10] Ibid.

for limited construction funds among the other large projects that would end up on the Hit List like Garrison, Central Arizona, and Auburn, Congress significantly reduced reclamation appropriations for the CUP. Additionally, new environmental concerns began to surface nationally. Worsening air and water pollution, fears of chemical contamination, and the loss of wildlife led to a greater environmental consciousness. As a result, Congress passed a series of significant new environmental laws with bipartisan support. Of them, the Wilderness Act (1964), National Environmental Policy Act (NEPA) (1969), and the Endangered Species Act (1973) had the greatest impact on the CUP.[11]

Like the Garrison Diversion, meeting the requirements of NEPA proved to be challenging for the Central Utah Project. Following the passage of NEPA, work on the Starvation Reservoir, Soldier Creek Dam, and the first sections of the Strawberry Aqueduct under existing contracts could continue. But the law required the Bureau to complete an Environmental Impact Statement (EIS) before it could issue any new construction contracts. The completion of the EIS took two years. However, unsatisfied with the conclusions of the Bureau's EIS, a coalition of environmental groups, led by the Sierra Club, filed a lawsuit in 1973 in federal Utah District Court. They claimed that the Bureau had only analyzed a portion of the Strawberry Aqueduct and Collection system, and did not consider the cumulative impacts of the entire CUP. The District Court ruled in favor of the Bureau. The Sierra Club filed an appeal to the

[11] On the growth of the environmental movement and passage of federal legislation see Charles A. Reich, *The Greening of America* (New York: Random House, 1970); Hal Rothman, *The Greening of a Nation? Environmentalism in the United State Since 194.* (New York: Wadsworth, 1998); Philip Schebecoff, *A Fierce Green Fire: The American Environmental Movement* (New York: Hill and Wang, 1993).

Tenth Circuit Court of Appeals, which upheld the lower courts ruling. Work on the project could continue, but was now several years behind schedule.[12]

With the court challenge resolved, the Bureau of Reclamation issued a contract to extend the Strawberry Aqueduct and to construct the Currant Creek Dam. Work had barely begun when President Carter placed the project on the Hit List.

President Carter gave four reasons for eliminating the Bonneville Unit of the CUP that closely followed the arguments long used by project opponents of the CUP. First, he stated that the project posed serious environmental damage through the depletion of stream fisheries and the loss of habitat through the diking of Utah Lake, and that the exportation of Colorado River water would aggravate salinity problems in the Colorado River. He further argued that the CUP complicated Ute Indian Claims to water. He calculated that the project was not economically sound since it could not be completed under authorized ceilings established in the original program. The 'Hit List" also argued that using current interest rates, the project no longer had a positive cost-benefit analysis. Finally, the list claimed alternative sources of municipal water existed for the Salt Lake Valley.[13]

The Department of the Interior held special hearings on the Bonneville Unit in the Salt Palace Little Theater on March 24, 1977. The hearing was scheduled to last for seven hours, with three hours for each side and a thirty-minute rebuttal period. Ed Clyde, the attorney for the project's local sponsor, the Central Utah Water Conservancy District, coordinated the proponents' testimony while Dr. David C.

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[12] Sierra Club, et al. V Gilbert Stamm, Commissioner, U.S. Bureau of Reclamation, et. al., United States Court of Appeals for the Tenth Circuit, No 74-1425. Bob Hilbert, interviewed by Adam Eastman, May 20, 2004, Salt Lake City, Jordan Valley Water Concervancy District History Project.

[13] "Hearing Only Affirms Obvious: Bonneville Unit Right for Utah," *Salt Lake Tribune*, March 25, 1977.

Raskin, former Sierra Club member and outspoken critic of the CUP, coordinated the opponents' side.[14]

The following morning, the *Salt Lake Tribune* editorialized about the hearings that had far exceeded their anticipated schedule:

> Nothing in the twelve hours of hearing at the Salt Palace persuaded us that the CUP, along with its Bonneville Unit is so inherently bad that it should be abandoned… None of the alternatives proposed by opponents, when taken in the context of what has already been accomplished on the Bonneville Unit, are viable or acceptable…. One striking observation of the Salt Palace hearing was the penchant of Bonneville Unit opponents to seemingly brush aside as of no consequence the legal obligations that have been incurred during the project's three decade history. They choose to ignore the several contracts in existence promising delivery of much needed water at some future date.[15]

As a result of the hearings and additional study, Secretary of the Interior Cecil Andrus recommended to President Carter that the project be modified. The recommendation endorsed by Carter proposed completing only the existing features under construction. Water users argued that the plan amounted to a colossal waste of the money already spent and that Andrus' plan would not develop as much water as planned. The Department of Interior review team had calculated using the storage capacity of Currant Creek, however, the dam which was almost completed at the time, had been planned as a regulating reservoir, not a storage reservoir. As a result, the outlet works had been placed at the top of the dam. Andrus' recommendation could not work as he suggested. The plan's shortcomings combined with pressure from project proponents and Utah's Congressional delegation led Congress to reject the

[14] Miller, 195-197, 221-225; Joe Bauman, "Second Chance or Death Blow? Bonneville Unit hearing brings pros, cons into focus," *Deseret News*, March 23, 1977

[15] "Hearing Only Affirms Obvious: Bonneville Unit Right for Utah," *Salt Lake Tribune*, March 25, 1977.

administration's recommendations to modify the CUP. As a result of the compromise with Speaker of the House Tip O'Neill, the administration continued to fund the CUP.[16]

However, Carter and O'Neill's compromise did not end the controversy about the CUP. As the contractor began construction, CUP opponents continued their attacks on the project. The Utah Chapter of the Sierra Club, and a small group calling itself Citizens for a Responsible CUP filed protests with the Army Corp of Engineers (COE) seeking the denial of a the "404 Permit" which allowed alteration to a stream. While that agency had previously granted permits for other project features, officials at the COE regional offices in San Francisco responded to the complaints by initiating a full review of the Strawberry Aqueduct's impacts on stream flows. The review prompted the Utah Division of Wildlife Resources to criticize the CUP impacts on trout habitat. Sympathetic to both sides, Utah Governor Scott Matheson intervened to renegotiate the 1965 stream flow agreement. On February 7, 1980, Reclamation, the CUWCD, and State of Utah signed an agreement making up to 44,000 acre feet of water available annually for in-stream flows. As a result of the agreement, the COE issued a permit in the spring of 1980.[17]

Simultaneous to the Sierra Club's opposition to a 404 permit, the CUP faced an even larger problem; the Bureau of Reclamation was running out of money to construct the project. With costs escalating due to these construction problems and delays it became apparent that the Bureau could not finish the project within either the

