

Half Moon Bay Review

EDWARD M. BAUER, JR., PUBLISHER

714 KELLY AVENUE

PHONE 726-4424

HALF MOON BAY, CALIFORNIA — 94019



5/26/73

Dear Mr. Warren:

A great many Californians are getting sick and tired of the antics of the legislature.

Typical is the rush to create some new government agency to do this or that---always at an increase in the total for government operations.

When will you and others elected to represent the people start representing those who want lower taxes- less government expense.

There is always talk of "eliminating" but just how many agencies have you voted to eliminate? How many bureaucrats have you chopped of the payroll? Didn't you vote to increase your own pay?

Instead of ~~try~~ trying to create unemployment by reducing power and appliance sales, the thrust should be to encourage more power development from nuclear and offshore oil drilling.

Respectfully,

Ed Bauer

'Super agency' urged to conserve electricity

SACRAMENTO, Calif. (AP)—A major California electrical power act was proposed today with the warning that "over the next four to six years we will start experiencing brownouts and blackouts which will not be isolated incidents."
The measure would set up a single state agency to take over all responsibility for the development and management of electrical power, Assemblyman Charles Warren, D-Los Angeles, told a news conference.
In the development of generating facilities, the body would

replace 33 state agencies now involved, Warren said.
And to conserve electricity, it would be empowered to go so far as outlaw the sale of appliances it deems wasteful of electricity.
Warren said California is the first state to seek such complete authority over electrical power. But he said he has "some misgivings" about whether the proposal will win approval this year.
The measure was written by Warren and the Assembly Subcommittee on Electrical Energy after extensive studies including six days of hearings.

May 28, 1973

Mr. James S. Copley, Publisher
The San Diego Union
940 Third Avenue
San Diego, California 92112

Dear Mr. Copley:

Enclosed is a copy of my AB 1575 dealing with the critical problem of electrical energy in California. I believe it is deserving of your understanding and attention. As you know, it is imperative for the Legislature to act as soon as possible in order that California will be assured a sufficient future supply of electricity.

Also enclosed is a copy of my statement concerning the bill, which attempts to digest its essential provisions.

I would appreciate an opportunity to meet with you or your editorial board in order to discuss the need for the legislation and the propriety of the approach taken.

Please advise me if such arrangements can be made.

Sincerely,

CHARLES WARREN

CW:prt

Enclosures

SAME LETTER ALSO SENT TO:

Mr. Daniel H. Ridder, Publisher
Independent, Press-Telegram
604 Pine Avenue
Long Beach, California 90801

Mr. Charles L. Gould, Publisher
San Francisco Examiner
925 Mission Street
San Francisco, California 94119

Mr. Otis Chandler, Publisher
Los Angeles Times
Times Mirror Square
Los Angeles, California 90053

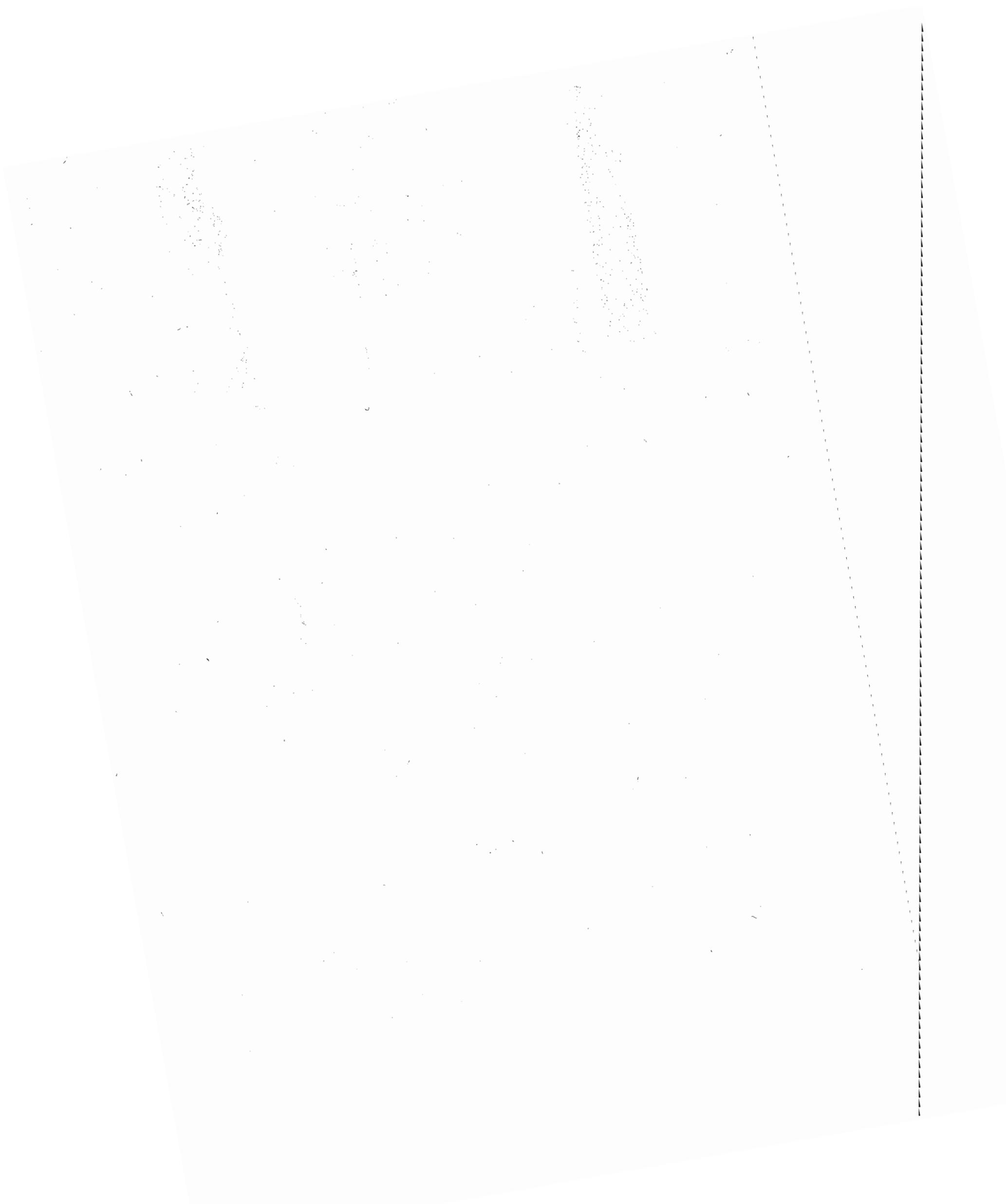
Mr. Charles de Young Thieriot, Publisher
San Francisco Chronicle
860 Howard Street
San Francisco, California 94103

Mr. C. K. McClatchy
Executive Editor
The Sacramento Bee
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Mr. Joseph B. Ridder, Publisher
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REVENUE AND TAXATION
JUDICIARY

Assembly California Legislature

DANIEL E. BOATWRIGHT
ASSEMBLYMAN, TENTH DISTRICT

May 30, 1973

Honorable Charles Warren, Chairman
Subcommittee on State Energy Policy
2016 State Capitol
Sacramento, California

Dear Charles:

I am in receipt of your letter of May 24 with its enclosures pertaining to energy resources.

I am in agreement of the general intent of A.B. 1575. It would seem that the bill will provide needed correlation of regulating power producing facilities and the conservation of available energy.

I was wondering if under Section 25403, the rate changes which are contemplated to achieve energy conservation objectives might not result in rates which are so high as to be, in effect, penalties in the consumption of energy at certain times by certain segments of our population.

I also believe, we must shorten the time now required for approval and citing of power facilities as contemplated by Section 25500.

Can be done under bill in months, rather than years as is now the case.

Rate changes by Commission to P.U.C. - in PUC domain agree, but primary support on basis of their disagreement w/o implementing.

AB 1575

Honorable Charles Warren

May 30, 1973

- 2 -

I think serious consideration should be given to the new commission to preempt both the State and Regional Coastal Commission in the siting matters.

I wonder if you would consider adding a similar section to Section 25522, which pertains to environment impact review, to provide for economic impact review.

Very truly yours,



DANIEL E. BOATWRIGHT

DEB:lmw

No. This is subject
of a separate bill I am
carrying: AB 933.

This cannot be
done w/o a
constitutional
change.

June 5, 1973

Mr. Edward M. Bauer, Jr., Publisher
Half Moon Bay Review
714 Kelly Avenue
Half Moon Bay, California 94019

Dear Mr. Bauer:

I would appreciate your comments after reading
the enclosed.

Respectfully,

CHARLES WARREN

CW:prt

Enclosure

AD 1575

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Assembly California Legislature

COMMITTEES
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Ways and Means
Natural Resources and
Conservation
Planning and Land Use
Judicial Council of
California
Select Committee on
Administration of
Justice

CHARLES WARREN
MEMBER OF THE ASSEMBLY, FIFTY-SIXTH DISTRICT
CHAIRMAN
COMMITTEE ON JUDICIARY

July 11, 1973

LAT Articles

Enclosed is a major article published recently in the Los Angeles Times, which you might have missed.

It is important to California inasmuch as current AEC and industry estimates indicate the number of nuclear units needed to meet demand for electricity will have to increase from the present two to approximately one hundred (100) in the next 25 years. The wisdom of our present policy should be reviewed in the light of this and other concerns with nuclear generation.

My AB 1575 attempts to minimize this impact by demanding conservation measures, which are now possible without altering our life style.

Cordially,

CHARLES WARREN

CW:vlg

Enclosure

This part does come out better than this.

by Nuclear wastes

BY LEE DYE

Times Staff Writer

Mismanagement of highly radioactive waste products generated by atomic reactors over the last three decades is threatening extensive areas of the United States with massive contamination, jeopardizing the safety of thousands of residents, The Times has learned.

The U.S. Atomic Energy Commission, official custodian of these deadly byproducts of the nuclear age, repeatedly has taken calculated risks and on many occasions disaster has been avoided partly because luck has been with the AEC.

Today, the AEC is unwilling to admit the gravity of the problem and apparently is intent on following an equally dangerous course in the future despite scientific opinion that the crisis can be resolved safely.

The story of the last three decades is told in reflections by scientists in reports from private consultants, advisory commissions, governmental agencies and even the AEC itself.

Deadly Radioactive Leak

The evidence:

—More than half a million gallons of deadly radioactive liquid has leaked from huge storage tanks at the AEC's Hanford facility near Richland, Wash. Some of the liquid is so hot that it boils from its own radioactivity and if allowed to boil dry would melt through its steel tank. The leaks have released such deadly radionuclides as plutonium, strontium 90, cesium and others.

—Other leaks have occurred at a similar facility at Savannah River, S.C. And in at least one case some of the radioactive elements entered the water table there.

—Plutonium, the most carcinogenic (cancer causing) agent known to man and quite possibly the most dangerous substance on the earth, has been buried in ordinary steel drums at the National Reactor Testing Station near Idaho Falls, Ida., despite stern warnings that the drums would leak.

—Radioactive materials have been found in the ground water beneath the Idaho Falls facility and could pose a serious threat to water supplies for much of the Pacific Northwest.

Plutonium Accumulates

—Accumulation of plutonium in a trench at the AEC reservation near Richland has reached such a high level that a nuclear chain reaction is possible, according to an official AEC report. The AEC is now developing equipment to mine its own trenches in hopes of recovering the plutonium, which is used in the construction of atomic bombs.

The scope of the problem is staggering.

It has been estimated, for example, that there is more radioactivity stored at the single Washington reservation than would be released during an entire nuclear war.

The crisis is intensified by the nature of the materials. For example, plutonium is produced when uranium is bombarded with neutrons during the reactor process. It takes 24,000 years for plutonium to reduce its radioactivity by one half (thus it has a half-life of 24,000 years). Once ingested, plutonium attacks the bones and lungs. A tiny speck can prove extremely hazardous.

As a result, this deadly manmade substance must be isolated from man's environment for thousands of years.

Top scientists insist that it can be done. But time is running out. Nuclear power is still in its infancy but in the decades ahead atomic reactors will proliferate as the world moves fully into the nuclear age.

"We are in a mess right now," one key AEC consultant confided to The Times, "and what bothers the hell out of me is we are only on the toe of the nuclear age."

"We're sitting on a time bomb," he said.

The consultant is a scientist with considerable national standing. He is a strong supporter of nuclear power, but he believes the nation is in serious danger because of the AEC's failure to resolve the radioactive waste crisis.

It is the waste, not the generation of power or the nuclear reactors themselves, which has brought the country to the brink of a national emergency, he insists.

Details Given

The consultant's identity is withheld because he fears that he and his associates would be harmed professionally by disclosure of his name.

However, he and others have furnished The Times with documents which reveal some details of the AEC's failure to deal with the problem adequately.

In a sense, it all really began on Dec. 2, 1942, when scientists operated the first self-sustaining nuclear chain reaction during the wartime Manhattan project.

The experiment confirmed the possibility of constructing a weapon of incredible potential at a time when this nation was at war.

In order to build the bomb, however, it was necessary to build a series of nuclear reactors to produce the fuel. A search was launched for a site on which to build the reactors.

It was determined that the reactors would have to be located far from any heavily populated areas, in a suitable climate, with abundant quantities of cooling water and electric power.

Searchers soon hit on the area near Richland, Wash., and on Jan. 16, 1943, Gen. Leslie Groves, head of the wartime atom bomb development project, approved the site.

Time had not permitted exhaustive geological examination of the area, but in the years ahead, luck would fall in favor of the sprawling federal reservation that became known as the Hanford Works.

The bomb brought the end of the war, but the end of the war did not bring the end of the bomb.

In the succeeding cold war, the nation continued to add to its nuclear stockpile and nine reactors were built at Hanford to aid in that effort. Five other reactors were built at

The reactors produced plutonium, but they also produced something else—enormous quantities of highly radioactive materials. Even the water used to wash the uniforms of workmen became contaminated, but the level was so low that it could be discharged into the environment without serious danger.

Built Huge Tanks

Not all of the problems were so easily solved, however.

The reactors also led to huge quantities of highly radioactive liquid waste. To store the waste, Hanford built more than 150 huge underground concrete tanks, lined with carbon steel. The tanks ranged up to a million gallons in capacity and were buried a few feet below the surface of the ground on a plateau about seven miles from the Columbia River.

Initially, the liquid was stored in the tanks without serious problems but as the system became more refined the waste grew more dangerous. In an effort to reduce the amount of liquid, the fluid was concentrated through evaporation.

Also, a system was developed to reprocess fuel cells from the reactors, thus regaining usable uranium but yielding liquid waste that was so highly radioactive it constantly boiled from its own heat—and would continue to do so for years and years.

Cooling Devices Used

The civilian Atomic Energy Commission, which took over Hanford after the war, had a problem. The self-boiling waste could not simply be dumped into the tanks because it would grow so hot it would melt the concrete and steel within minutes.

So the AEC equipped many of the tanks with cooling devices to hold down the temperature of the liquid. In addition, air was circulated in the tanks to stir the liquid, thus preventing solids from settling on the bottom and burning through the tank.

The first indication that something was wrong came in 1958, according to a 1968 secret report to the Joint Committee on Atomic Energy by the U.S. comptroller general. In August, 1958, one of the self-boiling tanks began leaking. About 35,000 gallons of the highly dangerous material seeped into the ground before the leak was stopped.

Fortunately, the clay soil beneath the tank held the liquid within the first few feet, thereby preventing it from entering the water table about 200 feet below the tank and eventually entering the Columbia River.

But it was to be the first of a long series of leaks. During the following seven years, nine more tanks sprang leaks. Losses ranged from small amounts to 55,000 gallons.

More recent leaks have been larger—70,000 gallons two years ago and 115,000 gallons within the last month.

In 1959, one year after the first leak was detected, the civilian contractor for Hanford asked that new tanks be built but the request was denied by the AEC because AEC officials believed existing tanks could be made to handle greater amounts by reducing the reserve capacity.

Two years later the contractor renewed its request warning that the last tank would be filled in 1964, and the AEC finally agreed.

Temperature Control

A short time later, the AEC learned that it had erred in believing that the capacity of existing tanks could be increased substantially. Temperature control problems resulting from the greater concentration of the liquid forced the contractor to begin filling the last tank in 1963, even before construction on the newly authorized tanks had started.

For two years — from January, 1963, until the new tanks were completed in January, 1965—no reserve tanks were available for self-boiling liquids, giving rise to what the comptroller general described as "certain operational risks."

If one of Hanford's tanks had suddenly developed a major leak, it would not have been possible to pump the liquid into a spare tank. But even under those conditions, the reactors were not shut down until the new tanks were completed.

In November, 1963, the final tank began leaking, but only a small amount of radioactivity was detected. Salt was added to the tank in an effort to seal the leak, and further monitoring satisfied AEC officials that the leak had been sealed.

Although that particular tank had a proven weakness, it was filled even beyond the normal level. By December, 1964, the tank exceeded its designed capacity by 10% and exceeded the amount committed to any previous self-boiling tank by 22%.

The following month a sudden release of steam occurred, and the ground in the area began to tremble, according to the comptroller general's report. As terrifying as it must have been there was nothing the AEC could do but watch.

Risk Increased

Fortunately, only a small amount of radioactivity was released, followed by another small leak two months later, according to the AEC. The comptroller general's report commented:

"From the time the tank was filled in December, 1964, until the present (1968), it appears that there has been an increased risk of contaminating the environment with highly radioactive material.

"According to the AEC, while facilities have been available for emptying the tank (since 1965), the risks involved in transferring the self-boiling materials to other tanks were believed to be much greater than those incurred by allowing the radioactivity to decay in place."

The problem cited above was not an isolated incident. The civilian contractor filed a reevaluation report on the waste management program in 1967, warning that 10 tanks already had leaked and 14 others then in use were weakened through structural stress and corrosion.

Report Quoted

To back up its claims, the contractor quoted from a report by the Illinois Institute of Technology, which had been hired on a consulting basis to determine the condition of Hanford's tanks. The report stated:

"Current analyses by the Illinois Institute of Technology have revealed that the self-boiling tank structures are being stressed well beyond accepted design limits."

As of this date at least 42 million gallons of high-level liquid radioactive waste are stored at Hanford. While the AEC maintains that it now has ample spare storage at Hanford, most of the tanks being used are between 20 and 30 years old.

Some tanks are being reused despite warnings to the contrary by the Illinois Institute of Technology and others. IIT estimated the life expectancy of the older self-boiling tanks at 20 years and warned that it probably would run much less.

Confirmation of that came recently when at least 115,000 gallons escaped into the ground. The loss amounted to nearly one-third of a 29-year-old tank's contents, and the leak was not detected for several days.

The AEC insists that all of the radioactive particles which have leaked from Hanford's tanks have remained in the soil, far above the water table.

Threat Minimizes

Thomas A. Nemzek, manager of the Hanford operation, insisted in an interview with The Times that none of the material released so far has reached ground water. And he said that even if it did it would take at least 1,000 years for it to travel through the water table and into the Columbia.

By that time, most of the radioactive material will have decayed to the point that its threat to man will be minimal, he said.

Other geologists expressed considerable skepticism over Nemzek's figures.

The figure is not included in numerous other pertinent data, including the comptroller general's report, a study by the National Academy of Sciences, plus several geological studies of the area.

Pressed for a fuller explanation, Nemzek said the estimate resulted from experiments with a "model" of the tank area.

A scientist who has worked with the AEC on this particular problem agrees that it would take thousands of years for the material to reach the Columbia via the water table, but he insists the problems growing out of the leakage are severe, nonetheless.

If it should ever become necessary to remove the tanks or excavate the area, radioactive particles would be exposed. Winds could carry the particles to populated areas, he said.

Deadliness Remains

The material closest to the surface includes plutonium. That element decays so slowly that 24,000 years from now half of all the plutonium that has been spilled will still be there and just as deadly as ever.

If the AEC is sure that the leakage has not posed a serious threat, why not just dump the tanks? The Times posed that question to Nemzek's associate, Oscar Elgert, Hanford's director of production and waste management programs.

"It just isn't done," Elgert said.

"We don't know what the world will be like 1,000 years from now," he added, noting that such things as water tables are influenced by man and his activities, including the building of dams and irrigation projects.

Both men were asked what would happen if Hanford lost its ability to cool the self-boiling tanks through sabotage or some natural disaster. Nemzek, director of the facility, said he did not know. Elgert said the material would "volatilize," thereby releasing radioactive material into the atmosphere.

Winds and rivers could carry the contaminants to wide areas of the country.

A program is under way to solidify the liquid wastes at Hanford, and within a few years all of the liquid now stored in the older tanks should be solidified. That will make it easier and safer to store.

But as long as Hanford's one remaining reactor continues operating, at least some liquids will be stored there — probably several million gallons. And it will probably be stored there for many years, since it takes at least three to five years for the liquid just to stop boiling.

And, like Hanford, the AEC's other major storage facilities will continue to have problems. The AEC also maintains storage facilities at Savannah River and Idaho Falls. All three have had serious problems, and all three have come under attack by various agencies.

In 1955, the National Academy of Sciences—National Research Council formed a Committee on Geologic Aspects of Radioactive Waste Disposal to work with the AEC.

The committee issued a 10-year report in 1966, which included serious criticisms of AEC operations at all three major sites, plus the Oak Ridge National Laboratory in Tennessee.

The committee said it was impressed with the dedication of staff personnel at each of the facilities, but it expressed fears that too often "considerations of long-range safety are in some instances subordinated to regard for economy of operation."

The committee was clearly shocked over some operations, and it questioned the wisdom of AEC personnel who expressed confidence in the ability of the soil to keep radioactive particles from reaching ground water at Hanford, and especially at the National Reactor Testing Station in Idaho.

The committee found in 1960:

"At both sites it seemed to be assumed that no water from surface precipitation percolates downward to the water table, whereas there appears to be as yet no conclusive evidence that this is the case . . . At the National Reactor Testing Station pipes were laid underground without ordinary safeguards against corrosion on the assumption that the pipes would not corrode in the dry soil, but they did.

"At NRTS, plutonium wastes are given shallow burial in ordinary steel drums on the same assumption. Corrosion of the drums and ultimate leakage is inevitable.

In 1970, a full decade later, the Federal Water Quality Administration added a footnote. The agency released a study which showed that radioactive wastes from NRTS had, indeed, entered the ground water.

Only time will tell just how serious that may be.

The NRTS is located on the Snake River plain of southeastern Idaho, which is underlain by the Snake River Aquifer, one of the world's most productive ground-water reservoirs. The reservoir feeds into the Columbia River system.

Leakage Problem

The committee went on to warn that none of the AEC's facilities at Hanford, Idaho Falls or Savannah River was located in areas geologically suitable for the storage of high-level wastes.

Savannah River has had its own problems with leakage. Unlike Hanford and Idaho Falls, where the water table is some distance below the tanks, at Savannah River the tanks are on the same level as the water table.

There have been at least seven leaks at Savannah River and at least one of the seven resulted in radioactive waste material actually entering the water table.

The results of that are not yet known. Once it was lost in the water table it was impossible to trace, as no one knows exactly where it is or what to do about it.

The tanks at Savannah River differ from the tanks at Hanford in that the former have double steel jackets, one inside the concrete and one outside.

In theory, if material leaks through the inner lining and through the concrete, it will be trapped by the outer jacket until it can be pumped into another tank. It usually works that way, but on at least one occasion the amount of leakage has exceeded the capacity of the second jacket and at least 700 gallons escaped the secondary containment before workmen could begin pumping the material into a spare tank.

According to the AEC, some of that entered the water table.

The AEC also concedes that no one knows just how long tanks like those built at Savannah River will last. The comptroller general's report indicated that the AEC would continue using the tanks until it found out just how long they would last.

Problems of waste disposal are not limited to the large tanks. Hanford has its own peculiar problem these days.

For more than two decades Hanford has dumped relatively low-level liquid waste into concrete-lined, enclosed trenches. The liquid contained highly diluted radioactive substances, including plutonium.

The water was allowed to drain into the ground, trapping the radionuclides within the first few feet of soil. When the contamination reached a certain level, Hanford moved on to another trench.

Conditions Studied

Unfortunately, a couple of years ago the AEC discovered that too much plutonium—more than 200 pounds—had been allowed to accumulate in trench Z-9.

"Due to the quantity of plutonium contained in the soil of Z-9 it is possible to conceive of conditions which could result in a nuclear chain reaction," the AEC conceded in a 1972 Environmental Statement.

Although the AEC has tried to play down the danger, the threat was real enough to convince Congress to appropriate \$1.9 million for equipment to enable the AEC to mine its own trench.

Hanford's Nemzek insists that for a chain reaction to occur the conditions would almost have to be "engineered."

Nonetheless, equipment to remove the material is under construction.

Asked what they planned to do with the radioactive material after they dig it up, Nemzek replied:

"We'll probably put it in steel drums and bury it."

Future Trouble

What troubles many experts, however, is not only what has happened in the past but what is likely to happen in the future.

The AEC has considered a number of ways of permanently disposing of high level radioactive wastes and had expected to have facilities available in the next year or so in a salt bed in Kansas.

Most geologists believe salt would be the best formation in which to bury the waste, since the existence of the salt proves that no water has been present for hundreds of thousands of years. That is significant because water moving beneath the surface could carry the material into man's food and water chain.

But the salt bed program, called Project Salt Vault, fell apart at the seams. Just as the AEC was ready to move into high gear, someone discovered that a salt mine a few miles away had lost 175,000 gallons of water used during the mining operation.

The water simply disappeared into the salt bed. Where did it go? The AEC wasn't sure but it concluded that if that much water could simply disappear, water from other sources could follow the same course and the salt bed was deemed not as safe as the AEC had thought.

Other geological problems also arose, the Project Salt Vault was abandoned, setting the AEC back several years in its waste storage program.

Scientists Complain

The AEC is now almost back where it started. It plans to build a huge "interim" storage facility, somewhere, and hold waste products there for centuries, if need be.

A number of scientists have complained that there are better ways of doing it, but they insist that the AEC is not listening.

"They don't even want to hear any other ideas," said one scientist who is closely associated with the problem.

He pointed out that the interim storage facility is expected to cost more than \$300 million. The AEC's primary program aimed at exploring alternatives is now under way by Batelle Northwest Laboratories at a cost of around \$200,000.

In the years ahead, the bulk of the radioactivity waste will be produced by commercial fuel reprocessing centers—probably at least half a dozen initially—scattered across the country.

Each center will be required to take care of its own waste for up to 10 years. This means they will be storing high-level liquid wastes in tanks for several years until the liquids can be converted to solids and transported to the AEC's proposed "interim" storage facility.

Called Insane

Such a prospect sends chills through the veins of many experts, including UCLA's Dr. George Kennedy, an internationally known geologist who has worked with the AEC on its waste storage program.

"It's insane," Kennedy told The Times.

Kennedy, like others in his field, believes it is possible to store the wastes safely, but he concludes that the AEC is heading in a disastrous direction.

The answer, Kennedy insists, lies in permanent storage in a geological formation from which escape would be virtually impossible.

Such formations include former gas fields, which must have remained isolated for millions of years or the gas would not have formed. However, Kennedy believes salt still offers the most promising permanent repository, but he disagrees with the AEC's preference for salt beds.

Salt also occurs in giant domes, some of which are greater than 10 miles across and four or five miles deep. Salt beds generally run no more than a few hundred feet thick.

Kennedy believes the nation's nuclear waste products which will be generated during the next few centuries could be buried in a single salt dome. But he says the AEC is not moving in that direction because it is hung up on one requirement:

"Retrievability."

"They want to go around and pat it on the head each Sunday so they'll know everything's all right," Kennedy said. "You can't do that if you bury it in a geological formation."

'Emotional' Issue

Kennedy believes the issue of retrievability is an emotional one. It is a product of "fears voiced by people with no geological insight," he said.

"My idea is to get this stuff out of the environment in some sort of safe, permanent storage. But it can't be both permanent and retrievable," he said. "You shouldn't even use both words in the same sentence."

Dr. Gary Higgins, a senior scientist at the University of California's Lawrence Radiation Laboratory in Livermore, agrees with Kennedy.

"It's (retrievability) the most illogical thing I've ever heard of," Higgins said.

Documents within the AEC indicate that retrieval is a prime concern. The commission emphasized the point in a Federal Repository Progress Report to the Joint Committee on Atomic Energy, dated December, 1972.

But by imposing that requirement, Kennedy maintains, the AEC automatically eliminated the safest form of storage—burial in geological formations.

Kennedy has conducted a one-man campaign to persuade the AEC to consider burying the material in a salt dome. He has accumulated vast files on the subject and hundreds of letters from AEC officials—many of which suggest that it sounds like a good idea and somebody ought to do something about it.

Not all of the letters have been friendly. He received one curt note from a top AEC official, suggesting bluntly that he mind his own business.

Domes Available

Kennedy argues that a salt dome—unlike a salt bed—is isolated from water, and has been for centuries or the salt would not be there. He estimates there are about 400 domes in this country, several of which could be used for storage.

He proposes that one site be selected, that all nuclear fuel reprocessing be done there and the commercial sites across the country closed. The waste products could be pumped immediately into the salt dome, thereby eliminating any need for temporary storage facilities.

Wastes, for example, could be put into metal

cannisters and dropped down a mine shaft. They would generate considerable heat, melting the salt at the bottom of the shaft.

The cannisters would then automatically self-bury themselves, sinking all the way to the impervious rock layer below the dome. The salt above them would "refreeze."

Adjacent oil and gas fields, which are usually found bearing up against salt domes, would prevent radioactive materials from escaping, even if they somehow managed to get out of the dome itself, Kennedy maintains. Escape from salt domes would seem most unlikely, however, because horizontal motion through solid salt for several miles would be required, he said.

Nearby oil and gas fields could also provide a repository for radioactive gasses generated during the fuel reprocessing cycle, thus eliminating the present need to release much of that gas into the atmosphere.

Kennedy said France has been disposing of radioactive wastes in salt domes for years and has had no serious problems.

"They can't understand what the problem is over here," Kennedy said.

The AEC's standard response is that salt domes are being studied, as well as other suggested disposal methods.

Higgins believes several methods are possible, taking advantage of various geological formations.

A salt dome might be the answer along the Gulf Coast, he said, but other methods might be more suitable for other areas of the country. For example, several huge underground caverns already have been created by atomic bombs. At least some of these appear to be tight. Why not experiment with using one of those caverns for waste disposal?

"They are going to have to be monitored for centuries anyway," Higgins said. "Why not try it?"

Kennedy disagrees with this concept because he believes the shock of the initial blast may have cracked the geological formations which overlie the cavern.

At any rate, both men agree that the problem can be solved, but both—like many others—believe the AEC is not moving in that direction.

The AEC's standard response is that suggestions such as these are being "studied."

MAJOR SOURCES FOR ARTICLE ON NUCLEAR WASTE

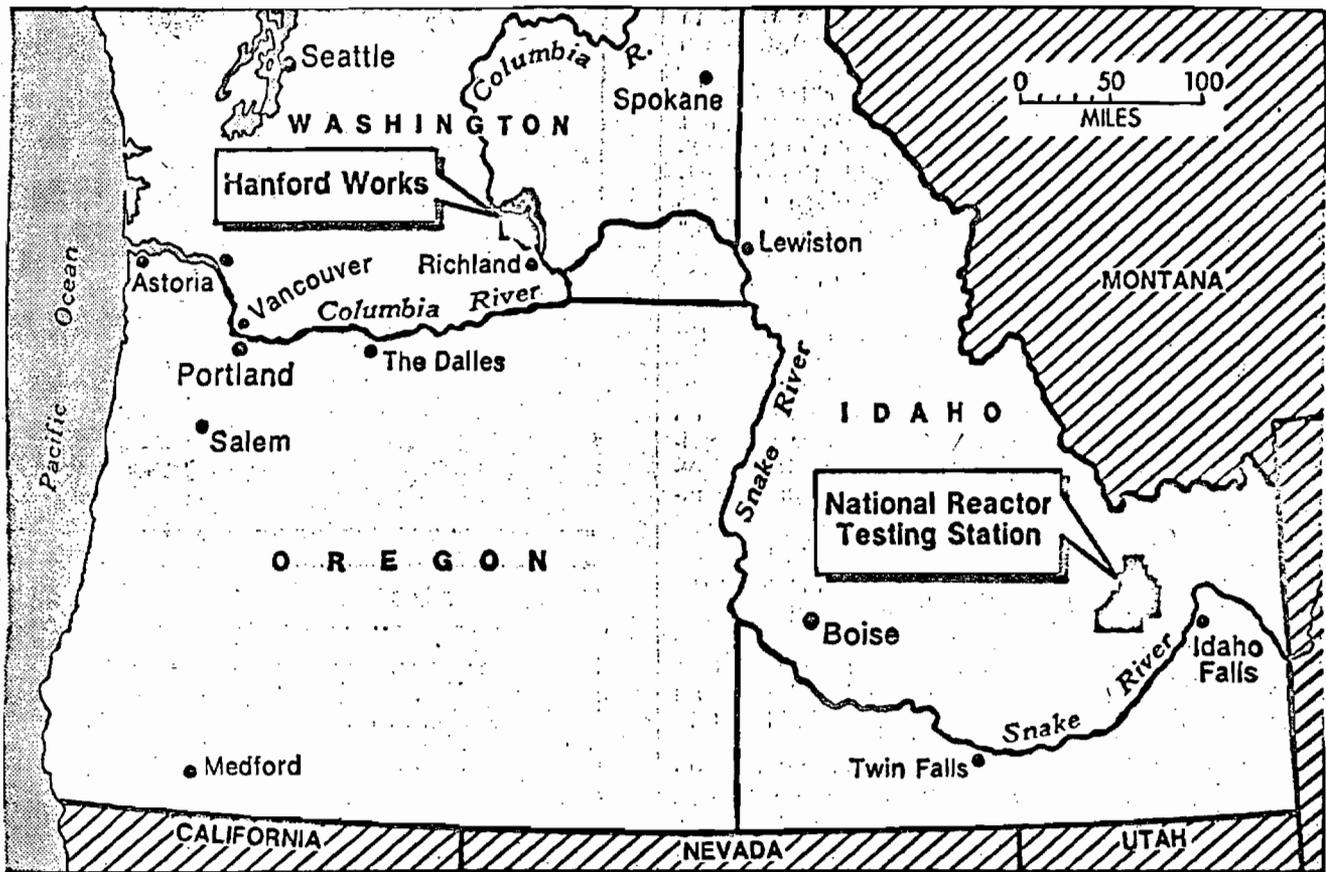
Principal sources for the accompanying story on radioactive waste products include:

—Consultants to the Atomic Energy Commission; experts both inside and outside of the AEC, and one scientist who has been deeply involved in many of the AEC's major programs.