[16] Miller, 290-1.
[17] Citizens for a Responsible CUP, "Water Log," [April 1979] in Dorothy Harvey Papers, University of Utah Marriott Library, Special Collections Accession 2232 (hereafter cited as Harvey Papers), Box 156, Folder 10; and Lynn Ludlow to Gunn McKay, September 26, 1979, Harvey Papers, Box 51, Folder 1; "Bonneville Unit, Annual Project History," Volume XV – 1980, 7, 16.

budget authorized by the Colorado River Storage Project or the amount authorized by the 1965 repayment contract approved by voters in the Central Utah Water Conservancy District (CUWCD). Both limits would need to be raised. The Bureau began negotiating a new repayment contract with the CUWCD. During the autumn of 1980, Ed Clyde worked with the Bureau of Reclamation to draft the new supplemental repayment contract. At the District's November 13, 1980 board meeting, Clyde presented the final draft of the contract to the board for its approval. The Board unanimously passed a resolution supporting the contract and favored submitting it under the current Presidential Administration to prevent delays in bringing the new members of the Reagan administration up to speed.[18]

But the plan did not work as hoped. As one of his final actions before leaving office, Assistant Secretary of the Interior, Guy Martin, wrote a scathing review of the supplemental repayment contract. In the memo, Martin called the proposed contract flawed. "As drafted, the contract contains several provisions which are clearly illegal, others that have questionable legal basis, and several provisions which are not fiscally prudent. Moreover, the contract masks costs of hundreds of million of dollars from the clear view of the people who must pay for the project and the taxing public." Additionally, he labeled the project as environmentally unsound.[19]

CUWCD board members called the move a parting shot of a Carter aide. However, Ed Clyde advised the Board that it would "not be prudent to ignore the criticisms" and recommended they recall the contract to analyze the concerns raised. Clyde later explained that the reasons for the questionable language and subsequent

[18] CUWCD Board Minutes, November, 13, 1980, 5-7.
[19] John Serfustini, "Carter Aide's Parting Shot Scorches CUP," *Salt Lake Tribune* March 10, 1981; CUWCD Board Minutes February 12, 1981, 6-7.

withdrawal involved uncertainty over the costs to construct Jordanelle. The Bureau had not completed its investigation and plans and did not know the final design or cost of the dam.[20]

Ed Clyde and the staff of the Bureau of Reclamation's local offices came up with an alternate solution. They invoked the Water Supply Act of 1958 which allowed the Bureau or Army Corp of Engineers to enlarge a proposed water project to store additional municipal water to meet future demand and defer the extra costs associated with the enlargement for a period of ten years. The agencies designated 60,000 acre feet of the 99,000 acre foot anticipated municipal supply for Jordanelle as "future supply." This exempted two thirds of the Bonneville M&I supply from a repayment contract. Project critics and the General Accounting Office would later question the legality of the use of the Water Supply Act because in the case of Jordanelle Reservoir, the Bureau had not actually changed the plans. The change had been made previous to the execution of the 1965 repayment contract.[21]

To keep construction moving forward, the Bureau of Reclamation and the water district negotiated a new supplemental repayment contract which the district took to voters within the District's boundaries. The supplemental repayment contract added an additional $335 million to the maximum amount that taxpayers within the district agreed to repay towards the municipal supply system of the Bonneville Unit of the CUP. At a special election held in November, 1985 voters approved the contract

[20] CUWCD Board Minutes February 12, 1981, 6-7; Edward W. Clyde, letter to Don A. Christiansen, March 5, 1986, in U.S. Congress, House of Representatives, Committee on Interior and Insular Affairs, *Supplemental Repayment Contract for the Bonneville Unit, Central Utah Project*, 99th Congress, 2.nd session (Washington, D.C.:1986, 104.

[21] Carrie L. Ulrich and R. Terry Holzworth, "Opening the Water Bureaucracy," in Daniel McCool, ed., *Waters of Zion* (Salt Lake City: University of Utah Press, 1995), 56-58.

by a margin of 73%, and carried a majority in favor in 290 of the 307 voting districts.[22]

With the vote, Utah's congressional delegation began working on the passage of legislation to increase the congressionally authorized costs. The Bureau and Utah's congressional delegation thought they could quickly obtain Congressional approval. Senator Jake Garn introduced legislation to increase the total authorized project cost by $750,000,000. But, when Democratic leaders Senator Bill Bradley (D-NJ) and Congressman George Miller (D-CA) who controlled the key House and Senate subcommittees refused to move the bill forward without addressing the lingering environmental and economic concerns, it quickly became apparent that the CUP now faced its largest hurdle.

Bradley and Miller had not singled out the CUP for scrutiny. Rather, they saw the reauthorization, as they had the Garrison reauthorization a few years earlier, as an opportunity to force desperately needed of reform on an antiquated agency. Neither of them would allow out of their subcommittees any reclamation bill that did not address their environmental and economic concerns. Thus, the blockage of Garn's reauthorization bill cannot be seen as a partisan move. In fact, both Bradley and Miller worked openly with Utah's Republican-dominated congressional delegation in the process of drafting reauthorization legislation because it provided an opportunity to reform the Bureau in the process.[23]

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[22] Ibid; Lisa Mote "Voters Approve CUP Repayment by 3-to-1," and "Provo Voters Fail to Support Council Stand," *Daily Herald*, November 20, 1985. Don Christiansen, Oral History Interview, Transcript of tape recorded Central Utah Water Conservancy District History Project interview conducted by Adam Eastman, March 24, 2004, Orem, Utah..

[23] Don Christiansen; Jake Garn; Thomas Melling, "Dispute Resolution Within Legislative Institutions," *Stanford Law Review* 46 (1993): 1693.

From Luxury to Utilitarian

Determined to keep the project alive, the entire Utah delegation continued to work on the reauthorization of the CUP. Congressman Wayne Owens, a Democrat representing the Salt Lake City area, served as a majority member of the House Subcommittee on Water and Power Resources. Because of his assignment, and because he was the only Democrat from Utah serving in Congress, Owens took the lead in the effort to draft new legislation that met the demands of Chairman Miller.

In February 1988, Owens began spending a great deal of time developing a plan that would address the fiscal and environmental concerns. It was a daunting task, but one Owens accepted with enthusiasm. If he succeeded, he could earn a great deal of political capital in Utah. But more important, Owens felt strongly about the environmental damage the project had caused in Utah. In response to Owens's efforts, the Sierra Club of Utah, Utah Wildlife Federation, Utah Wilderness Association, and sixty additional environmental, conservation and sportsman's groups organized the Utah Roundtable of Sportsmen and Conservationists.