—Personal correspondence between one consultant and numerous AEC officials.

—A secret 1968 report (Observations Concerning the Management of High-level Radioactive Waste Material) to the Joint Committee on Atomic Energy by the U.S. Controller General.

—A 1966 report by the National Academy of Sciences; plus numerous AEC publications and reports.



ATOMIC FACILITIES — Map locates the Hanford Works near Richland, Wash., where more than half a million gallons of radioactive liquid has leaked from storage tanks, and National Reactor Testing Station near Idaho Falls, where plutonium has been buried in ordinary steel drums. **Times map by Donald Clement.**

SACRAMENTO ADDRESS
STATE CAPITOL
SACRAMENTO, CALIF. 95814
PHONE: (916) 448-7644

DISTRICT ADDRESS
1411 WEST OLYMPIC BLVD.
SUITE 308
LOS ANGELES, CALIF. 90015
PHONE: (213) 396-8042

Assembly California Legislature

COMMITTEES
JUDICIARY
WAYS AND MEANS
NATURAL RESOURCES AND
CONSERVATION
PLANNING AND LAND USE
JUDICIAL COUNCIL OF
CALIFORNIA
CALIFORNIA COUNCIL ON
CRIMINAL JUSTICE

CHARLES WARREN

MEMBER OF THE ASSEMBLY, FIFTY-SIXTH DISTRICT

CHAIRMAN
COMMITTEE ON JUDICIARY

July 13, 1973

Honorable Ronald Reagan
Governor's Office
State Capitol
Sacramento, California

Dear Governor Reagan:

For the past several months, as Chairman of the Subcommittee on State Energy Policy, I have been involved in an intensive study of all aspects of the energy program pertaining to electricity. The result of that effort is AB 1575.

I received recently a Department of Finance analysis indicating they have assumed a neutral position on the bill inasmuch as "a major cabinet issue memo has been drafted concerned with the problem of energy resources and conservation." This information suggests to me the desirability of meeting with you or your cabinet members concerning this subject.

This is not a partisan issue nor has my approach had any purpose other than solving what is truly a serious problem for the state. I am frankly quite alarmed about its dimensions and the paucity of acceptable means by which it maybe solved. My own bill I believe to be but a modest approach, the success of which in reducing the problem to more manageable proportions can not be assured.

I know what I ask is contrary to your practices, but I respectfully suggest that the dimensions of the problem are such that you should consider it.

Respectfully,

A handwritten signature in cursive script, appearing to read "Charles Warren". The signature is written in dark ink and is positioned below the word "Respectfully,".

CHARLES WARREN

CW:vlg

California Legislature

ASSEMBLY SCIENCE AND
TECHNOLOGY ADVISORY COUNCIL

ROOM 508 LIBRARY AND COURTS BUILDING
SACRAMENTO 95814

*Copies to all
legislators
8/7/73*

Contact: Stephen J. Larson
(916) 445-7978

FOR IMMEDIATE RELEASE
August 2, 1973

The Energy Panel of the Assembly Science and Technology Advisory Council today announced its strong support for AB 1575 (Warren). AB 1575 establishes a State Energy Resources Conservation and Development Commission that has as principal responsibility, the siting of power plants in California.

The Chairman of the Panel, Bernard D. Haber, and Professor Lester Lees, a member of the Panel, presented testimony in support of the measure today in Los Angeles before the Assembly Planning and Land Use Subcommittee on State Energy Policy.

"....Assembly Bill 1575 representsthe most far reaching, integrated, conceptually sound and complete power facility siting and energy conservation measure produced by any legislative body in the country," Haber said.

"The measure is commendable for its recognition of the importance of (a) alternative sites for each site required; (b) an open planning process; (c) provision for institutionalized environmental advocacy; (d) insofar as possible, one-step decision making, but with attention to local interests; (e) payments in lieu of property taxes by municipal and county utilities; (f) dedication of the areas for public use, and control of development

SAME LETTER ALSO SENT TO:

Senator Joseph Kennick
Senator George Zenovich

August 13, 1973

Honorable James R. Mills
President Pro Tempore of the Senate
Room 5100, State Capitol
Sacramento, California

Dear Jim:

This is just a reminder of my conversation with you concerning my AB 1575 and its referral to policy committee.

As you will recall, I requested that the bill be referred to the Public Utilities Committee. Inasmuch as that committee is familiar with the subject matter, having considered similar legislation authored by Senator Alquist, I believe my request is not inappropriate. Further, rumor has it that the opponents are urging that it be referred to two policy committees, which in effect would deny it any opportunity for enactment this year. Inasmuch as the legislation authored by Senator Alquist was not treated in this fashion, I think it would be unfair to impose such restrictions on my bill.

I would personally appreciate whatever assistance you can give me in this matter.

Cordially,

CHARLES WARREN

CW:prt

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August 13, 1973

Honorable Robert S. Stevens
Member of the Senate
Room 4031, State Capitol
Sacramento, California

Dear Bob:

In our telephone conversation this morning, I failed to recall that I will be out of the state next week and unable to attend the meeting of the Senate Rules Committee. In fact, I will be in New Hampshire attending an energy conference sponsored by the National Bureau of Standards.

I hope you will be able to vote this coming Wednesday to refer my AB 1575 to the Senate Committee on Public Utilities without reference to any other policy committee.

Cordially,

CHARLES WARREN

CW:prt



August 13, 1973

Honorable Robert J. Lagomarsino
Room 5080, State Capitol
Sacramento, California

Dear Bob:

I have tried to see you and have telephoned you about my AB 1575, which is before the Senate Rules Committee for committee assignment. Rumor has it that the opponents are trying to have my bill referred to two policy committees, i.e., Public Utilities and Governmental Organization.

Inasmuch as a similar bill, authored by Senator Alquist, was referred only to the Public Utilities Committee, I would personally appreciate your voting to treat my bill in the same fashion.

This is a very important bill to me, one on which I have been working for the last eight months. It is important to the State of California inasmuch as the problem requires immediate attention, which would be denied if the bill was referred to two policy committees. Again, I would personally appreciate whatever you can do to give me some assistance.

Cordially,

CHARLES WARREN

CW:prt



*also sent
to attached*

September 6, 1973

Mr. John F. Bonner, President
Pacific Gas and Electric Company
77 Beale Street
San Francisco, California 94106

Dear Mr. Bonner:

Enclosed is a copy of SB 283. It now contains the provisions of my AB 1575 and incorporates amendments which we accepted following two days of hearings and numerous meetings with industry representatives.

I expect SB 283 to be approved in the Assembly (which has already approved the original AB 1575) following which it will be returned to the Senate for concurrent of amendments.

The bill sets forth the elements which we discussed in our meeting in San Francisco on March 28, 1973.

We have worked with your representatives in Sacramento and have accepted a number of their suggestions:

we have reduced the siting process from a maximum of 54 months to 36 months;

we have provided for representation of a person with electrical generation experience;

we have removed the requirement of two sites being approved;

we have recast the language concerning establishment of minimum standards;

we have provided for judicial review by the Supreme Court;

Mr. John F. Bonner
September 6, 1973
Page 2

we have expanded the grandfather clause;

in numerous other ways we have acceded to the requests of your representatives.

In a meeting in my office last Thursday, industry representatives were informed of points we were willing to change and their only indicated concern was one of language. We offered them the opportunity to assist staff over the Labor Day weekend in drafting such language or, in the alternative, to review our language on the following Tuesday. They chose the latter. On Tuesday we submitted our draft.

When our amendments were incorporated in the bill on Wednesday, they appeared before the committee and made representations of opposition which had not been submitted to me and in variance with my recollections of all our previous discussions.

Because of this, I feel constrained to once again seek your personal consultation. Frankly, I believe this proposal will achieve that which you told me you required, as well as achieve other objectives with which you were not in disagreement. I have managed not only to satisfy those who are generally in opposition to your endeavors while obtaining that which you have so long sought.

At our March 28 meeting, I believe we all agreed that the electrical industry in California would soon experience serious outages in most, if not all, service areas. Time has indicated the problem may be even more severe than we then realized.

I urge your company's review of the enclosed at the highest level and offer to meet you or your representatives to answer any questions.

Very truly yours,

CHARLES WARREN

CW/ch

Enclosure

Mr. Jack K. Horton
~~Mr. F. F. McDaniel, Jr., President~~ 213
Southern California Edison
P.O. Box 800
Rosemead, California 91770

Mr. Robert U. Phillips, President
Los Angeles Department of Water and Power
P.O. Box 111
Los Angeles, California 90051



SAME LETTER ALSO SENT TO:

Mr. Sigmund Arywitz, Exec. Sec.
Los Angeles County Federation of Labor
2130 West Ninth Street
Los Angeles 90006

Mr. Henry Lacayo, Asst. Director
United Auto Workers
1930 Wilshire Blvd.
Los Angeles, California 90057

September 7, 1973

Mr. John F. Henning
California Labor Federation, AFL-CIO
1127 - 11th Street, Room 610
Sacramento, California 95814

Dear John:

Enclosed is a copy of SB 283 by Senator Alquist and myself, which I discussed with you last Thursday. I am also enclosing a copy of the analysis prepared by the policy committee staff. I should appreciate your contacting the State Senators urging their support if you are inclined to do so.

Thanks a million.

Cordially,

CHARLES WARREN

CW:pvt
Enclosures
cc: San Francisco Office

California Legislature

Subcommittee on State Energy Policy of the Assembly Planning and Land Use Committee

CHARLES WARREN
CHAIRMAN

ENERGY CRISIS REPORT

November ¹⁹~~15~~, 1973

"You mean you can't take less... it's very easy to take more than nothing." -Mad Hatter

PETROLEUM

According to recent figures, this is the breakdown on the supply of oil:

For the U.S.

Total Consumption	17,000,000	b/d*
Domestic production	11,000,000	b/d
Imports:	6,000,000	b/d
No. Africa & Mid East	1,100,000	b/d
Caribbean & Lat. Amer.	2,700,000	b/d
Canada	1,400,000	b/d
Indonesia	200,000	b/d

For California

Domestic production	918,000	b/d
Imports:	485,000	b/d

Indonesia	200,000	b/d
No. Africa and Mid. East	150,000	b/d
Iran	60,000	b/d
Ecuador	75,000	b/d

b/d = barrels per day

As a result of the latest Mid East war and American support of Israel, the Arab nations have imposed reductions of production levels and stopped exportation of crude to the United States. The condition for restoring the status quo ante bellum is withdrawal of Israeli forces to the pre-1967 war boundary lines. While diplomatic negotiations on these and related issues are underway, the time when production levels will be increased and exportation resumed cannot be estimated. Nationally, this means we will be about 1,100,000 b/d or about 7% of our normal consumption.

In California, it seems clear that we will lose, for the time being, 150,000 bbls/day input from the Middle East. Three alternative solutions seem possible: 1) Absorb the loss and implement conservation measures such as a significant lowering of highway speed limits, discontinuance of ornamental lighting, imposition of permanent daylight savings time, and imposition of total mandatory fuel allocation regulations. 2) Absorb the loss, but replace it over the next six months with oil from the Elk Hills reserve, which could be producing 700,000 b/d in six months. (Since the field is controlled by the Navy, other districts may have a say in how oil from the reserve will give Standard of California profits estimated in the first year to be as much as \$200,000,000). 3) Speed offshore oil development,

arriving in California before 1980, raising the question of opening offshore fields when ~~these~~ supplies will be available from other sources.

potentially producing 750,000 b/d by 1980.

The impact of the current Mid East crisis on California should be viewed as a warning of difficult problems ahead. Besides Mid East oil, California is now receiving 200,000 b/d from Indonesia, 75,000 b/d from Ecuador, 60,000 b/d from Iran, etc. Unforeseen events in any of these countries can have serious repercussions in California in terms of supply for current legitimate demands.

Looking to the future, we can expect from 1.2 to 1.6 million b/d to arrive in California from Alaska by perhaps as early as 1977. This oil will be carried in a new generation of very large "super-tankers" and will require special deepwater port facilities. The federal government is currently considering legislation to permit deepwater ports on the East, Gulf, and West Coasts. Questions concerning state prerogatives and responsibilities in the development of these port facilities have been hotly debated in Congress and will become an important issue here soon.

Other alternatives which should receive attention are the increased efficiency of extraction in existing and potential landside oil reservoirs and eliminating wasteful uses of petroleum products. Methods for improved production and secondary recovery could add significant supplies of oil to our stocks. The problems appear generally to be a lack of incentives and not a lack of basic technology. Similarly there seems to be an enormous potential for resolving the problem through the greater efficiency in use of oil. Cars that get more miles per gallon, more use of mass transit, and fewer half empty trips by commercial aircraft, are only a few of the possibilities.

Insert sentences from next page →

Current actions by the President ask for short-term savings of energy. They could be turned into long-term ones if decisive action is taken

Insert above
←

by both the State and federal government, *One should bear in mind that with current rates of consumption, attempts to solve only the near term supply shortage problem will only mean the problems will recur cyclically. To overcome our problems, we need a more circumspect energy policy that emphasizes conservation.*

THE FEDERAL PETROLEUM ALLOCATION SYSTEM

The President was given authority for the mandatory allocation of crude oil and petroleum products under the so-called Eagleton Amendment to the Economic Stabilization Act. The President chose instead to ask for voluntary oil allocation under guidelines requesting manufacturers to distribute supplies to suppliers in accordance with the proportion of supply provided to each supplier in a 1971-1972 base period. This program was put into effect May 31, 1973, administered by the Office of Oil and Gas in the Department of the Interior. The voluntary system produced many headaches, and the President decided a mandatory system was necessary -- but so far only for propane and "middle distillates."

The propane and middle distillate allocation systems are based on quite different criteria. The propane system is based on priorities of use while distillates are allocated simply on the basis of historic use with ^{out} consideration of essential uses being served first. The ten established priority classifications for propane use, including residential, agricultural, medical, and essential government services, must have their normal needs satisfied first and the remainder of propane supplies can then be distributed to others in proportion to their use in an October 1972 to April 1973 base period.

The middle distillates, which include kerosene, jet fuel, home-heating oil, range oil, stove oil and diesel fuel, represent a much larger use of petroleum products than propane and are going to experience about a 15% supply shortage. The basis of the system is

simply proportional allocation of supplies to wholesalers according to the historic use in the corresponding month of 1972. This procedure creates hardships because certain essential needs for fuel will be sacrificed. For example, farmers who planted more crops in 1973 because of Agriculture Department encouragement cannot harvest them because they can obtain no more fuel than they used in 1972. Two mechanisms are supposed to alleviate these problems partially. First, 10% of the middle distillate fuels allocated to each state can be reallocated by the Governor to meet hardship cases (the "state reserve"). Second, any supplies available beyond 100% of 1972 levels will not be subject to allocation.

Both mandatory programs are administered by the Office of Oil and Gas, Department of the Interior. The redirection of the state reserve will also be authorized and implemented through Interior Department representatives in each state.

Complicating efforts to allocate fuels equitably are the actions of the Cost of Living Council. The Council has held down the price of heating oil while erratically letting gasoline prices rise, giving refiners the incentive to produce more gasoline. Because of the nature of the refining process, with a fixed supply of crude, additional barrels of gasoline can be produced only at the sacrifice of an equivalent number of barrels of heating oil. Unfortunately such behavior serves only to intensify the shortage situation.

Overlaying the President's action are efforts by both houses of Congress to pass legislation requiring the President to establish a mandatory allocation system for all petroleum products plus crude oil. Final action on these measures is expected soon.

ELECTRICITY

Depending upon what we do, the supply and demand of electricity could take two paths in the future in California. Historically, the demand for electricity has grown at a rate of 7% per year statewide. This trend in growth could continue or growth could gradually slow down to perhaps 3% by the year 2000. Considerable opinion is beginning to support the position that a continued 7% trend will create large ~~disruptions~~ social ~~disruptions~~, environmental ~~disruptions~~, and economic ~~disruptions~~.

Estimated Growth in Demand for Electricity (MW)

	<u>1973</u>	<u>1975</u>	<u>1980</u>	<u>1985</u>	<u>1990</u>	<u>2000</u>
Current trend (7% per year)	29,300	33,700	47,800	67,900	96,300	195,000
Gradual slowing (from 7% to 3%)	29,300	33,300	45,000	57,800	70,600	95,300

The slow-down in growth does not necessarily mean that someone will be denied the benefits of energy. The same uses can be fulfilled but with less total energy if we begin to conserve our energy resources and eliminate wasteful uses of energy. The following table illustrates this point.

Major Potential Savings in Residential and Commercial Sectors
Over 7% Growth in Year 2000

<u>Conservation Measure</u>	<u>Capacity Saved, MW</u>
Increase Air Conditioner Efficiency	20,000
Improve Lighting Efficiency	10,700
Use Solar Energy for Space Heating, Cooling, and Water Heating	11,400
Improve Energy Insulation	5,800

(Source: Rand Corporation)

The two alternate futures for the growth in electricity demand have different implications for the sources of supply of this energy. We can rely heavily on nuclear power as the utilities now plan to do, or we can shift to a more balanced mix of sources, recognizing that there will be time to explore more novel sources if growth slows gradually. Below is a representation of what are only two alternatives might look like. The numbers themselves are only crystal ball guesses based on current information.

Possible Sources of Supply for Electricity Generation (MW)

Estimated Conventional
Utility Plans
7% Growth

	<u>1973</u>	<u>1980</u>	<u>1990</u>	<u>2000</u>
Nuclear	500	7,000	50,000	130,000
Hydroelectric	9,900	13,400	17,300	18,500
Fossil Fuel	25,000	32,000	50,000	70,000
Geothermal	400	1,050	2,200	3,500
Transfers	<u>1,900</u>	<u>1,900</u>	<u>0</u>	<u>0</u>
Total	37,700	55,350	119,500	222,000

Slowed Growth,
Mixed Strategy

Nuclear	500	5,000	16,000*	24,000*
Hydroelectric	9,900	13,400	17,000	17,500
Fossil Fuel	25,000	29,000	36,000	40,000
Geothermal	400	1,500	4,000	8,000
Transfers	1,900	1,900	0	0

Novel Sources:

Fuel Cells	0	0	2,500	7,500
Trash Pyrolysis	0	0	2,500	6,000
Central Station Solar Power	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,500</u>
Total	37,700	51,800	78,000	104,500

*Using a large proportion of advanced reactors which are inherently safer than current designs.

As you can see, there is considerable flexibility in what can be done from now to the end of the century to provide clean, safe power for the legitimate needs of California citizens--but we need to begin acting now. Unfortunately, only the current, short-term shortage has received any attention; and hardly anyone recognizes the need for a comprehensive long-term solution.

The Current Shortage and Recent Actions:

Owing to a 1971 decision by the Federal Power Commission curtailing use of natural gas as a fuel for electricity generation, the utilities have been scrambling to convert their facilities to burn oil and to find oil to burn. Because many utilities across the country also began to look for oil to replace gas supplies and then got caught in the mideast oil squeeze, the California utilities are having serious problems finding oil to burn next year. Based on recent information from the utilities on their firm contracts for oil, shortages could occur at the following times:

	<u>Shortage Date</u>	
	Total Mideast Cutoff	Partial Restoration of Mideast Oil
San Diego Gas & Elec.	December, 1974	Spring, 1975
L.A. Dept. of Water & Power	Spring, 1974	July, 1974
So. Cal. Edison	June, 1974	September, 1974
P.G.&E.	March, 1974	May, 1974

These estimates are changing almost day-by-day and should be taken only as very tentative.

To deal with this impending shortage, minimal actions have been taken by the Public Utilities Commission and the Governor.

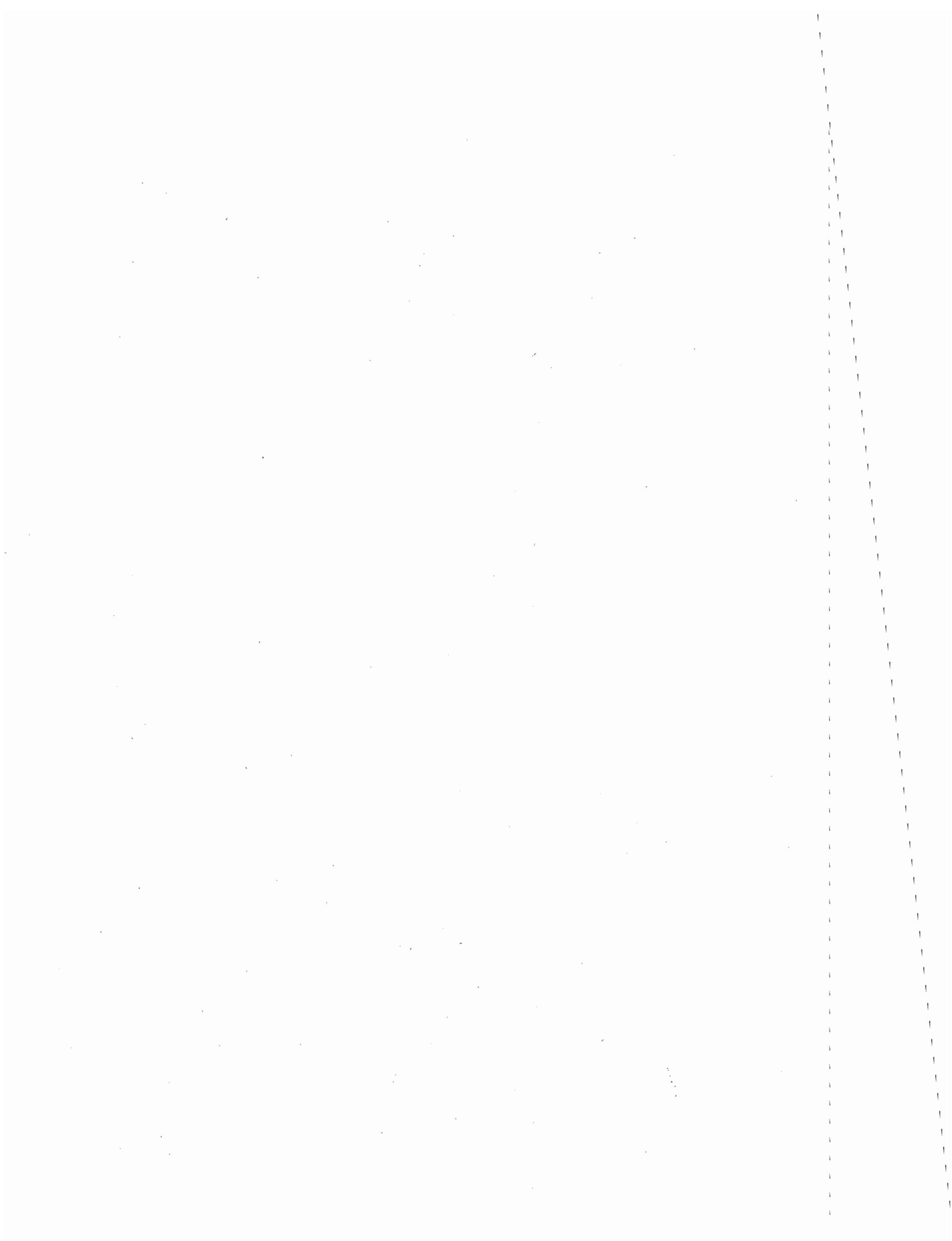
	²⁰ Firm Contracts Only, Total Mideast Cutoff	Shortage Date (1974) Partial Restoration by February	²⁰ Total Known Supplies (Firm, under negotiation, + probable)
PG&E	April	June	September
LADWP	March	July	October
SCE	June	August	October
SDG&E	December	No Problem	No Problem

(SMUD is not included in these figures because their resources are almost totally hydroelectric; only 2½% of their capacity depends on oil and is purchased from PG&E.)

The PUC has asked for plans from the utilities for methods of eliminating nonessential uses of energy. The utilities have responded with plans that ask for voluntary cutbacks first and then mandatory curtailment if voluntarism fails. Their approach is curtailment rather than conservation. The PUC would have had to do something substantive a year ago in order to avoid the present situation. Now it's too late to do much but cut back consumption--with all the hardships that implies. The crucial thing to watch is whether the PUC takes actions to prevent this problem from continually recurring.

The Governor has dealt with the situation by ordering cutbacks in electricity use in state buildings through reductions in lighting and climate control demand. However, even if fully implemented immediately, this reduction would only postpone the shortage two or three days at the outside. ~~A more serious~~

~~attempt at solution is definitely needed.~~



November 21, 1973

Dr. Richard Eden
Cavendish Laboratory
Cambridge, England

AIR MAIL

Dear Dr. Eden:

I hope you will recall our meeting in late September which I very much appreciated and enjoyed. That day in Cambridge was the most enjoyable of our holidays, although our visit to the Loire Valley will be long remembered.

What prompted me to write was a trip to Boston last week during which I had dinner with Dr. Henry Kendall of M.I.T. He told me he had met you and asked me to convey his regards.

I was in Boston to address a National Conference of Legislators (state) on the subject of energy. In view of the focus of your current interest and activity, I thought you might be interested in a copy of my speech, together with a copy of our legislation which unfortunately was vetoed last September by Governor Reagan. Obviously both relate to the role of the various states but conceptually could be extended to national efforts.

Please bear in mind, my background is the law and I got into this quite by chance some months ago. All of which is to apologize for lack of technical expertise or knowledge.

I shall appreciate your thoughts and comments in addition to information on how Britain is proceeding.

Dr. Richard Eden
November 21, 1973
Page Two

Incidentally, while in Boston I was appointed Chairman of the Energy Committee of the National Conference of Legislators and we will be meeting in Washington, D.C. early next month.

Sincerely,

CHARLES WARREN

CW/ch

Enclosures

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE BY A DATE AND AUTHORITY

NOV 21 1973

California Legislature

Subcommittee on State Energy Policy of the Assembly Planning and Land Use Committee

CHARLES WARREN
CHAIRMAN

November 21, 1973

MEMORANDUM

FROM: Assemblyman Charles Warren

RE: Energy Crises

For over a year, as chairman of the Assembly Subcommittee on State Energy Policy, I have been spending most of my time on what I soon learned was an immense and perplexing problem.

In early October, Governor Reagan vetoed my efforts without clear explanation or cause. This after I had earlier tried to advise him of the nature and urgency of the problem (see my letter of July 13, 1972 attached).

Last week at a meeting in Boston of the National Legislative Conference, I was privileged to give the keynote address. I have enclosed a copy for your review and possible use. I think it may give you a clear and more understandable perspective.

Incidentally, I have accepted the chairmanship of the Energy Committee of the National Legislative Conference. The committee will be meeting in Washington, D. C. on December 8 and 9.

November 27, 1973

Honorable Robert Moretti
Speaker of the Assembly
Room 3164, State Capitol
Sacramento, California

Dear Mr. Speaker:

I have accepted the chairmanship of the Energy Committee of the National Conference of Legislators. The first meeting of the Committee is scheduled for December 6 and 7 in Washington, D. C.

Permission is requested for me and Gary Simon (staff) to attend the meeting and for travel and per diem allowances.

Respectfully,

CHARLES WARREN

CW:prt

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November 27, 1973

Sacramento, California 95814
(916) 445-6083

NEJEDLY CALLS FOR CENTRAL STATE AGENCY TO ADMINISTER ENERGY PROGRAMS

Senator John A. Nejedly, (R, Walnut Creek) today called for the establishment of a central state authority capable of responding immediately to the needs of the public during the current energy crisis.

"There is an immediate need for one agency at the state level similar to the recently formed State Energy Planning Council but with the power to establish speed limits, set fuel allocation priorities, institute fuel use controls if necessary, curtail non-essential activities which affect the demand for fuel, assure adequate public transportation needs are met, and generally inform the public of the continuously changing situation. It is essential", Nejedly added, "that the authority be concentrated in one agency in order to respond effectively and quickly as the need arises and so that when steps are taken to allocate fuel needed to harvest crops, for example, we can be sure that the needed fuel to transport the harvest to the cannery, process it, package it, and deliver it to market are also appropriately allocated."

The State Energy Planning Council, formed on October 1 by executive order and chaired by Lt. Governor Ed Reinecke, now exists as an advisory body to the Governor. Senator Nejedly pointed out, however, that it does not have the powers necessary to present circumstances. Nejedly concluded by saying that an agency with such emergency powers to deal with problems as they develop is essential. He stated that he would be prepared to offer legislation to accomplish this when the Legislature reconvenes in January.

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FOR IMMEDIATE RELEASE

FROM THE OFFICE OF:

-175-

November 27, 1973

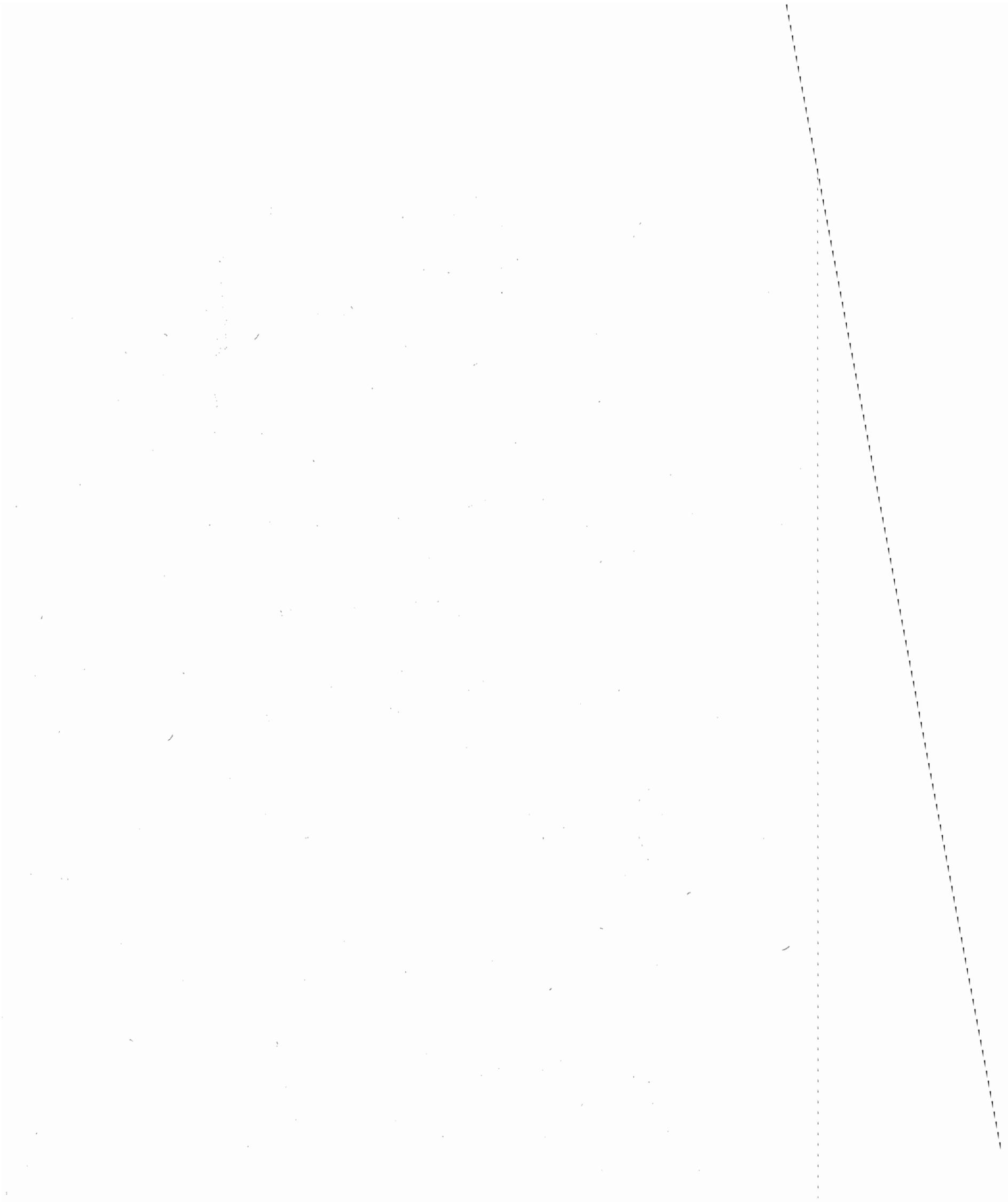
SENATOR JOHN A. NEJEDLY
State Capitol, Room 5091
Sacramento, California 95814
(916) 445-6083

NEJEDLY CALLS FOR CENTRAL STATE AGENCY TO ADMINISTER ENERGY PROGRAMS

Senator John A. Nejedly, (R, Walnut Creek) today called for the establishment of a central state authority capable of responding immediately to the needs of the public during the current energy crisis.

"There is an immediate need for one agency at the state level similar to the recently formed State Energy Planning Council but with the power to establish speed limits, set fuel allocation priorities, institute fuel use controls if necessary, curtail non-essential activities which affect the demand for fuel, assure adequate public transportation needs are met, and generally inform the public of the continuously changing situation. It is essential", Nejedly added, "that the authority be concentrated in one agency in order to respond effectively and quickly as the need arises and so that when steps are taken to allocate fuel needed to harvest crops, for example, we can be sure that the needed fuel to transport the harvest to the cannery, process it, package it, and deliver it to market are also appropriately allocated."

The State Energy Planning Council, formed on October 1 by executive order and chaired by Lt. Governor Ed Reinecke, now exists as an advisory body to the Governor. Senator Nejedly pointed out, however, that it does not have the powers necessary to present circumstances. Nejedly concluded by saying that an agency with such emergency powers to deal with problems as they develop is essential.