The Utah Roundtable quickly identified problems they had fought for many years. First the Strawberry Aqueduct and Collection System diverted the entire stream flows of twenty-three streams and rivers in the Uintah Basin, dewatering a total of 245 miles. Wildlife specialists estimated that 78 percent of the fish population in the streams would be lost. The Utah Division of Wildlife Resources wildlife biologists felt that fifty percent of the fish population could be maintained if minimum instream flows were kept at 44,000 acre feet. In the 1980 deal brokered by Governor Scott Matheson, the CUWCD had agreed to allow this amount until the Strawberry

Aqueduct was completed, after which flows would be cut to 22,300 acre feet. The Division of Wildlife Resources and project opponents now wanted to make the 44,000 amount permanent. [24]

But the loss of water did not just impact fish; it meant the loss of the entire river ecosystem. In addition to the habitat lost to diverted streams, further riparian and wetlands habitat would be lost under the dams and reservoirs built by the project. The loss of habitat would impact both game animals and endangered species. The diversion of water from Utah Lake also posed a threat of increasing the salinity level in the lake to levels beyond the toleration of its native plants and animals. Specifically, environmentalists and wildlife advocates worried about the impact on the endangered June Sucker in the Utah Lake.[25]

While environmental groups lobbied to increase minimum stream flows, they also sought to set maximum flows on other rivers. Several streams saw increased flows because of project diversions. For example, the Strawberry Tunnel emptied directly into Sixth Water Creek and Diamond Fork Creek. During the peak irrigation season, the flows in the creeks were ten times the normal amount. A large quantity of water in a narrow streambed caused erosion of the stream banks, scouring of the stream bed, and washing of cottonwood saplings from the banks of the river. Because the saplings did not survive the irrigation season, the trees did not replenish themselves, and much of the cottonwood forests along these creeks had died away.

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[24] On the dewatering of streams, see Tom Melling, "The CUP Holds the Solution: Utah's Hybrid Alternative to Water Markets," *Journal of Energy, Natural Resources, and Environmental Law* 13 (1993): 186. On the 404 permit see Rod Collett, "CUP Officials Question 404 Dam Permit Delay," *Provo Daily Herald*, October 12, 1979. For the 1980 Streamflow agreement, see Central Utah Water Conservancy District, "Minutes of the Special Meeting of the Board of Directors" January 30, 1980, Orem, Utah, 2-14; and CUWCD, "Minutes of the Regular Meeting of the Board of Directors" April 10, 1980, Orem, Utah, 2.

[25] "Water Official Warns Salinity Will Increase in Utah Lake," *Salt Lake Tribune*, November 1, 1989.

Owens, along with environmental groups, also expressed concern over a similar situation in the Provo River, particularly between Deer Creek Dam and the Olmstead Diversion near Upper Falls.[26]

Owens needed to find solutions to three additional issues. Little had been done to mitigate the damage caused by the project. Owens discovered that of the $1.2 billion that had been spent on the project, only $10 million had been expended to repair the environmental, fish, and wildlife damages caused by the project. Additionally, Owens had to come to terms with the cost of the Bonneville Unit's irrigation component. The Bureau's studies showed that the project's benefits slightly exceeded its costs. But, using different formulas some economists found that the costs actually exceeded the benefits. Finally, the legislation needed to address the water rights claims of the Uintah and Ouray Ute Tribes. In 1965 they had been promised water development projects in exchange for a forty year deferral of their water rights. Because their projects had not been constructed, it appeared that the Bonneville Unit could not legally divert any water after 2005.[27]

As he searched for solutions to these problems Owens found help readily available. He asked the CUWCD to prepare alternative plans for the irrigation project, including cutting some components and possibly using private financing. The District proposed streamlining the project by dropping several features that had questionable cost-benefit ratios. Congressman Owens also turned to the Utah Roundtable of

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[26] Michael Weland, interview with author, May 14, 2004. River Proposals Upsets Officials," *Provo Daily Herald*, October 31, 1989.

[27] *Proposals to Raise the Authorized Cost Ceiling for the Colorado River Storage Project:* 40, 422-426. For a critical analysis of the economics of the Bonneville Irrigation Unit see, Jon R. Miller, "The Political Economy of Western Water Finance: Cost Allocation and the Bonneville Unit of the Central Utah Project," *American Journal of Agricultural Economics* 69 (May 1987): 303-310.

Sportsman and Conservationists to determine priorities and propose solutions for the needed mitigation of the project's adverse effects on the environment. Owens worked with the organization's member groups through March and into April of 1988 as they prepared a draft of a new reauthorization bill. Chairman Miller scheduled a hearing in Salt Lake City to gather comment on the draft and further comments from all interested parties. Owens continued to work on the draft, making changes right up to the day prior to the hearing. The process led Owens to comment at the hearing that, "The Central Utah Project is now a Chevy instead of a Cadillac."[28]

Chairman Miller opened the hearing on the rainy Monday morning of April 18, 1988, in the auditorium of the Utah State Capitol Building. Owens's new draft contained seventeen sections and stretched to twenty-six pages. The proposal contained two provisions that quickly divided the group in the auditorium. The first proposal was the mandated permanent increase to 44,000 acre feet of in-stream flows in the rivers, creeks, and streams intercepted by the Strawberry Aqueduct. The second was a proposal for an independent federal commission to oversee the fish and wildlife mitigation projects that the Bureau had neglected.[29]

Although Congressman Howard Nielson worried about the impact of decreasing diversions to Bonneville irrigators, the CUWCD board and staff believed they could still deliver enough water to them and supported the in-stream flow agreement as "fundamentally fair and environmentally sound." The District also supported the creation of a new, independent commission to oversee the environmental mitigation. They thought that the commission represented "a truly

[28] Remarks of Congressman Wayne Owens, *Proposals to Raise the Authorized Cost Ceiling for the Colorado River Storage Project*, 40. Also see Owens comments on 422-426.
[29] *Proposals to Raise the Authorized Cost Ceiling for the Colorado River Storage Project*, 4-29.

innovative method of mitigating for water project construction." The District believed that an independent commission would be more efficient than the Bureau and would also prevent the transfer of appropriations away from the intended project. The commission would also provide a voice to sportsmen and environmental groups through the commission's board.[30]

In contrast to the District, Garn, Hatch, Nielsen, and Governor Norman Bangerter all opposed the formation of the commission. While they all agreed that the Bureau had done a horrendous job and suffered from huge inefficiencies, they felt that the job could be done by an existing state or federal agency. Another group opposing the commission was public power users. Owens proposed using revenues from the sale of CRSP hydropower to fund the mitigation commission. Power officials reacted with concern as the proposal would increase power rates.[31]

In fact, public power interests opposed Owens's bill almost universally. The irrigation project would largely be subsidized by power revenues. Further, the diversion of water out of the Colorado River Basin decreased the capacity of hydroelectric plants downstream. Thus, the one provision that they could support was the increased stream flows in the Uinta Basin. But Owens's bill contained an even more threatening proposal, a National Academy of Sciences study of hydroelectric plants throughout the CRSP to determine if the operational practices caused environmental damage. Had the study concluded the practices did cause damage, the capacity and revenues of the plants would have been cut significantly.[32]