November 28, 1973

MEMORANDUM

CONFIDENTIAL

TO: Ethan Wagner
Ken Elia
Gene Varanini
Gary Simon

FROM: Assemblyman Warren

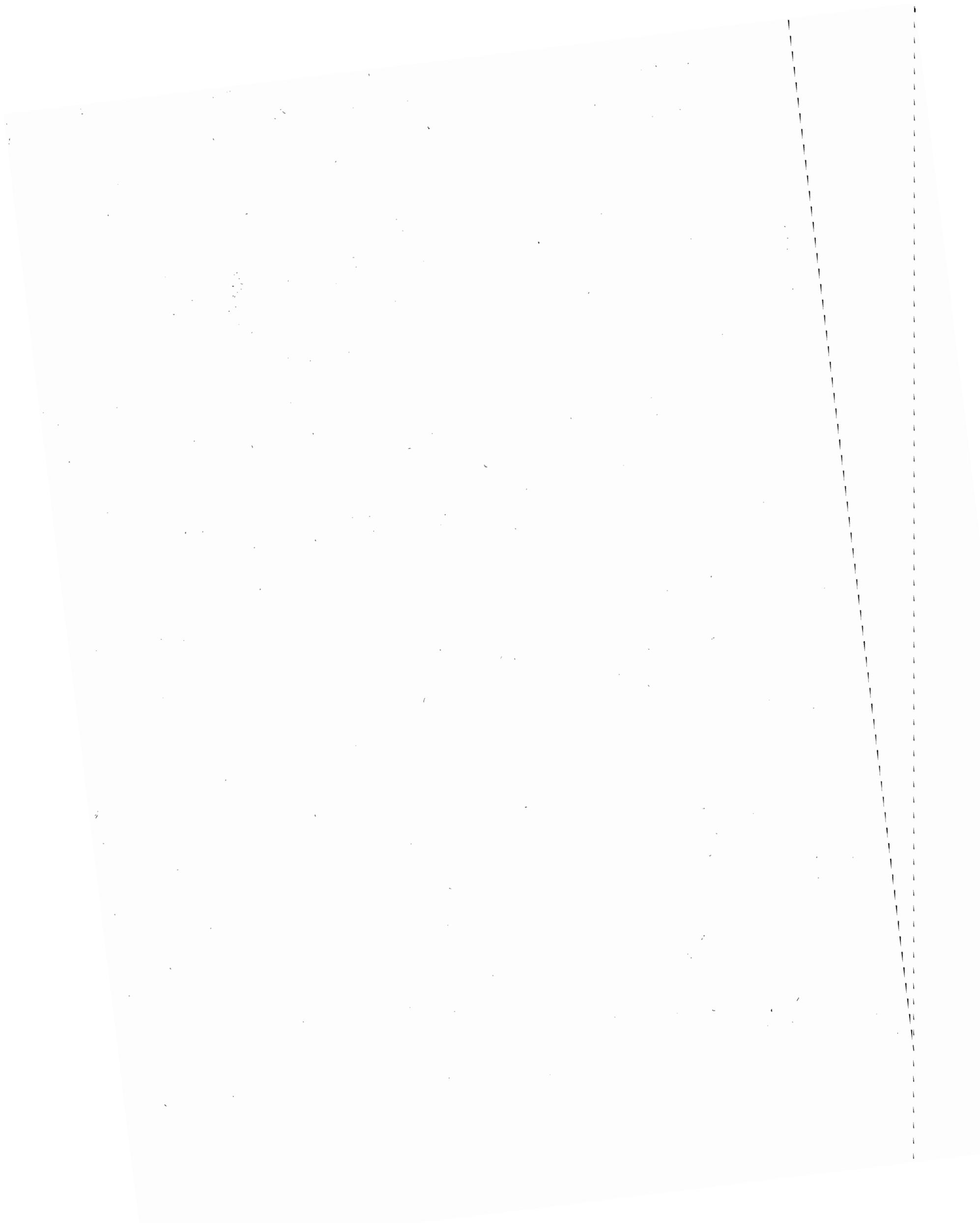
The next meeting of the Energy Planning Council is tentatively set for December 5.

Gary has requested of Wes Brewer that I be permitted to attend as an observer, not a participant. He is to check with Reinecke and call back.

George Murphy states informally that the Council, not being a statutory creation, is without the Brown Act. It has no powers other than might be reposed in Reinecke as acting Governor.

In the event we obtain permission to observe (or even otherwise), we should find out what interests are being given participation privileges and priorities.

Gary and I will be unable to attend the December 5th meeting as we will be en route to Washington, D. C. Someone should attend as my proxy. If permission is denied, should not this fact be commented upon by the Speaker, myself or someone?



November 28, 1973

Honorable John A. Nejedly
Member of the Senate
Room 5091, State Capitol
Sacramento, California

Dear John:

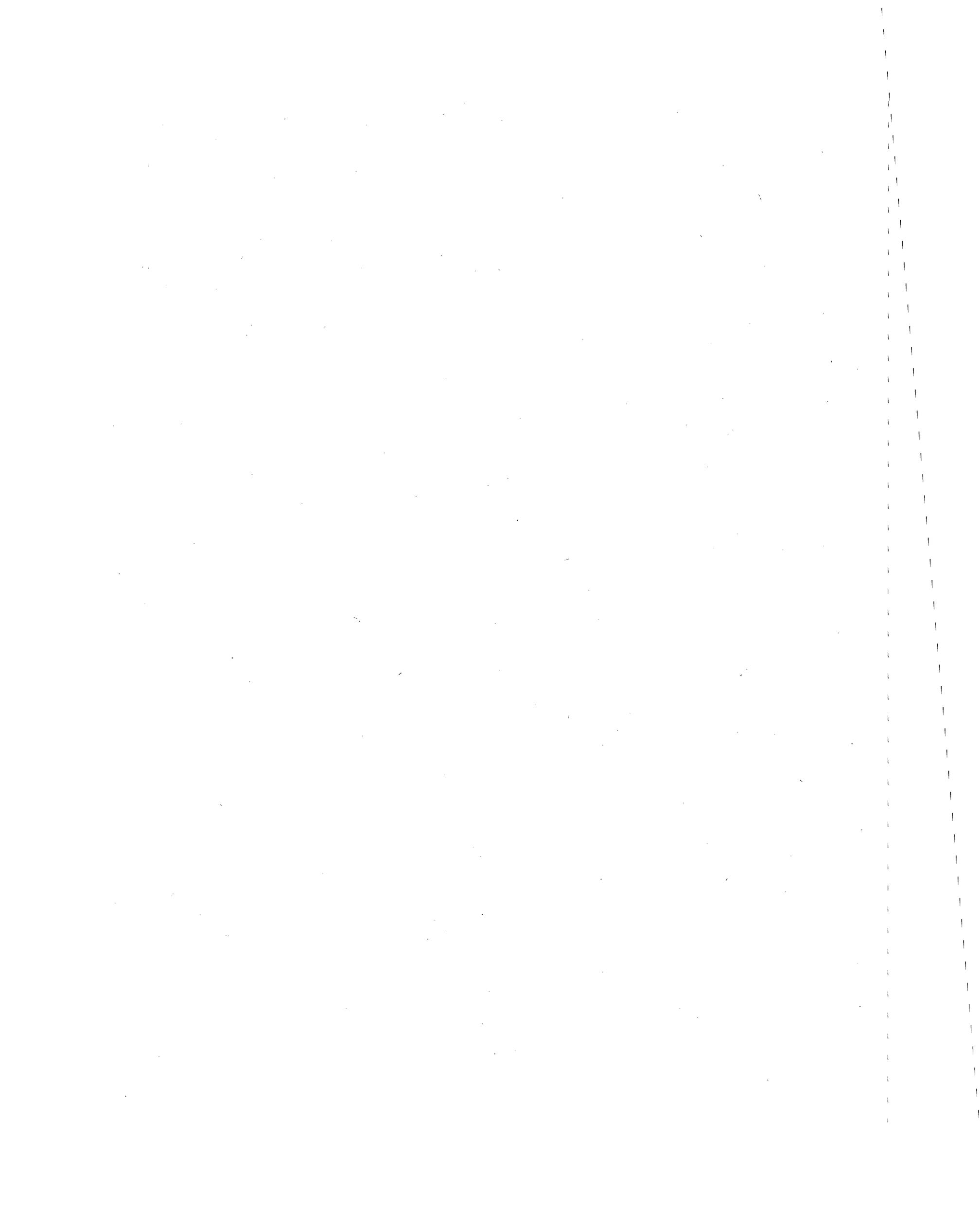
I received a copy of your press release concerning energy. What you seek is on target and, as it happens, is what was provided in SB 283 by Alquist and myself. You will recall you voted for the bill and that it was later vetoed.

A companion bill, AB 1575 (Warren), which was the model for SB 283, is pending before Senate Public Utilities. I should hope you would lend your efforts to secure its passage. Your review and comments would be appreciated.

Cordially,

CHARLES WARREN

CW:prt



MEMORANDUM

TO: Gene and Gary
FROM: CW
RE: NLC Energy Committee Meeting

I understand that eventually we will have names and addresses of members of the committee from NLC. To be found out is where and when the committee is to meet. I will leave for Washington from Los Angeles on Thursday, December 6 via UAL #54 at 12:45 p.m.—return via UAL #743 on December 9 at 11:30 a.m.

As soon as membership is known (incidentally have NLC staff prepare short biographies on each for me), send them copies of SB 283 and my Boston speech for review.

Prepare suggested agenda subjects:

1. Proposed position on areas of possible federal preemption: power plant siting, environmental standards, highway speeds, super-tanker ports, etc.
2. On federal bypassing of state legislatures, i.e., designating Governor as policymaker.
3. On what federal government should do for its own sake as well as states, i.e.:
 - (a) Forecasting and assessment
 - (1) Compilation of data on demand and supply by user sector
 - (2) Projected demand
 - (3) Projected supply
 - (b) Possible conservation techniques which we should specify from our library; estimates of savings obtained by each within what time frame.
 - (c) Expanded R & D into:
 - (1) Geothermal
 - (2) Solar collection for space heating & cooling
 - (3) Solar generation (use deserts of SW, rather than dig up 4 states where coal is)
 - (4) Fusion

4. Public and full public hearing by Congress and AEC on nuclear problems
 - (a) ECCS
 - (b) Waste disposal as world's dump
 - (c) Security
 - (d) Seismicity
 - (e) Land use
 - (f) Water
 - (g) Shut downs and accidents
 - (h) Price-Anderson (delay extension)
5. Impact of coal gassification in New Mexico, Wyoming, Utah and Colorado vis a vis Colorado River, etc.
6. The extent to which present curtailment policies take up gap between supply and demand.
7. The impact of mandatory use of smaller vehicles on gasoline use and emission controls.
8. Establishment of National Energy Board to establish policy framework, to obtain data and recommend to Congress and state legislatures or boards various policy options.

What else?

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

~~1121 G STREET, SACRAMENTO, CALIFORNIA 95814~~

455 Capitol Mall, Suite 385, Sacramento, CA 95814



January 18, 1974

Honorable Charles Warren
California State Assembly
State Capitol, Room 2126
Sacramento, CA 95814

File 1575

Dear Assemblyman Warren:

Subject: Assembly Bill 1575

Assembly Bill 1575 would create the State Energy Resources Conservation and Development Commission, which would be authorized to forecast State energy supplies and demands, implement energy conservation measures, certify power facilities, research and develop energy resources and provide for limiting the use of energy under emergency conditions.

This department is concerned about the possible conflict and duplication of effort which this bill presents. The Commission would be authorized to perform certain regulatory functions that are now under the jurisdiction of the Department of Housing and Community Development. Both the Department of Housing and Community Development and the State Energy Resources Conservation and Development Commission would be authorized to make inspections at the same mobilehome factories and building construction sites to enforce compliance with energy insulation requirements.

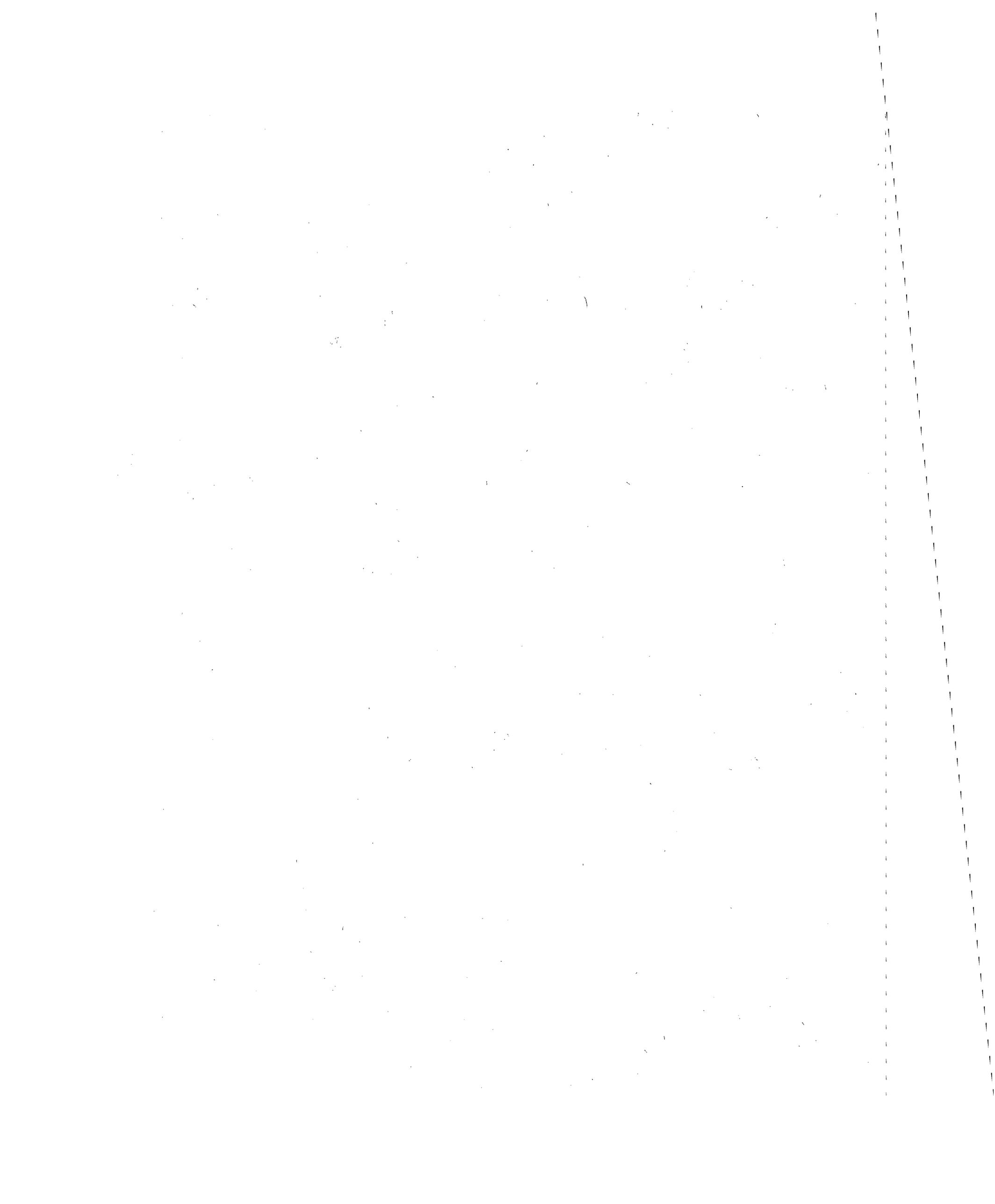
In addition, the intent of this legislation can be accomplished by existing State departments, and there is, therefore, no need to create additional departments.

Because of the possible conflict and duplication of effort, this Department opposes the bill.

Sincerely,


Barry D. Whittlesey
Director

cc: Assemblyman Gonsalves, Chairman
Revenue and Taxation Committee



California Legislature

Subcommittee on State Energy Policy of the Assembly Planning and Land Use Committee

CHARLES WARREN
CHAIRMAN

M E M O R A N D U M

TO: Don Livingston
FROM: Charles Warren
RE: AB 1575

At our meeting on February 6, to discuss the Governor's "concerns" with AB 1575, you set forth subjects for our consideration. For each of these you stated the reasons for his concern and possible ways in which his concern could be minimized if not eliminated. I advised you we would respond to these "concerns", setting forth our reasons for using present language and suggesting proposed language for those subjects where we thought accommodation to the Governor's "concerns" were possible.

These "concerns" were:

1. The Administration believed power plant siting may be delayed because (a) in the balance between conservation and development no explicit mandate to site plants for "verified need" is provided and (b) normal judicial review may create unwarranted siting delays.

You stated the options to overcome those concerns as follows:

- (a) Redesign the Public Utilities Commission to include all state energy policy functions in addition to its existing function of electricity and gas rates.

Rem 5207
2/2/80

(b) Separate the siting function from AB 1575 and place it in the P.U.C. and set up an additional new department for energy conservation in the Resources Agency. The new department would prepare a 20 year power plant siting plan which would designate acceptable areas for such plants. The plan, following legislative enactment, would be implemented in specific applications by a determination of the P.U.C. that the application conforms to such plan.

(c) Create a new independent siting commission not connected with either the P.U.C. or the Resources Agency which relies on a power plant siting plan developed by a new department of energy conservation in the Resources Agency. The new department would provide the same function as (b) above.

(d) Amend 1575 to require explicitly that the commission must find sites to meet "verified demand" and that the level of judicial review be removed from superior court and original jurisdiction of the Supreme Court attached.

I pointed out that (a) and (b) were unacceptable to me, for the reasons stated below (see Appendix). Item (c) was not considered in detail.

You indicated that (d) would go "a long way" toward settling your concerns with the entire bill.

In line with the last indication, I agreed to develop explicit language to require siting of power plants when the demand for such plants has been "verified" by independent demand assessment.

Additionally I agreed to have my staff contact the Chief Counsel of the P.U.C., Mr. John Mathis, to develop language which you indicated had already been worked out by him guaranteeing Supreme Court jurisdiction.

Upon contacting Mr. Mathis he stated that the Governor was ready to take a position that the P.U.C. would be the siting agency. Mathis knew of no way short of granting the P.U.C. plenary jurisdiction to assure the Supreme Court as the Court of original jurisdiction. Enabling the P.U.C. to modify and overturn the certificate granted by the energy commission is unacceptable to us. Therefore, we propose the following language relative to issue 1 alternative (d).

"25500.5. The Commission shall, consistent with the provisions of this division, certify sufficient sites and related facilities which are required to provide a supply of electric power sufficient to accommodate the demand consistent with (a) the forecast of state and regional electric power demands adopted pursuant to Section 25309 and (b) the conservation measures adopted by the commission pursuant to Section 25402 or as subsequently authorized by state law."

This language when coupled with that in Sections 25001 and 25525 should clarify the balance already existing within the bill.

I have provided Section 25531 in the bill which explicitly requires Supreme Court jurisdiction as the Energy Commission's role in power plant siting. I would be pleased to evaluate any substitute language you may provide which allows for Supreme Court review without granting de novo review to the P.U.C.

In the alternative I would support specific language guaranteeing expeditious review through normal court channels thereby preserving the plaintiff's right to the protection of ordinary judicial review processes.

2. Salary levels of the Energy Conservation and Development Commission are inequitable in light of present salaries of subcabinet regulatory boards and commissions.

You indicate that Section 25207 prescribes a salary for the commissioners equivalent to that of a cabinet officer.

I set the salaries of these officials commensurate with the duties to be performed and the caliber of persons required in a "full time" pressure filled employment. Your concern, however, relative to equivalent salary levels of Energy Commissioners with P.U.C. Commissioners is acceptable to the extent the Administration values prior salary practices and policies as a component of compensation. In addition the salaries as stated \$35,000 vis a vis \$30,000 are so close as to place this concern on a de minimus level.

I would therefore agree to reduce compensation of the new commission to the equivalent of a P.U.C. commissioner and offer the following:

"25207. The members of the commission shall receive an annual salary as prescribed in Section ~~11550~~ 11552 of the Government Code."

3. Method of designation of the chairman.

Presently the bill provides that the commissioners themselves elect a chairman from among the members. You indicated a preference for the Governor to designate the chairman in order to allow some policy direction of the commission. I agree that limited policy direction is necessary and propose that Section 25212 be amended to read:

"25212. Every two years the Governor shall designate a chairman of the commission from among its members."

4. Chairman as Chief Administrative Officer.

You indicated that for ease of administration it would be preferable for the staff to be employed and directed by the chairman rather than the commission as a whole. I feel strongly that the staff should work for all the commissioners and not just the chairman. In order to simplify the administration of the commission in conformance with your general recommendations, while preserving broader control, I suggest:

"25217.5. The chairman shall direct the counsel, the executive director, and other

staff in the performance of their duties in conformance with the policies and guidelines established by the commission."

5. Technical qualifications of the commissioners.

You expressed a concern that the technical qualifications required for the members of the commission were so strict as to force an elaborate search for acceptable candidates and that these candidates may in fact not be best for the job. You proposed two solutions:

(a) Remove all the technical qualifications for commissioners and appoint 5 members from the general public.

(b) Broaden the qualifications to allow the appointment of 5 members which will maintain a "balance" of technical competence in the four areas mentioned in the bill.

I believe it is essential that the members of the energy commission have technical expertise in order to avoid being confused by the technical arguments of the parties before the commission. As well, familiarity with the issues will reduce the commission's "start-up" time.

The State has now a number of boards and commissions whose members must meet technical or experience qualifications in order to improve their performance. These include:

State Mining and Geology Board

State Food and Agriculture Board

State Board of Forestry

State Solid Waste Management Board

State Air Resources Board

State Water Resources Control Board

As examples of the qualifications of board members, the statutory requirements for four boards follow:

Gov. Code § 66740. State solid waste management board:

There is in the Resources Agency the State Solid Waste Management Board.

The board shall consist of the following members:

(a) One member appointed by the Governor who is at the time of his appointment a city councilman from a city having a population of more than 250,000 persons as determined by the 1970 federal census.

(b) One member appointed by the Governor who is at the time of his appointment a county supervisor from a county having a population of more than 500,000 persons as determined by the 1970 census.

(c) One representative of the public appointed by the Governor, who shall have specialized education and experience in environmental quality and pollution control.

(d) One representative of the public appointed by the Speaker of the Assembly, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(e) One representative of the public appointed by the Senate Committee on Rules, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(f) One member appointed by the Governor from the private sector of the solid waste management industry from southern California.

(g) One member appointed by the Governor from the private sector of the solid waste management industry from northern California.

(h) The State Director of Health or his deputy who shall be a nonvoting ex officio member.

(i) The State Director of Agriculture or his deputy who shall be a nonvoting ex officio member.

(j) The Chief of the Division of Mines and Geology of the Department of Conservation or his deputy who shall be a nonvoting ex officio member.

Pub. Res Code § 661. State Mining and Geology Board:

Members of the board shall be selected from citizens of this state associated with or having broad knowledge of the mineral industries of this state, of its geologic resources, or of related technical and scientific fields, to the end that the functions of the board as specified in Section 667 are conducted in the best interests of the state. Among the 11 members, two should be mining geologists, mining engineers, or mineral economists, one should be a structural engineer, one should be a geophysicist, one should be an urban or regional planner, one should be a soils engineer, two should be geologists, one should be a representative of county government, and at least two shall be members of the public having an interest in and knowledge of the environment.

Health & Safety Code § 39020. State Air Resources Board:

There is in state government, in the Resources Agency, the State Air Resources Board. The board shall consist of five members who shall be appointed by the Governor with the consent of the Senate. Members of the board shall be appointed on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems, and shall have the following qualifications:

(a) Two members shall have training and experience in automotive engineering or closely related fields.

(b) Two members shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture, or law.

(c) One member shall qualify under subdivisions (a) or (b), or shall have administrative experience in the field of air pollution control with no special technical training required.

Water Code § 175. State Water Resources Control Board:

There is in the Resources Agency the State Water Control Board consisting of five members appointed by the Governor. One of the members appointed shall be an attorney admitted to practice law in this state who is qualified in the fields of water supply and water rights, one shall be a registered civil engineer under the laws of this state who is qualified in the fields of water supply and water rights, one shall be a registered civil engineer under the laws of this state who is experienced in sanitary engineering and who is qualified in the field of water quality, one shall be qualified in the field of water quality, and one member shall not be required to have specialized experience.

I do not believe that there has been so much difficulty in locating qualified members of these boards as to require the more severe first proposal. However, your suggestion that the qualifications be broadened is acceptable and I propose the following amendments:

"25201. One member of the commission shall have a background in the fields of engineering or physical science and have knowledge of energy supply or conversion systems; one member shall be an attorney and a member of the State Bar of California***; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be an economist with background and experience in the field of natural resource management; and one member shall be from the public at large."

6. The creation of a special funded agency lessens the degree of legislative budget scrutiny as compared to general fund agency budgets.

You indicated that the amount of money accumulating in the proposed special fund was of concern because of the tendency to expend all such money without careful budgetary review. Since the administration has emphasized close budgetary scrutiny and conservative funding levels, you indicated the concern to be a serious one. It was your impression that the legislature did not closely

scrutinize special fund agency budgets because the money accumulated in those funds in any case and could not be expended for other purposes. You proposed that the commission be funded out of the General Fund to ensure the full budgetary review processes are invoked.

I do want to be sure the commission's budget is subjected to a full review, but also want a continuous accounting of the money collected from the surcharge. Both ends can be served by the following:

"25800. There is in the General Fund of the State Treasury the Energy Resources Conservation and Development Special Account ... (remainder unchanged)."

Change all other references to the "fund" to the "account", including the definition in Section 25111.

APPENDIX

STATE ENERGY POLICY: THE ROLE OF UTILITY REGULATORY AGENCIES

All government regulation is a balancing of conflicting interests.

A frequent criticism of the institution proposed in AB 1575 is that it would be inherently schizophrenic, trying simultaneously to develop and to conserve. However, all regulatory (quasi-judicial) processes require a balancing of conflicting particular or discrete equities. The fulcrum of the balance, set in the enabling legislation, is the key to an orderly and realistic governmental role. All regulatory bodies are inherently schizophrenic. The question then is not whether balancing conservation and development is appropriate for a single regulatory commission, but rather whether a particular institutional design will meet the objectives of the designers.

BCDC is an example of an agency having the same two functions assigned the energy commission.

It is not possible here to analyze whether BCDC has performed as intended, but it is clear that the actions of BCDC have not fully pleased either the development interests or the conservationists. This indicates in large part that the commission is achieving a workable balance between conservation and development.

WRCB was assigned only a development function in one area and has found it necessary to balance that against conservation interests anyway.

The State Water Resources Control Board is charged by existing law with cleaning up the waters of the state through discharge sewage treatment facilities. The program of treatment plant improvements and additions has required capital construction of such a scale, due to economic efficiency criteria, that localized population growth was induced, disrupting orderly local planning processes and having other unanticipated side effects. Because of the problems created by this narrow focus on water treatment facility development alone, WRCB has issued guidelines which require it assess the legitimate needs for facilities before providing funds for construction. The necessity for such a guideline was unanticipated in the original legislation, yet was found to be necessary by the Board itself in order to evaluate properly the options to construct or not to construct. It is experiences such as this which have led to the design of the agency in AB 1575.

The balance intended in AB 1575 is broader than that involved in traditional utility regulation.

AB 1575 creates an energy policy balancing mechanism which has as a fundamental consideration the element of verified need for an increased supply. In contrast to present institutions, this need is not to be one arising solely from utility plans, but rather one which comes to grips with the nature of electricity as a secondary form of energy and attempts to avoid "crisis management" through well thought out considerations of fuel availability, economic factors, environmental constraints, and trends within the state.

While utility planners face a milieu no less broad, past experience indicates that government must have options prepared in advance to guarantee some degree of flexibility and determined analysis of utility submittals.

The policy balance in AB 1575 emphasizes conservation plus the expeditious development of supply to accommodate legitimate demand.

AB 1575 sets up an energy policy balance between conservation and development. Essentially the Energy Commission is required to expeditiously satisfy legitimate demand while developing and applying aggregated energy conservation practices which will provide as much lead time as possible to develop environmentally benign and long lasting sources of energy such as solar or fusion. It further will reduce existing or expected biosystem overload, extend the use of depleting finite resources, and reduce the degree of reliance on potentially hazardous energy producing systems.

This policy balance could possibly be assigned to any one of a variety of governmental models. However such model is constructed, these policy concerns are pervasive, newly recognized, and represent a departure from existing conventional institutionalized thinking.

Because of the need to recognize the true interrelationships and full policy options available, the mission must be unified and cannot properly be mixed into a narrow ongoing process dominated by the limited concern to provide all the energy anyone wants at cost plus a "fair" rate of return.

Assuming this later philosophy could be modified, redrafting volumes of codes as well as analyzing both honored and unheeded case law precedents is not worth the effort nor is it a solution for the myriad of reasons presented below.

For the immediate future, energy policy decisions will swing from the microeconomic universe of the relationship between the rate-payer and the utility to the macroeconomic and social arenas of alternative possible futures, attendant fully internalized costs, availability of extractive resources of all kinds, and the creation of an energy conservation ethic.

Simply expressed, the rapid exponential growth we have seen in the use of energy involves such large disruptive effects and stresses within the system that it cannot continue. It will be abated either by rational or irrational processes. Even technological breakthroughs must be fully evaluated for undesired side effects -- a degree of systems analysis not within the current capability of our institutions -- governmental or private.

A workable combination of two energy entities results in a system that would operate better as a single entity.

If the functions of siting and conservation were institutionally separated, there would be a need for a strong procedural link between the two agencies. A siting plan developed by the conservation agency and approved by the Legislature would be in a form sufficiently general that a decision involving the conformity of a particular site proposal would involve so much discretion that the

objectives of the original plan would be lost. The only way to achieve the objectives of the plan created by the conservation agency would be for this agency to issue a certificate verifying the need for the plant, stipulating matters of its design, and specifying acceptable general locations for the plant. The discretion remaining for the siting entity is then narrowed, but this raises the question of whether two new agencies to do this job is really necessary. In my view, there are good reasons to create only a single new agency.

The nature and extent of the regulatory interest of the PUC is limited.

In general, the function assigned to the PUC by the Legislature and the Constitution is that of a market surrogate to protect the consumer from possible exploitation or inadequate service by privately owned natural monopolies, while preserving the financial health of the monopolies. The regulatory activities and powers of the commission relate to (a) adequacy of service, (b) rates, (c) minimum safety standards, (d) sale or encumbrance of useful utility property, (e) issuance of certificates to operate or to construct facilities, (f) issuance of securities, and (g) financial accounting procedures.

The mission of the PUC is then one of an economic balancing

of a consumer interest and a profit oriented business interest. Historically, few considerations other than a narrow consumer economic interest entered into PUC decisions on rates and service. Very recently, and with considerable reluctance, the PUC recognized that the consumer interest was broader than one demanding just low rates and abundant service and must include, e.g., environmental protection, esthetic considerations, and community values.

The PUC is only one of a number of state regulatory entities having a role in siting.

Powerplant siting involves functions associated with state regulatory agencies responsible for air quality, water quality, and coastal zone conservation as well as the PUC. Each of these agencies has an interest to protect in siting a plant, but all of them suffer from a narrow perspective. A case can logically be made to house a siting entity with any one of these existing agencies. However, for the reasons that one would not like to see siting solely a function of the ARB, one must also object to a siting entity within the PUC. The interests of each of these agencies, along with a number of others must be treated as coequal, and one not favored

de facto because of a desire to place a new duty in an existing institution. This need to create a broader-based forum for the siting consideration and the incomplete role of the PUC has been affirmed by the state in the past in the operation of the Ad Hoc Powerplant Siting Committee. Although for a variety of reasons this committee was found to have certain deficiencies, the concept of the broader approach was sound and should continue. Because it is a utility which is building a plant and because utilities have been regulated in the largest extent by the PUC, this is not sufficient reason to expand PUC jurisdiction to the siting matters envisioned in AB1575.

The PUC has demonstrated an overdeveloped concern for the financial health of the utilities it regulates.

Since 1967 the PUC has authorized approximately a \$1 billion increase in rates changes by the utilities under its jurisdiction. This figure represents almost the total amount of increases requested by the utilities. The PUC staff over this period recommended approving rate changes of approximately one-third the amount granted by the commission. Additionally, such actions as the fuel adjustment clause and the rate hike granted the PT&T, later overturned by the Supreme Court, have served to erode confidence in the PUC as an effective regulatory constitution.

The PUC has inadequate staff expertise to perform the siting review envisioned in AB 1575.

The PUC staff consists of lawyers, engineers, and accountants. No economists, environmental scientists, biologists, meteorologists, oceanographers, water quality specialists, health physicists, or ecologists are currently employed by the PUC. The absence of economists on the PUC staff is an especially serious deficiency. All of these technical experts would be required to review siting proposals adequately under the concept of the new energy commission. The failure of the PUC to employ such professionals to review current applications for certificates of public convenience and necessity, from which the PUC implies a larger siting role, or even to request such positions in the commission budget, indicates a basic difference in their conception of a siting review than the one in AB 1575.

PUC review of siting proposals has been inadequate.

Orange County A.P.C.D. v. P.U.C. involved an attempt by the PUC to pre-empt the authority of the A.P.C.D. to determine matters of stack emissions standard for a proposed power plant. While the Supreme Court ruled only on the narrow issue and found the jurisdiction to be concurrent, the underlying problem in the case was the PUC's apparent insistence on putting the financial considerations of the utility above the quality of the air in an area plagued with air pollution problems. Although this case was a spectacular example of the deficiencies in the PUC's review process, a number of other complaints based on the same inadequacy have been raised.

Further, in these siting reviews the PUC has not shown an ability or desire to explore alternatives or to question underlying assumptions and data presented. This problem is related to the lack of staff expertise but in no way is excused by this lack. The actions of the PUC in prior siting reviews has then not shown an appropriate concern for all factors involved and has tended to be narrowly concerned with the financial considerations traditionally of major importance to the PUC.

The PUC has not included energy conservation and environmental factors in its present deliberations adequately.

It has been widely acknowledged by economists for a number of years that the "structure" of the utility rate schedule approved by utility regulatory bodies does in fact have a significant effect on the wasteful and unnecessary uses of gas and electricity. The PUC on the other hand has consistently taken the position, both formally and informally, that no significant effect exists -- without the economic studies to support that position. A few cases can be cited to illustrate that point.

The Sierra Club petitioned the PUC to consider the structure of the rates of Southern California Edison Company in a rate proceeding (Application No. 53488). The Sierra Club petition asked the PUC to study the matter in the EIR required on the rate proceeding. The PUC responded with a decision (No. 81237) that EIR's were not required in rate proceedings and that rate restructuring was could be handled by taking expert testimony at

rate hearings. In the proceedings on application No. 53488, one paragraph and several questions asked of three witnesses on the relationship between price and electrical energy demand comprised the total consideration of the energy conservation implications of rate structures.