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[30] Ibid, 91-92, 96.
[31] Ibid, 334-344, 407-412.
[32] This provision arose from environmentalist concern over the practice of increasing power generation during peak demand. The practice caused significant fluctuations in the river downstream from the

Despite the significant environmental concessions in the bill, serious objections still remained over unresolved environmental issues and over the fiscal issues surrounding the irrigation unit. Unsatisfied with the bill, Miller again refused to let it out of committee. Undaunted, the Utah delegation and CUWCD General Manager Don Christiansen moved forward with more negotiations to further resolve the concerns over the project. National environmental and wildlife groups represented by Ed Osann, Director of the National Wildlife Federation's Water Resources Program, and David Conrad, Friends of the Earth Water Resource Specialist, also became involved in the negotiations. Their concerns over the environmental issues surrounding Jordanelle, the irrigation projects, and the water rights of the Ute Indians prompted Chairman Miller and Bradley to scuttle another attempt to move a bill forward in the spring of 1990. [33]

Getting the Chevy Off the Lot

Failing again, the Utah delegation, CUWCD, and the national environmental groups met for another round of negotiations. Miller imposed a unanimous vote rule. Owens, trusted by all parties, acted as a mediator. Further, all parties agreed not to run to the press to influence the negotiations. Frustrated by continued delays and unwillingness to compromise, Miller left the Bureau completely out of the

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dams. Of particular concern was damage being done within the Grand Canyon below Glen Canyon Dam.

[33] "Wildlife Foundation Wants CUP Funds Stopped," *Provo Daily Herald,* April 10, 1990; "Clock Ticks Away on Controversial CUP Funding," *Provo Daily Herald,* April 14, 1990.

negotiations. After several long weeks, a revised bill began to emerge that met the concerns of Miller, Bradley, and the environmental groups.[34]

Chief among the environmentalists' concerns was the lack of provisions for water conservation. The CUP's critics had argued along with the Carter administration during the battle over the Hit List in 1977 that water conservation could eliminate, or at least postpone the need for the project's waters bound for the Salt Lake Valley. Without water conservation measures, continued population growth in the Salt Lake Valley would require the importation of additional water, this time from the Bear River. Engineers from the Salt Lake County Water Conservancy District—later renamed the Jordan Valley Water Conservancy District—already had plans on the drawing boards for the project.

Water conservation became central to further negotiations. National environmental groups represented by Ed Osann and David Conrand pressed for strict conservation measures in the legislation. As noted above, their opposition over the lack of conservation measures resulted in the bill's failure in 1990. At the time, Osann who headed the National Wildlife Federation's Water Rescource Program, was pushing for national water conservation and refused to let the CUP move forward without including water conservation efforts concurrent with the construction on the project.

After reaching a tentative agreement with Osann, the Central Utah Water Conservancy District's General Manager, Don Christiansen, called to relay the details of the compromise to water officials in the Salt Lake area. Believing Christiansen had

[34] Don Christiansen, interview with author March 24, 2004; Thomas Melling, "Dispute Resolution," 1695.

given too much away to the environmental groups, they reacted with alarm. Christiansen hurriedly arranged a meeting between the water managers and the environmental groups. A group of six water managers from the Salt Lake Valley flew to Washington. Meeting in Congressman Owens's office, the water managers, Don Christiansen, Marcus Faust—the CUWCD's Washington counsel, Ed Osann, and David Conrad negotiated into the night. Finally, just after two o'clock in the morning, the group came to an agreement. [35]

The compromise provided that through cost-effective and environmentally sound means, the District had to first make "prudent and efficient use of currently available water prior to the importation of Bear River water into Salt Lake County."[36] This language challenged the old conceptions of water development that had focused on increasing supply rather than decreasing demand. The water districts balked at the proposal because conservation of water posed the threat of decreased revenues and potential difficulty repaying its bonds. But, in the end the districts were able to compromise, proving that they were not so entrenched in the traditional views to give politically expedient concessions to new West environmentalists.[37]

The conservation compromise cleared the way for a version of the legislation Miller and Bradley would let out of their respective committees following hearings in February and September 1990, respectively. The new version, officially titled the

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[35] The six water officials were Dave Ovard, Jerry Maloney, and Dale Gardiner from the Salt Lake County Water Conservancy District and Nick Sefakis, LeRoy Hooton, and Joe Novak from the Metropolitan Water District of Salt Lake and Sandy. David Ovard, interview with author, June 30, 2004. Don Christiansen, interview with author, March 24, 2004; Dave Ovard, interview with author, June 20, 2004; Marcus Faust, interview with author, August 10, 2005. Public Law 102-575.

[36] This wording remained in the legislation as a stated purpose of the conservation or "water management improvement" provisions of CUPCA . Public Law 102-575 Section 207 (a)(5).

[37] Dave Ovard, interview with author, June 20, 2004; Gerald Maloney, interview with author, August 10, 2004.

Central Utah Project Completion Act, contained four main sections. CUPCA raised the authorized costs by $924,206,000. But, it also implemented a local cost sharing agreement which mandated that the CUWCD must now pay thirty-five percent of the reimbursable project costs. The legislation de-authorized several features of the original CUP plan including the diking of Utah Lake, irrigation projects in the Mosida area southwest of Utah Lake and the Leland Bench in the Uinta Basin, and the Ute Indian Unit which proposed the diversion of water directly from the Green River. Additionally the legislation scaled back plans for the Uintah and Upalco Units.

The Completion Act took further steps which changed longstanding reclamation policy. It allowed counties that had not received project water to withdraw from the CUWCD and receive a rebate of property taxes paid toward the project. It took oversight of the project from the Bureau and gave control to the CUWCD. Further, the legislation addressed environmental criticisms by stipulating that environmental mitigation would proceed concurrently with construction. The act created a new federal agency to oversee environmental mitigation and established a fund to complete mitigation efforts. The act mandated that the CUWCD and its customer agencies meet goals for water conservation and that the District fund water conservation efforts. Finally, it provided a monetary payment to the Northern Ute Tribe to settle their environmental justice claims and satisfy their water rights.[38]

Utah's congressional delegation again had a difficult time moving the bill out of committee. But, this time it was not Miller or Bradley applying the brakes; rather,

[38] Congress, House, Committee on Interior and Insular Affairs, Subcommittee on Water ,Power, and Offshore Energy Resources, *H.R. 3960 Central Utah Project Completion Act: Hearings before the Subcommittee on Water, Power, and Offshore Energy Resources of the Committee on Interior and Insular Affairs*, 101st Cong., 2nd sess., 6 February 1990, 2-116.

it was the Bureau and the Bush administration. The Bureau unilaterally opposed the bill. They objected to oversight and construction being turned over to the District. They opposed the formation of the mitigation commission and compensation to the Northern Ute Tribe. They opposed the legislation because they simply had been left out of the negotiations. However, exerting his influence, Garn pressured the administration and pushed the bill onto the floor. As it moved forward, the legislation became an omnibus bill attracting funding provisions for twenty-two other projects and provisions that further reformed reclamation policy. After an additional two years of debate, Congress passed the bill in October 1992. Despite veto threats, President George H. W. Bush signed the bill on October 30, 1992.[39]

The Affordable, Dependable, and Reliable Car

After the passage of the CUP Completion Act, the project moved forward. However, President Bush's signature did not end criticism or political controversy over the CUP. Individual groups still pushed their interests, and some battles continued to be fought.