In proceedings involving gas "offset" rate increase application by PG&E (Application No. 53866), a petitioner asked that, notwithstanding the EIR issue, the energy conservation implications of the rate hike be considered. The motion was denied by the hearing officer on the grounds that the rate hike was "neutral" with respect to energy conservation. Petitioner queried the staff witness testifying that the rate hike had no effects and discovered that no studies had even been done to establish this conclusion, that there were no economists within the PUC, and that no outside economists had been contacted to study this question. The petition for a rehearing on this point was also denied.

In the current major PG&E rate case (Application Nos. 54279, 54280, 54281) a petitioner at the prehearing conference asked that restructuring of rates be considered as a means to conserve energy. The motion was denied.

The use of recycled scrap materials has beneficial environmental consequences resulting from reduced mining, reduced solid waste disposal problems, and reduced energy requirements for end-product production. However, the PUC in case number 5432 chose to deny motions to consider the environmental effects of

raising a rate for the transportation of recyclable scrap to the point where it was not competitive with virgin ore. The case is still pending before the PUC.

In implementing CEQA the PUC adopted rules for the preparation of EIR's that were twice found to be deficient by the Supreme Court. Initially the PUC had concluded that since it undertook no physical projects it did not need to prepare EIR's on any of its actions.

The record of the PUC in handling energy conservation and environmental matters indicates a fundamental inability or lack of desire to treat these matters fairly and adequately. This concern creates serious misgivings about allowing the PUC to be an arbiter of an issue requiring a balancing of a conservation-environmental interest and a development-financial interest.

Expanding the PUC jurisdiction to include siting of the facilities of public-owned utilities would raise the vigorous objection of those utilities.

Presently the PUC has no jurisdiction over public-owned utilities. In order to achieve the objectives of AB 1575, the siting of the facilities of both the public and privately-owned utilities must be reviewed. Otherwise a loophole is created that would defeat the purposes of the entire approach. The public-owned utilities, however, strenuously resist being placed under PUC control for any matter for fear of being overwhelmed by their traditional rivals, the privately-owned utilities, and indirectly controlled to their detriment. In order to overcome this objection, a siting entity

outside the PUC is required.

The procedures of the PUC do not promote open deliberations and full public participation.

The PUC relies on hearing officers to collect the information relevant for deciding a case before the commission. The proceedings before the hearing officer are of a judicial nature and are conducted by strict rules. Evidence and information bearing on the case can be excluded by the actions of the hearing officers. Because of the complexity of the proceedings and the technical rules followed, persons wishing to participate are obliged to employ attorneys. The hearing officer forwards the hearing record and a preliminary decision to the commissioners for final action. The commissioners are in fact relying on digests of the debate and are never required to be involved in the original proceedings.

There are, of course, good reasons for this type of system due to the number of cases before the commission. However, it is not a system which will achieve the open deliberation and public participation criteria of the siting process in AB 1575.

In AB 1575, the commissioners hear the original controversy, the general public is heard without elaborate rules, and the house counsel is required to insure as much public participation as possible. Because of the standard procedures within the PUC, I do not feel the matter would be handled with these same objectives in mind.

The PUC is not the appropriate institution to site power plants.

Even if the PUC were constrained in siting decisions by a general powerplant siting plan approved by the legislature, for the reasons given above I do not feel the PUC would be best suited to judge the conformity of a particular application with a general plan. They have consistently shown a bias toward the financial health of the regulated industry, have dismissed important environmental and conservation considerations from their decision-making, lack public credibility and the confidence of the Legislature, represent a narrow interest which is but one of several considerations in powerplant siting, and do not have jurisdiction over a segment of the California utilities which will be constructing a significant number of powerplants. Furthermore, there are compelling reasons for preserving the linkage between development and conservation to achieve a proper balancing.

A number of legal commentators have similarly concluded that state utility regulatory commissions are inappropriate to carry out a powerplant siting function.* The basic reasons for this conclusion relate to the same issues we have raised. It appears

*A. Dan Tarlock Roger Tippy, and Frances E. Francis, "Environmental Regulation of Power Plant Siting: Existing and Proposed Institutions" 45 Southern California L. Rev. 502

Association of the Bar of the City of New York, Special Committee on Electric Power and the Environment Electricity and the Environment, The Reform of Legal Institutions, West Publ. Co., New York, 1972.

Lester Lees and James Krier, "State Power Plant Siting: A Sketch of the Main Features of a Possible Approach," California Institute of Technology, Environmental Quality Laboratory, Memorandum No. 4, February 1973.

William H. Rodgers, Jr., "Siting Power Plants in Washington State," Washington Law Review, Vol. 47, No. 1, 1971

then that the California experience in this matter is not unique but has occurred in several other states. Tarlock has commented that among state utility regulatory commissions the California PUC has been somewhat more sensitive to the broader considerations but concludes that even for California the PUC is definitely the wrong institution to undertake powerplant siting.

Improving the PUC in order to expand its powerplant siting role would involve a careful analysis of 5 volumes of codes, would require 5 years and needs 5 willing commissioners. A state energy policy mechanism and a powerplant siting entity cannot be held up that long in order to satisfy a philosophical objection to creating a new agency.

The PUC has a legitimate interest in the siting process and this interest should be included.

The conclusion that the PUC is inappropriate for the entire powerplant siting function does not imply that its financial balancing role should be eliminated. The decisions of the siting entity will indeed involve substantial financial considerations and the PUC should definitely review the economic feasibility of the options suggested by the siting entity. I stand ready to work out a method by which this can be achieved without the PUC having a veto over siting decision but rather participating concurrently.





OFFICE OF THE ATTORNEY GENERAL

Department of Justice

555 CAPITOL MALL, SUITE 550
SACRAMENTO 95814

FEB 11 1974

Honorable Charles Warren
and
Honorable Alfred Alquist
State Capitol
Sacramento, California 95814

Gentlemen:

Re: Assembly Bill 1575, as amended
in Senate January 9, 1974

This is to express our support of the purposes and principle of the above bill, and suggest some modifications that will, we hope, eliminate possible confusion and ambiguity.

Assembly Bill 1575 in its present form provides needed focus and guidance for our energy efforts in California. It assures adequate, comprehensive planning in forecasting our energy efforts. It mandates, for the first time, the definitive assessment of alternative forms of energy and directs the necessary leadership for its development. It authorizes badly needed interim energy standards, and it provides that certainty in power plant siting that is essential for adequate and well-planned energy supplies in this State.

On the other hand, some of the organizational provisions of this bill provide, we feel, unneeded prolixity and duplication. For instance, the Commission is authorized and directed by proposed section 25217(b) to appoint a legal counsel "who shall carry out the provisions of section 25222, as well as other duties prescribed by the commission."

The primary duties of this counsel are set forth in section 25222 which provides that in addition to other duties that may be prescribed, the commission counsel "shall insure that full and adequate participation by all interested groups and the public at large is secured" in the planning,

Honorable Charles Warren
Honorable Alfred Alquist
Page Two

certification, energy conservation, and emergency allocation procedures provided. He is to insure that timely complete notice of meetings is disseminated to interested groups and to advise such groups and the public as to effective ways of participating in the commission's proceedings. He is also to recommend additional measures to assure open consideration and public participation in energy planning, emergency allocation proceedings.

Proposed section 25221 provides "upon request of the commission, the Attorney General shall represent the commission and the state in litigation concerning affairs of the commission unless the commission's interest and that of another state agency are in the opinion of the counsel of the commission potentially in conflict. In such case, the counsel of the commission shall represent the commission. The provisions of sections 11041, 11042, and 11043 of the Government Code do not apply to the commission."

Assembly Bill 1575 thus, as presently drafted, really seems to contemplate that the commission shall have an administrative adviser who shall perform the work customarily employed by house counsel: that of advising the commission in its internal procedures. Judicial enforcement would, as is customary, be referred to the Attorney General's office for action. However, this dichotomy is not clearly spelled out. Furthermore, it appears that any strictly legal advice and representation needed could be supplied by this office.

The Attorney General's office now represents the major state environmental and pollution control agencies, including the state and regional water quality boards and the recently created state and regional coastal commissions. Such centralized representation ensures the avoidance of duplication and the most effective utilization of the State's legal resources. We urge that the application of this policy here be clarified by elimination of the references in the above sections to the establishment of counsel, the relegation of duties to such counsel "as may be prescribed by the commission," and the provision giving commission counsel sole discretion to determine whether a conflict of interest exists which would preclude the Attorney General from representing the commission in a particular proceeding. Nothing in Assembly Bill 1575 or existing law could be construed as prohibiting the commission from employing appropriate staff to carry out the duties enumerated in section 25222. Nothing in these duties necessitates the establishment of another state law office. Establishing such an office can only lead to duplication and confusion in the representation of an important state agency.

Honorable Charles Warren
Honorable Alfred Alquist
Page Three

Please be assured of our continuing support of Assembly Bill 1575, with the qualifications expressed above. If we can be of further assistance in expressing our support of this bill or in explaining our specific objection, please do not hesitate to let us know.

Very truly yours,


EVELLE J. YOUNGER
Attorney General

er

cc: Governor Ronald Reagan
Director of Finance Verne Orr



CALIFORNIA MANUFACTURERS ASSOCIATION

923 - 12TH STREET - ROOM 300 • SACRAMENTO, CALIFORNIA 95814 • PHONE (916) 443-8107

MAIL ADDRESS:
P.O. BOX 1138
SACRAMENTO CA 95808

RECEIVED

FEB 15 1974

CAPITOL OFFICE

February 14, 1974

The Honorable Charles Warren
Member of the California Assembly
State Capitol
Sacramento, California 95814

Dear Charlie:

Last Fall we discussed the provisions of AB 1575 and at that time I expressed the Association's opposition to the measure. Our latest study of the bill reveals many of the same objections.

They are technical in nature and will be explained to you at your convenience by Robert E. Burt of our staff.

Until these objections are met we must remain opposed to AB 1575.

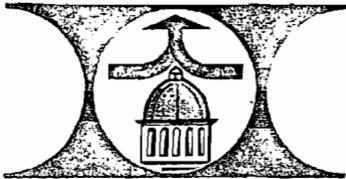
Sincerely,


Emmons McClung
Executive Vice President

EMC:lh

c.c. Mr. Donald Livingston
Honorable Alfred Alquist, Chairman
Senate Public Utilities and Corporations Committee

COUNTY SUPERVISORS
ASSOCIATION



OF CALIFORNIA

HEADQUARTERS - SUITE 201, 11TH & L BLDG., SACRAMENTO, CA 95814 - PHONE (916) 441-4011
SOUTHERN CALIFORNIA OFFICE - HILTON OFFICE CENTER, ROOM 722, 900 WILSHIRE BLVD.,
LOS ANGELES, CA 90017 - PHONE (213) 625-7521
WASHINGTON OFFICE - 1735 NEW YORK AVE., N.W., SUITE 501, WASHINGTON, D.C. 20006
PHONE (202) 296-7575

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Officer

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San Mateo County

County Counsel

STANFORD HERLICK
San Bernardino County

The Honorable Charles Warren
Assemblyman, State of California
State Capitol, Room 2126
Sacramento, California 95814

Dear Assemblyman Warren:

I am pleased to inform you that the County Supervisors Association of California is in general accord with the concepts of your Assembly Bill 1575.

The information gathering and dissemination duties of the Commission outlined in Chapter 4 are specifically requested by our energy policy. Similarly, the research and development provisions are sure to be of benefit to the state.

While I realize that the land use question is a difficult one, we believe you and your staff have made an ambitious attempt to involve local government, and for that, we commend you.

We must hesitate to assign our full support and effort to this bill because, unlike the original SB 283 (Alquist), the Commission does not contain a representative of county government. Furthermore, our policy states that in an emergency allocation system, a county should be assigned a specific avenue to represent their constituency before the allocating authority if the county area is adversely affected more than the rest of the state. Chapter 8 contains no such provision, and I am advised that Section 25901 does not allow a county to file on behalf of its constituents.

Executive Director
RICHARD E. WATSON

The Honorable Charles Warren
February 19, 1974
Page Two

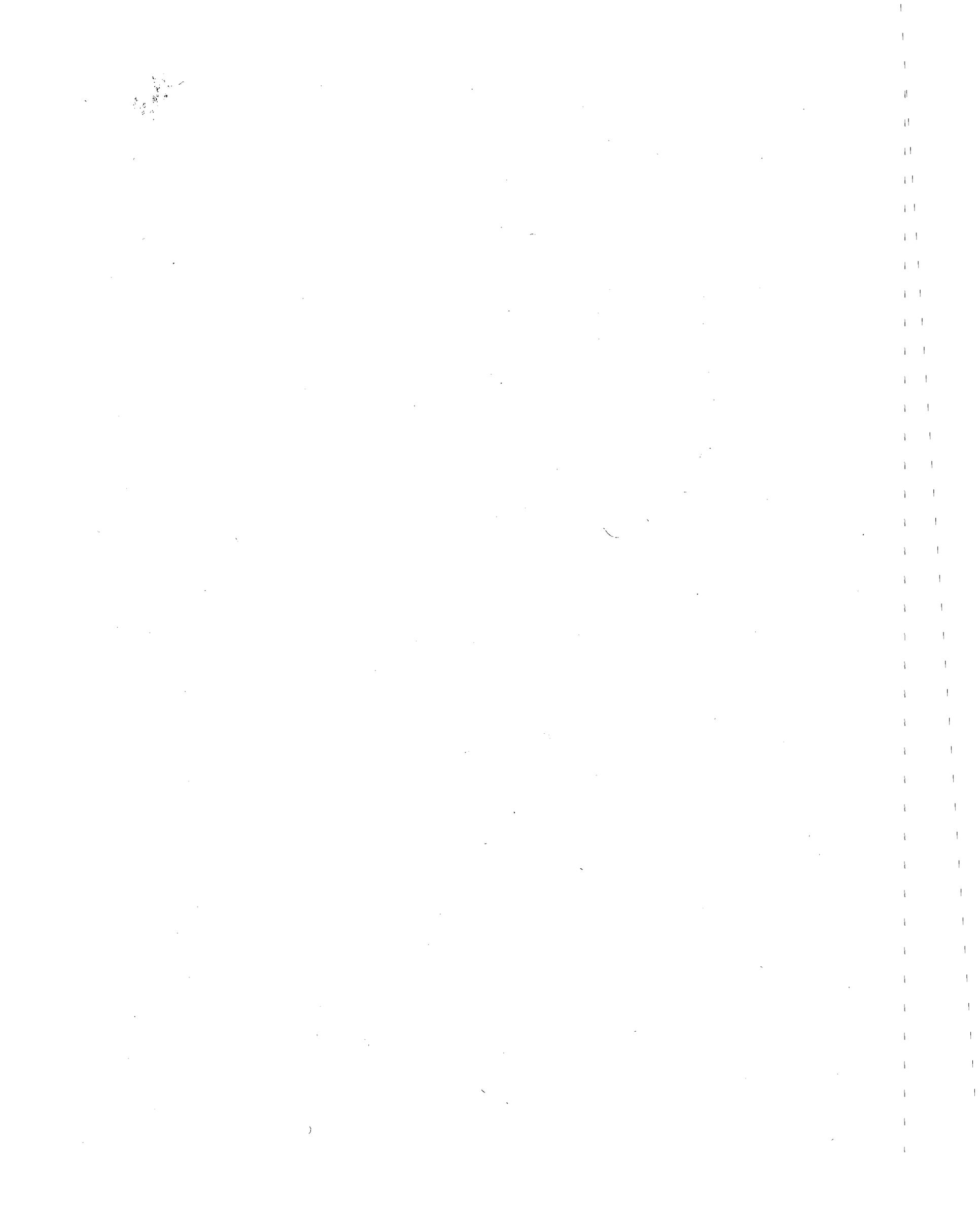
We are in general support of the overall thrust and general concepts in AB 1575; but, we reserve the right to continue working with you, your staff, and other members of the Legislature to resolve any further problems.

Sincerely,



Thomas Van Horne
Program Coordinator

TVH/lcw



Statement by

Mr. Bernard D. Haber
Vice Chairman
Assembly Science and Technology Advisory Council
and
Chairman, Panel on Energy Planning and Programs

- to -

Public Utilities and Corporations Committee
California State Senate

February 19, 1974

I am Bernard Haber, Vice Chairman of the Assembly Science and Technology Advisory Council, and Chairman of the Council's Panel on Energy Planning and Programs. Other members of the Panel include Dr. Bernard Oliver, Vice President in Charge of Research and Development, Hewlett-Packard; Stahrl Edmunds, Dean, Graduate School of Administration at the University of California, Riverside; Dr. Emil Mrak, Chancellor Emeritus, University of California, Davis; Professor Lester Lees, Director, Environmental Quality Laboratory, California Institute of Technology; and Professor Charles Washburn, Chairman, Department of Mechanical Engineering, California State University at Sacramento.

I am pleased to be able to say at the outset that in the judgment of the Energy Panel, Assembly Bill 1575 represents by and large the most far reaching, integrated, conceptually sound and complete power facility siting and energy conservation measure produced by any legislative body in the country. I shall amplify this statement in the remarks that follow.

The Panel on Energy Planning and Programs was established in 1970 by the Assembly Science and Technology Advisory Council for the purpose of responding to energy related issues raised by Assembly members. Since its inception, the Energy Panel has issued seven reports all dealing with California-related electrical power matters, the first in June 1971 and the last in May 1973.