One of the first challenges facing the CUWCD was the withdrawal of Millard and Sevier counties from the District, under CUPCA's provision allowing counties that had not received any benefit from the project to leave the District. Farmers in Millard and Sevier counties argued that the provisions of the CUPCA were too costly. Representing views held by many traditional land and water users who had battled the Carter administration and who had sympathized with the Sagebrush Rebellion,

[39] The bill became Public Law 102-575. Title II through V comprise the Central Utah Project Completion Act.

Thorpe Waddingham, the farmer's water rights attorney, succinctly summed up his feelings for the reformulated CUP by telling a reporter, "We are big supporters of the CUP. But the CUP has steadily deteriorated from the 1970s to the 1980s until now in the 1990s it's gone completely to hell." [40]

Waddingham cited concerns that the project had been modified to meet the demands of cities and environmental groups; as a result, the amount of water available to the two counties had decreased, the local cost share had risen, and accepting the water under the new law would bring unwanted federal regulation. While the move by the two counties to get out initially caused some concern within the District's board, it had little long-term impact. Because those counties withdrew, the original irrigation project was scaled back to serve Juab and southern Utah County.[41]

Another major blow to the Bureau of Reclamation's original plans for the CUP to primarily serve farmers came in 1999. The Strawberry Water Users Association withdrew their support of the District's Environmental Impact Statement for the proposed Spanish Fork-Nephi Pipeline which would have benefited farmers in Juab County. The Association felt it could get more CUP water if the pipeline remained un-built. With the Strawberry Users no longer supporting the EIS, the Department of the Interior would not approve the project. As a result, the project was scaled back further so that Juab County water would be split between Salt Lake County and southern Utah County. However, Juab County received assistance through water conservation programs to offset the loss of project water.[42]

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[40] Steve Hinchman and Larry Warren, "Two Utah counties flee water project," *High Country News,* September 20, 1993.
[41] Ibid.
[42] Ibid; Roscoe Garrett, Interview with author, April 16, 2004; Don Christiansen, interview with author

As a result of this turn of events, the Central Utah Project went back to the drawing boards. The original Bureau plan for the Diamond Fork System had called for three reservoirs in the Diamond Fork drainage as part of a massive power generating scheme. As the District moved forward with its planning of the project, it deleted two of the reservoirs. But local environmental groups still criticized the decision to build a dam at Monk's Hollow. During the debate over the Spanish Fork-Nephi Pipeline, they had questioned the wisdom of developing water supplies for alfalfa farmers in Juab County subsidized with Salt Lake tax dollars, while the water district was moving forward with plans for new diversions from the Bear River.

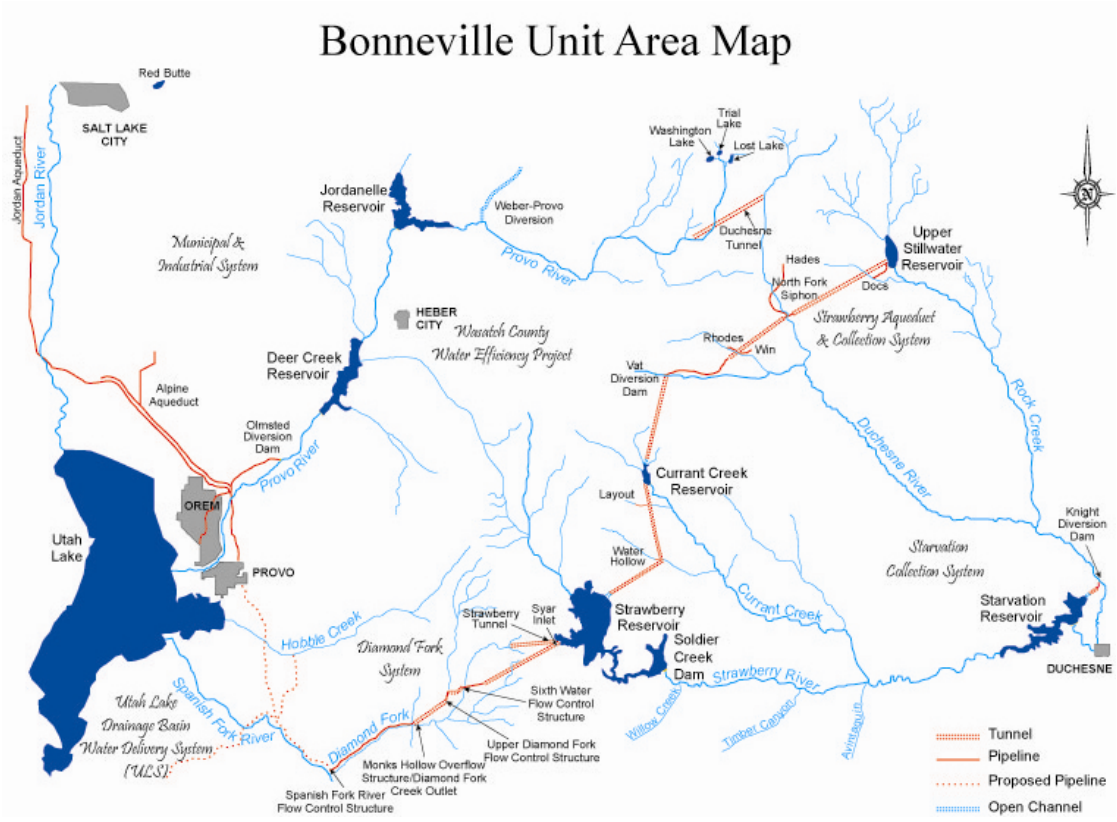

Figure 12 Central Utah Project, Bonneville Unit map showing reconfiguration as a result of the Central Utah Project Completion Act and subsequent events.

March 24, 2004.

Because of the new environmental study, the district altered the plans for the projects. It eliminated plans for the dam as well as plans for water delivery to Juab County and converted the remaining 60,000 acre foot block irrigation water into a municipal supply split between southern Utah County and Salt Lake County. In an ironic twist, at least one CUP critic used the changes to criticize the district. University of Utah political scientist Dan McCool criticized the district for wasting millions of dollars planning for the Monk's Hollow Dam which it canceled. He also railed against the district for continuing to plan for the Spanish Fork-Nephi irrigation project "at a time when such projects were considered wasteful boondoggles."[43]

Although many critics doubted the need for an independent mitigation commission, the Utah Reclamation Mitigation and Conservation Commission proved more successful than the Bureau of Reclamation in completing environmental mitigation of the project. The most visible success has been the restorations of the Provo River below the Jordanelle Dam. Equally important, but less visible due to their remote locations is the restoration of numerous lakes in the Uintah Mountains. The natural lakes had been enlarged and turned into reservoirs by irrigation companies in the early 1900s. When the storage capacity of these high mountain reservoirs was transferred to new CUP reservoirs, the lakes could be restored and stabilized at their original levels. The Commission also undertook other projects to protect native

[43] Don Christiansen, interview with author, March 24, 2004; Michael Weland, interview with author, May 14, 2004. Daniel McCool, "The CUP: A Project in Search of a Purpose" in *Water in the West: A High Country News Reader,* ed. Char Miller (Corvallis, OR: Oregon State University Press, 2000). For other examples of McCool's criticism of the CUP see, Daniel McCool, *Waters of Zion: The Politics of Water in Utah* (Salt Lake City: University of Utah Press, 1995), and "Water Welfare, Green Pork, and the 'New' Politics of Water," *Halcyon* 14, (1992): 85-102.

species, protect and preserve wetland habitat, and enhance riparian habitat throughout the CUP area.[44]

Similarly, as noted above, managers of several of the local municipal water agencies expressed a concern over the conservation programs included in the CUP completion act. Their reluctance, however, largely evaporated. The districts adopted progressive conservation campaigns that alleviated the need to institute water rationing during a six-year drought. Additionally, the CUWCD created the Water Conservation Credit Program to meet the mandate of Section 207(b) of the Completion Act. The program provided 65% of the funding for selected conservation projects. As of 2004 the program had funded thirty-three projects, saving 94,969 acre feet of water.[45]

Despite the reservations of the local water districts and water users, the provisions of the Central Utah Project Completion Act have been largely successful. However, the legislation is still not without its critics. Congressman Howard Neilson maintained that Utah's delegation gave too many concessions to the environmental community which increased the cost of the project and reduced the amount of water delivered by the project. On the other side of the coin, some opponents of the CUP,

[44] Three lakes (Trial, Lost, and Washington) have been maintained to supply irrigation water to farmers in the Kamas area above Jordanelle Reservoir. The Bureau of Reclamation and the CUWCD rebuilt the dam at Trial Lake in 1989 and Lost Lake and Washington Lake Dams in 1994-1995. The District and Mitigation Commission partnered on the stabilization of twelve lakes on the upper Provo River drainage as stipulated in section 308—Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot and Weir—to their natural water levels. In conjunction with the enlargement of the Big Sand Wash Reservoir in the Uinta Basin, the District is currently undertaking the stabilization of thirteen high mountain lakes. Bluebell, Drift, Five Point, Superior, Milk, Farmers, East Timothy, White Miller, and Deer lakes are located in the in the Upper Yellowstone River watershed and four (Brown Duck, Island, Kidney and Clements lakes) are in the upper Lake Fork watershed. Michael Weland, interview with author, May 14, 2004. Extensive information on the projects of the Utah Reclamation and Conservation Commission is available on its website, http://www.mitigationcommission.gov/index.html.

[45] Lee Wimmer, interview with author March 24, 2004; CUWCD Annual Report 2004, 7.

including McCool, argued the compromise amounted to "Green Pork." To some extent, both criticisms seem valid. Due to changes resulting from the passage of CUPCA, the amount of water delivered by the Bonneville Unit was cut and the price increased. As a result, CUP water ranked among the most expensive ever developed by the Bureau of Reclamation when considering the total project costs compared to the amount of water developed.[46]

In the end, recognition that both sides in the debate believed CUPCA fell short does not discount the very real benefits for the environment and water users. Tangible environmental benefits provided by the legislation include the restoration of Uinta lakes and the Provo River, mandated stream flows, deauthorization of plans to dike Utah Lake, other mitigation efforts, and water conservation programs. Municipal water users, primarily in Salt Lake and Utah Counties, benefit from an additional 60,000 acre feet of water.

By and large the Central Utah Project Completion Act and subsequent events have radically altered the Central Utah Project. The legislation addressed the primary concerns raised by the Carter Administration during its review of the project in 1977. It incorporated key elements of the Carter Administration's policy review, most notably local cost sharing and mandated water conservation. The changes deleted several economically questionable irrigation schemes in the original plan and killed plans for the "Ultimate Phase," the direct diversion of Green River water from the Flaming Gorge Reservoir. The Completion Act required additional environmental

[46] Howard Neilson, interview with author June 29, 2006; "Green Pork" is first attributed to Daniel McCool, "The New Politics of the Environment and the Rise of 'Green Pork.'" *Free Perspectives* IV (December 1990): 5-7. McCool specifically offers the CUP as an example of Green Pork in "Water Welfare, Green Pork, and the 'New' Politics of Water," *Halcyon* 14, (1992): 98.

mitigation overseen by an independent commission. Many of the mitigation efforts undertaken by the commission not only repaired and compensated for damage caused by the CUP, but sought to repair a legacy of environmental damage inflicted by a hundred years of water diversions undertaken by private, local, state, and federal interests. The Completion Act resolved an environmental justice claim, compensating the Northern Ute Tribe for their water rights lost to water development.

In addition to the changes mandated within the Completion Act, the new requirements resulted in additional ongoing changes to the CUP. One of the biggest complaints against the project was the heavily subsidized and economically questionable Bonneville Irrigation and Drainage System which remained in the project. Also, the new environmental requirements and increased cost share prompted Millard and Sevier Counties, as well as the Northern Ute Tribe to withdraw from CUP irrigation projects. Despite some skepticism, the change placing the Central Utah Water Conservancy District in charge proved beneficial as the District altered its plans, albeit sometimes reluctantly, in response to continued environmental concerns. The District dropped the Monks Hollow Dam and in its place built tunnels and pipelines that allowed the restoration of Diamond Fork Creek. They altered plans for the Bonneville Irrigation and Drainage Supply, converting all of the water to municipal use. The new Utah Lake System to implement this plan includes significant measures to protect and enhance the habitat for the endangered June Sucker. The Uintah Basin Replacement Project restores thirteen lakes in the High Uintah Wilderness Area, an action sought by wilderness advocates since 1964.

Thus, the Central Utah Project serves as an example of the forces which pushed the Bureau of Reclamation to design and advocate large irrigation projects subsidized by huge hydroelectric dams. The project is indicative of the types of challenges and opposition these projects faced as environmental awareness increased across the nation in the 1950s and 1960s. Unable to stop projects like the CUP, Garrison, Auburn and others, even with the powerful new environmental laws, the high economic and environmental costs of these projects convinced President Carter that the time had come to stop funding projects which no longer made sense to many.

The Central Utah Project is an example of how the changes that the Carter Administration advocated were later achieved by their supporters in Congress. While we will never know with absolute certainty, it seams reasonable to speculate that if President Carter had followed the course advocated by Secretary Andrus, Vice President Mondale, and others that the administration could have successfully blocked or modified projects like the CUP or Garrison in 1977.

The success of Congressman George Miller in wresting substantial concessions from the water users demonstrates not only his personal opposition to business as usual for the Bureau of Reclamation, but the changes to the CUP wrought by the passage and implementation of the CUPCA illustrate the historical shift of reclamation projects from irrigation to municipal supplies. Perhaps most importantly, the transfer of construction oversight from the Bureau to the CUWCD marked an end of an era for the Bureau of Reclamation.

Epilogue

> I believe I developed good relationships with almost all members of congress….But on a number of occasions, I really played hardball with legislators, especially when prohibiting the building of dams that were unnecessary or when vetoing public works bills that were, in my judgment, too full of pork-barrel projects. A somewhat less rigid approach to these sensitive issues could have paid rich dividends.
>
> —Jimmy Carter[1]

After Carter left office, Congress passed compromise legislation to increase acreage limitation, and as previously mentioned, to reauthorize two projects that had escaped cuts during Carter's years. At the center of each of these compromise measures was Congressman George Miller of California. Miller—who came to Congress on a wave of reformers in the wake of Watergate—had been intent on reforming western water projects and was a strong supporter of Carter. During the 1980s, Miller employed as his legislative aide, Daniel Beard, who had preciously served as an assistant to Guy Martin, the number two man in the Department of Interior over water projects. Beard's experiences in the Carter Administration shaped his attitudes and opinions. Like Miller, he was intent on reforming water policy and stopping the worst of the large water projects. When Miller became the chair of the House Subcommittee on Water and Power, he employed Beard to head the subcommittee staff. It was from this position of influence that Miller and Beard helped to reshape water politics and reformulate the Garrison Diversion and Central Utah Projects.

[1] Jimmy Carter, *White House Diary* (New York: Farrar Straus Giroux, 2010), 526.

In 1992, following the election of President Bill Clinton, Miller helped secure Beard's appointment as the Commissioner of the Bureau of Reclamation. As commissioner, Beard helped to complete a process that had really begun with Carter's efforts and had continued through the Reagan and Bush administrations, changing the mission of the Bureau of Reclamation from water development to water management. The Hit List controversy played a critical role in motivating both Beard and Miller to seek the significant reforms they later helped to pass.

Thus, while the Hit List controversy provided a short run boost to water project advocates, and to Sagebrush Rebels, in the long run the controversy helped to motivate dam opponents and led to further shifts in opinion. Environmental activists continued to oppose the projects and Miller, Beard, and others helped secure change through the legislative process. Another individual influenced by the Hit List who had a significant and direct long term impact on public opinion was Marc Reisner. Reisner authored his well known exposé, *Cadillac Desert,* in response to his experiences during the Hit List controversy. During the Hit List controversy Reisner had a front row seat. He served as the communications director for the Natural Resources Defense Council, which had been involved in supporting the administration's efforts to cut water projects and attempts to educate both members of Congress and the public about the projects on the Hit List. In his book, Reisner was critical of the press coverage during the Hit List controversy. As someone who worked to get accurate information about the true impacts of the projects to the media, the negative response in Congress and the press to the Hit List motivated him to embark on his efforts to expose the worst of the West's water problems. In the preface to *Cadillac Desert*'s

sequel Reisner wrote, “Watching Carter blown over backwards by the reaction [of Congress to the Hit List] it seemed to me that the West’s, and Congress’s, infatuations with water projects would never end. So, *Cadillac Desert* was conceived as a work of history with a warning attached.” [2]

While Carter’s water policies were not as successful as he had hoped, he did succeed in cutting several projects. While the bulk of these projects faced strong vocal opposition that had even succeeded in temporarily halting projects—like the Bureau of Reclamation's Oahe unit and the Army Corps of Engineer’s Meremec Park and La Farge dams—Carter's actions insured that local opposition achieved permanent victories. But Carter was even successful in stopping projects that had strong local support favoring construction, like the Savory-Pot Hook, Fruitland Mesa, and Narrows projects in Colorado.

Overall, his success in getting Congress to cut funding to authorized water projects already under construction, and his proposed policies to change the evaluation criteria for new dams served as a catalyst, which added to environmental and economic factors and created the formula that ended the Era of Big Dams. While in the short term, Carter’s efforts fueled a backlash in much of the West, his opponents were largely unsuccessful in the long run. Despite a congressional decision to abolish the Water Resource Council, and action by Secretary of the Interior James Watt to abolish the Carter administration's carefully planned “principles and standards,” they could not convince fiscal conservatives, conservationists, and environmentalists that the country needed new massive water development projects. Further, the vitriolic

[2] For the criticism of the press coverage of the Hit List, see *Cadillac Desert*, 315-316. The quote is from Marc Reisner and Sarah Bates, *Overtapped Oasis* (Washington, D.C., Island Press, 1990), xv.

reaction in Congress and in the press to Carter's water projects review and water policy initiative motivated environmentalists and other dam opponents, including George Miller, Dan Beard, and Marc Reisner, to continue to push for reform to existing projects—like the Garrison Diversion and the Central Utah Project—to complete the process started by Carter.

Of the nine projects Congress cut from the FY 1978 budget in the compromise deal with Carter, only one, the Yatesville Lake in Kentucky, was subsequently funded and completed. More significant, Carter's allies succeeded in passing a bill in 1982 deauthorizing dozens of projects that had not made it beyond early planning stages.

Jimmy Carter did not break new any new ground with his criticism of large water development projects. Objections to the loss of aesthetic and environmental values had been raised repeatedly in fights over dams in well known places like Hetch Hetchy, Echo Park, Glen Canyon, and the Grand Canyon. In the later fights, Sierra Club Executive Director David Brower questioned the projects on economic grounds. He suggested that coal power plants could produce the power more cheaply. He, along with others, believed the investment in old technology at such great cost when the prospect of inexpensive nuclear power promised by government engineers loomed on the horizon.

While Brower was among the first to question the validity of the Bureau of Reclamation's calculation of project cost and benefits, he merely opened a door. Others, such as the University of Montana economist Thomas Power, demonstrated how pervasive its tactics had become. The ultimate criticism of the Bureau of

Reclamation was Richard Berkman and Kip Viscusi's condemnation of agency's mission and existence in their study for Ralph Nader, *Damming the West.*

But Carter's significance is not that he was the first to question larger federal water development projects. The significance is that he not only raised concerns, but that he took action as President to curtail water projects under construction. Unlike like previous presidents, such as Dwight Eisenhower, who had instituted a policy of "no new starts," Carter essentially not only limited new construction, but suggested the country would be better off not finishing projects on which millions of dollars had already been spent. In doing so he consciously challenged the prerogative and judgment of Congress. Instead of focusing on what Carter failed to achieve in his subsequent battles with Congress, this study has sought to draw attention to the success that achieved in forcing projects to be abandoned or redesigned. As noted above, it has also sought to show how the battle over these projects did not end when Carter left office. Allies in Congress continued to fight against projects while others, like Marc Reisner, insured continued publicity and public awareness.

In the wake of the success of George Miller, Brent Blackwelder, Marc Reisner and others, the end of new Congressional authorizations of major construction projects left the future of the Bureau in question. Beginning in 1985, the agency began a slow conversion process from a construction-oriented agency to one of management and maintenance. Secretary of the Interior Donald Hodel had begun using the phrase "the new Bureau of Reclamation." Taking his comments to mean the "old Bureau of Reclamation" was obsolete and even questioning if the agency could be "scrapped,"

the Commissioner C. Dale Duvall and regional Directors collaborated on a study to redefine the agency's mission.

While it is unclear if the report ever progressed beyond a draft version, it foreshadowed many of the changes that marked the evolution of the agency. Yet, the study reveals that many in the agency anticipated the continuation of water projects. That report stated, "New massive structures are no longer required, but smaller, less capital-intensive projects are." Duvall anticipated the Bureau upgrading older structures and becoming more involved in constructing usable water supplies. He also anticipated the agency's expertise would be tapped to assume new responsibilities possibly including a role in the "nationwide expansion of municipal and industrial infrastructure development, maintenance, and rehabilitation; the management of hazardous waste sites for EPA; engineering and construction management services for Interior agencies; and consultation between foreign nations and the US private sector." Further, the study outlined new priorities in water management, conservation, and Environmental quality.[3]

The archives contain a second version dated August 23, 1985. The cover of the report proclaimed in bold block letters, "The New Bureau of Reclamation." This report was followed up by an agency-wide assessment: *Assessment '87* which reaffirmed the change from construction of federally financed agricultural projects to become an "environmentally sensitive resource management organization."[4]

[3] Commissioner to Undersecretary, no date, "The Bureau of Reclamation, 1985-2005," NARA, Rocky Mountain Region, RG 115, Ascension 8NS-115-95-090, box 13.
[4] "Report of the Commissioner's Program and Organization Review Team" (Denver: U.S. Bureau of Reclamation, August 1993), 2. (Copy in NARA, Rocky Mountain region, RG 115, Ascension 8NS-115-95-090 box 6).

Further changes to the Bureau of Reclamation came under President Reagan in the mid-1980s. Reclamation Commissioner Robert Broadbent was promoted to replace Garrey Carruthers as assistant Secretary of the Interior. Broadbent served under William Clark and Donald Hodel; both refused to appoint a new commissioner friendly to the water interests. As Robert Gottlieb explains, "For more than two years the position of Reclamation Commissioner remained open, reinforcing the perception in Washington that the agency was vulnerable."[5]

Dale C. Duvall was named commissioner in the fall of 1986 "as part of the effort to reshape the Bureau." Duvall's budget request in 1987 was the most striking demonstration of the redefinition of the Bureau of Reclamation. There was no request for funding for unauthorized projects, and cutbacks or elimination of funding for new authorizations or projects just getting underway. Prioritization shifted a large share of the agency's budget to completing the big projects like the Central Arizona Project and the Central Utah Project "whose lengthy delays come to represent the Bureau's paralysis." Secretary Hodel stated plainly at the time that the budget request represented the end of the era of the big dam. He stated, "the most gigantic projects are already done, or in the process of being built or already rejected on economic or environmental grounds." The shift became more official later that year when a new assistant secretary for water and science, James Zigler replaced Robert Broadbent. He announced a formal change of the Bureau's mission from "an agency based on federally supported construction to one based on resource management."[6]

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[5] Robert Gottlieb, *A Life of Its Own: The Politics and Power of Water* (San Diego: Harcourt Brace Jovanovich, 1988), 69-70.
[6] Ibid, 70-2; for Hodel quote see, Philip Shabecoff, "After 85 Years, The Era of Big Dams Nears End," *New York Times*, January 24, 1987.

Under the George H. W. Bush administration, Reclamation conducted a follow up study titled *Strategic Plan.* The document revised the mission statement, "the mission of the Bureau of Reclamation is to manage, develop, and protect water related resources in an environmentally and economically sound matter in the interest of the American public."

In May of 1993 Commissioner Dan Beard began the process of reorganization to implement the changes outlined in S*trategic Plan.* The first step was another review conducted by a team of eight employees to recommend changes based on declining budgets and changing public values. The team completed its report in August 1993 after four months of study and review. Based on the team's recommendations, Beard and his staff drafted a detailed plan titled "Blueprint for Reform."

Beard's Blueprint finalized the transition process that had been sought during the Carter administration. Beard officially reaffirmed the new mission statement, emphasizing the agency's role as a manager of water in the West. Beard's plan also officially stated that the agency would not construct any new federal irrigation projects. The reorganization of the Bureau of Reclamation under Beard between 1993 and 1995 resulted in the reduction of employees by more than 1,500. Reduced several layers of management, and reorganized and consolidated the number of offices at the regional and local.[7]

Dan Beard's time as commissioner did not so much mark a turning point; rather it marked the culmination of a long process begun during the Carter

[7] Mark Svendsen, "Restructuring the U.S. Bureau of Reclamation: A Case Study," (Government of Japan, Institute of Irrigation and Drainage, Ministry of Agriculture, Forestry, and Fisheries, 1997), 16-7.

administration, a process with which Beard was intimately familiar. A process which continued as he worked with California Congressman George Miller to reshape reclamation projects like the Garrison Diversion and the Central Utah Project. Thus, when seen through the arc of Dan Beard's career, the significance of what Jimmy Carter attempted to do becomes more evident. Despite the mistakes, controversy, and setbacks, President Carter both achieved and inspired significant success.

While that success did come at a cost, today, more than ever, the significance of what President Carter attempted becomes clear. The level of deficit spending and the federal deficit have exponentially ballooned since Carter's term in office. The United States still does not have a comprehensive water policy. With growing population and the potential for increased water scarcity due to climate change, the need for a national water policy is greater than ever. Perhaps the valuable lessons can be learned from the Carter administration for those willing, and brave enough to take on the challenge like Carter did. One wonders, despite the success noted here, if Carter had taken a "less rigid approach" what kind of “rich dividends” his efforts would be paying now.

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