Our first report, Meeting the Electrical Energy Requirements for California, dated June 1971, contains recommendations calling for a single siting authority, an energy conservation authority and an authority responsible for research and development on energy matters. Our report, California's Projected Electrical Energy Demand and Supply, dated November 1971, concludes that if the growth rate of demand is 7%, the state is likely to be confronted by power capacity shortages by the mid-1970's; this situation will be aggravated if serious power plant construction delays occur; and it will occur in addition to any shortages caused by lack of fuel. The need for an energy conservation authority was reiterated, as was the need to reduce the lead time required for bringing new power plants on stream. In our report, Considerations in Viewing the Role of State Government in Energy Planning and Power Plant Siting, February 1973, an independent California electrical power authority is recommended having the broad functions of regulatory responsibility to site generating plants and transmission facilities, developing conservation policies, and administering a research and development program.

Assembly Bill 1575 responds fully to these conclusions and recommendations of the Assembly Science and Technology Advisory

Council and its Panel on Energy. It pulls together the purpose of a number of ideas, and combines them in a logical and coherent whole. In particular, the measure is commendable for its recognition of importance of:

- (a) Alternative sites for each site required.
- (b) An open planning process.
- (c) Provision for institutionalized environmental advocacy.
- (d) Insofar as possible, one-step decision making, but with attention to local interests.
- (e) Dedication of the areas for public use, and control of development in areas adjacent to sites in order to protect health and safety, as well as controlled growth.
- (f) Forecasting of demand and supply factors on a periodic basis.
- (g) Energy conservation measures.
- (h) Research and development on energy related matters.
- (i) A meaningful and adequately financed funding mechanism.

In conclusion, AB 1575 provides in admirable fashion a means for objective and independent decision making about the many balances that must be struck between environmental protection and electrical energy provisions now and in the future.

PLEASE RESPOND TO:

DISTRICT OFFICE
1393 CIVIC DRIVE
WALNUT CREEK, CALIFORNIA 94596
(415) 934-4558

SACRAMENTO ADDRESS
STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
(916) 445-6083



JOHN A. NEJEDLY
SEVENTH SENATORIAL DISTRICT
CONTRA COSTA COUNTY

COMMITTEES
NATURAL RESOURCES AND
WILDLIFE, CHAIRMAN
AGRICULTURE AND WATER
RESOURCES
ELECTIONS AND
REAPPORTIONMENT
LOCAL GOVERNMENT
SENATE SELECT COMMITTEE ON
PENAL INSTITUTIONS, CHAIRMAN

CALIFORNIA LEGISLATURE

Senate

February 21, 1974

The Honorable Charles Warren
Member of the Assembly
State Capitol, Room 2126
Sacramento, California 95814

Dear Charlie:

I am taking this opportunity to respond to your earlier invitation to comment on your AB 1575 (Warren-Alquist State Energy Resources Conservation and Development Act).

I am aware of the ongoing, delicate discussions between you and the Governor's office and am somewhat hesitant to suggest changes at this point in time. Nonetheless, I am concerned that your bill places heavy emphasis on electrical energy and not enough emphasis on the conservation of our natural resources.

May I respectfully suggest some amendments which appear to be relatively minor on the surface but which are significant, I suggest, to your purpose in authoring the bill. These amendments should not jeopardize the support base you have pulled together. These amendments, referenced to the amended version of February 19, are self explanatory and are as follows:

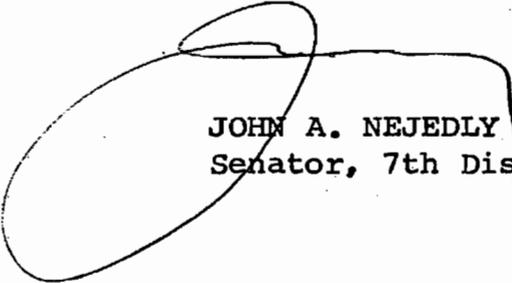
Charles Warren
February 21, 1974
Page Two

<u>Page</u>	<u>Line</u>	<u>Amendment</u>
3	21	Strike out: "electrical" Insert: "an adequate supply of"
3	25	Strike out: "energy is" Insert: "and other forms of energy are"
3	30	After "electric" insert: "and other forms of"
4 22	9 11	After "electrical" insert: "and other forms of"
23	12	Strike out: "electrical"
24	2, 11 15, 18	After "electric" insert: "or gas"
24	9	After "power" insert: "or natural gas"

In addition, there are other areas (such as the reporting requirements for other than electric utilities) which I feel warrant attention but which can be dealt with in other legislation which I have under consideration.

Your consideration is appreciated.

Very truly yours,



JOHN A. NEJEDLY
Senator, 7th District

JAN:mco
cc: Don Livingston
Governor's Office

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Vertical text on the right margin, possibly a page number or reference code, also appearing to be bleed-through or very faint handwriting.

SACRAMENTO ADDRESS
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SACRAMENTO, CALIF. 95814
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Assembly California Legislature

COMMITTEES
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PLANNING AND LAND USE
SUBCOMMITTEE ON STATE
ENERGY POLICY
JOINT COMMITTEE ON
PUBLIC DOMAIN
SELECT COMMITTEE ON
MEDICAL MALPRACTICE
JUDICIAL COUNCIL OF
CALIFORNIA

CHARLES WARREN
MEMBER OF THE ASSEMBLY, FIFTY-SIXTH DISTRICT
CHAIRMAN
COMMITTEE ON JUDICIARY

February 25, 1974

TO: Members of the Senate
FROM: Assemblyman Charles Warren
RE: AB 1575

Enclosed is a very important article describing the energy savings which can be accomplished by applied conservation techniques. In my major energy bill, AB 1575, which will soon be heard by the Senate Finance Committee and hopefully soon thereafter by the Senate as a whole, this approach is a principle provision.

For the most part, many energy managers have overlooked the tremendous energy savings which can be accomplished by eliminating the "wasteful, inefficient and uneconomic" uses of energy--all of which can be accomplished with little impact on life style.

Enclosure

The Energy Gap: Do We Cut Back or Keep Drilling?

BY JOHN F. LAWRENCE
Times Washington Bureau Chief

WASHINGTON — In its all-out rush to pour public and private funds into developing more energy resources, the nation may be headed toward repeating an old mistake—building supplies to meet consumption rather than doing all it can to cut consumption to meet supply.

That is the view of a good many energy experts in and out of government. They maintain that the potential for leveling off the long-term growth in consumption simply by pressing for greater fuel efficiency in industry and in consumer products is far greater than most people realize.

"If you look at the way decisions are made on energy, we are willing to pay much more to create a barrel of oil than we are to save it," observed John H. Gibbons, director of the Office of Energy Conservation, now a part of the Federal Energy Office.

Gibbons is still smarting under a 60% cut from what conservation experts had recommended in President Nixon's energy spending plans.

Once the oil embargo is over, "if we go back to business as usual—a big-car, glass-house economy—we're going to keep chasing our tail," insisted S. David Freeman, a former Nixon Administration member who heads a Ford Foundation study of the energy problem. "I think most of the supply gap can be eliminated through conservation."

Continued from First Page

Freeman and Gibbons can back their comments with some startling statistics from an unexpected source. The Office of Emergency Preparedness, disbanded by Mr. Nixon and criticized for not having prepared the nation for a sudden energy crisis, conducted a major inter-agency study of how much conservation efforts could achieve.

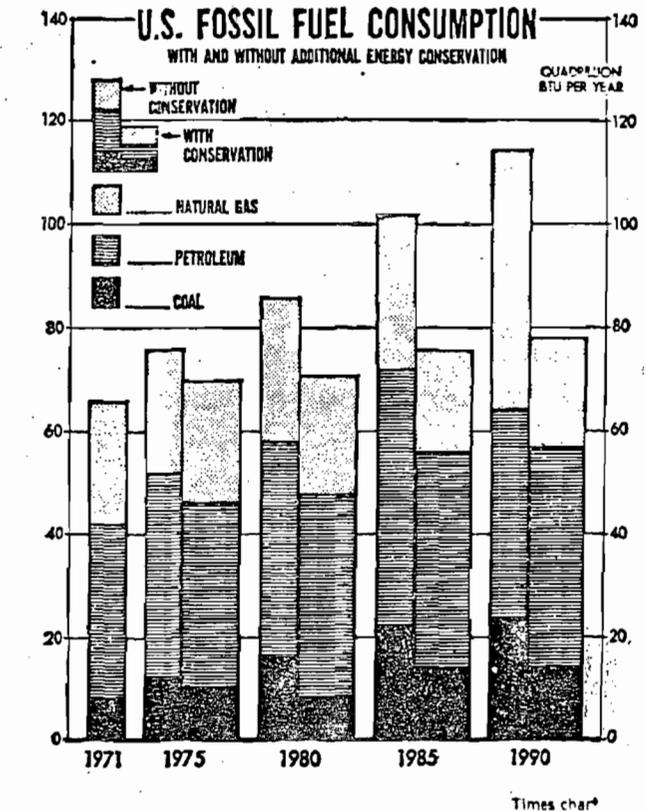
Its little publicized report in 1972 was that no less than 7.3 million barrels of oil a day—43% of current consumption and two-thirds of projected oil imports—could be lopped off the nation's fuel use by 1980. Moreover, this could be done, the report indicated, almost without pain to industry or the average consumer.

Beyond 1980, continuing efforts to improve fuel efficiency, if begun now, could almost flatten the overall energy consumption trend between now and the 1990s, holding the increase to 1% a year, according to the report. Unconstrained, the country's fuel appetite is expected to rise 75% over the next 20 years.

While Administration leaders do not say so publicly, some concede privately that savings of that magnitude would render unnecessary much of the President's Project Independence—the drive to increase fuel supplies. "It simply wouldn't be necessary to triple coal production," as that project envisions by 1985, one source said.

To achieve this kind of savings, Gibbons' conservation office is attempting to build a fire under a program that will rely heavily on the voluntary actions of industry and the public, combined with federal prodding and perhaps ultimately with some tax incentives.

It is already apparent that a voluntary approach can produce results. With the current shortages and the sharp rise in energy prices, a number of major



companies have climbed into the energy savings campaign with both feet, some to cut their own bills, others to make a business out of showing others how to do so. Early results are impressive.

Michigan Consolidated Gas, a Detroit utility, last fall started a marketing program aimed at getting its customers to insulate their ceilings. It figures half of them had less than the six inches considered a standard requirement for that climate. About 25,000 homeowners have responded. The utility permits customers to pay for installation in monthly installments on their regular bills.

In most cases the energy savings fully offset the added monthly payment, a spokesman for the utility said. "Insulation sales in our market area are up 73% over a year ago," he said.

General Electric has already added a switch to its refrigerators that can be used to turn off the heating units that warm the outside of the box to prevent condensation. The heating is needed only when humidity is high. Si-

ilarly, GE will shortly add a switch to its dishwashers so the heater used for drying can be turned off when dishes are going to be left long enough to dry by themselves.

U.S. Homes, a Clearwater, Fla., homebuilder with operations in 14 states, is developing a new line of homes in which energy usage will be cut by 50%. It hopes to be able to build 1,000 of them in the next year or so.

The main factors in the savings: bigger roof overhangs to save on air conditioning, elimination of attics, wooden French doors with smaller windowpanes to replace big sliding glass doors, the use of the old-fashioned vestibule to cut heating and cooling loss when the outside door is opened and solar water heaters.

In addition, the homes are designed in three parts, each with its own air-conditioning and heating system. This saves pumping the air through so much ductwork and also enables a homeowner to switch off units in unused parts of the house.

All of this will add about 8% to the cost of the house, but savings on fuel bills should offset that in four years, maintains Alan Bomstein, director of the program.

The DuPont Industrial Energy Consulting Service has stepped up its work in recent months and figures there is almost no continuous process plant in which it cannot find ways to save close to 15% of fuel use. One key step: using meters just to see how much excess pressure or extra horsepower is being used on a process than is really required.

That is just a sampling of what is going on. But,

Ironically, this very success is producing some slowness in the flow of federal funds to accelerate such efforts.

"You don't need a lot of money for conservation," a top White House energy aide argued. "The technology is on the shelf and the incentive is there."

Conservation is not entirely neglected in Project Independence, of course. Energy Administrator William E. Simon has said that part of the plan is to restrict the growth in fuel consumption to 2% or 3% a year by 1980, well under the 4% to 5% rates common in recent years.

Based on the emergency preparedness study, however, the savings could be greater than that if the effort is pushed hard enough. And Gibbons, the government's top energy conservation official, notes that in budgeting only \$25 million instead of a recommended \$65 million for research into the way energy is used, the Administration has deleted a number of demonstration projects that would have provided some of the impetus.

One such project would have involved prototype energy saving homes which Gibbons believes would have stimulated a rapid change in builders' plans. Another involved building a new type of cement plant that would use 30% less fuel than present plants.

Gibbons describes a three-pronged drive on fuel efficiency, with groupings based on how quick the payoff can be. In the shortest period, much of the effort involves turning off switches to eliminate excessive lighting and other simple waste.

In the medium term, the payoffs begin to show up from such things as changing federal purchasing priorities to give energy efficiency top-billing in product selection.

Moreover, as present air-conditioning units wear out on homes and offices around the country, replacing them with high efficiency units already available would save enough power by the summer of 1980 to eliminate the need for 70 generating plants, Gibbons says.

Replacing pilot lights with ignition systems in gas appliances is another mid-term goal.

Long-term projects involve redesigning offices and industrial processes so that as present facilities become obsolete they are replaced with energy efficiency in mind.

Probably the most controversial and difficult steps suggested by the Office of Emergency Preparedness in its 1972 report involved shifts in transportation. Because jetliners are low-efficiency energy users, intercity passenger travel should be shifted more toward trains and buses. Similarly, freight handling should be shifted back toward railroads from trucks because of better fuel economy. And not surprisingly, there should be an increase in urban mass transit, the report said.

By getting all this going now, there is a good chance that added efficiency can offset economic growth for at least a couple of decades. Ford Foundation researcher Freeman figures a 2%-a-year average efficiency improvement is achievable. Such a trend might join an

annual increase in worker productivity as a national goal.

The question is how much government prodding is going to be required for this. So far the debate in Congress lacks steam. The House environmental subcommittee, currently considering a Senate-passed energy research and development bill, is discussing strong language insisting that the supply and conservation side of the equation get equal attention.

But Sen. Walter F. Mondale (D-Minn.) worries that Congress isn't feeling enough pressure yet on the conservation side. "Until the politicians get some heat at home, the supply side is going to get most of the action," he said.

Mondale, a member of the Senate Finance Committee, favors using broad tax incentives to help push businessmen and consumers along the conservation path. For example, he would slap a horsepower tax on cars, in steps over five years, to encourage the switch to compacts.

February 25, 1974

Mr. Edwin Meese
Executive Assistant
Office of the Governor
State Capitol

Re: Assembly Bill 1575

Dear Ed:

Enclosed is the latest editorial in support of AB 1575 by the Los Angeles Times which appeared in its February 22, 1974 issue. Note that the editorial is aware of the surcharge for financing the commission and research and development projects.

Also enclosed are copies of editorials in support of the bill or veto override.

I would appreciate it if you would advise Governor Reagan of the extent of the support in view of his express concern that the press would consider passage of the bill to be a tax increase. I sincerely do not believe that such will be the case in view of the support and recognized purpose of the surcharge.

Very truly yours,

CHARLES WARREN

CW/ch

Enclosures

California Legislature

Subcommittee on State Energy Policy of the Assembly Planning, Land Use, and Energy Committee

CHARLES WARREN
CHAIRMAN

April 8, 1974

MEMORANDUM

TO: CHARLES WARREN
FROM: STAFF
RE: AB 1575 - GRANDFATHER CLAUSE

Because a number of questions are already being raised about the grandfather clause, this brief summary may be of some value in explaining it.

The grandfather clause is designed in the following fashion:

Section 25501 gives the two criteria for exemption--either a certificate of PC&N from the PUC before January 7, 1975, or a planned construction start date prior to January 7, 1978.

Section 25501.3 specifies three criteria for determining whether a plant has a valid construction start date prior to January 7, 1978. These criteria are:

- a planned operating date consistent with forecast demand reported under G.O. 131 (for most major utilities) or otherwise disclosed in a public document (for the small public-owned systems).
- a need to start construction prior to January 7, 1978, which is justifiable on the basis of the planned operating date.
- a substantial expenditure of funds for planning or equipment prior to January 7, 1975.

These criteria are not exclusive. A person can still contend that his plant was planned to start construction prior to 1978 and can make a showing to that effect before the new commission or the courts based on other document action in an attempt to have that plant exempted. This flexibility is important (1) to a company like Dow which is in an advanced stage of planning now for a plant at the Geysers, (2) for small public-owned utilities who may find current plans for geothermal development overly optimistic and have to retreat to fossil-fueled units, (3) for the major utilities who may encounter objections to present plans and need to bring another unit on-line to plug the gap.

Note that the exempted plants will still be subject to the full review of existing processes and will not avoid regulation altogether.

Section 25501.5 lists the particular plants which the Legislature declares meet the criteria of Section 25501.3. The list grandfathers 14,200 MW of generating capacity, or a little more than a third of present capacity. The total includes 1300 MW in geothermal units, 6700 MW in fossil-fueled units, and 6200 MW in nuclear units. The nuclear units are to be located either in the desert or in the Central Valley, with only one unit potentially to be sited on the coast if the primary alternative is later judged unsuitable.

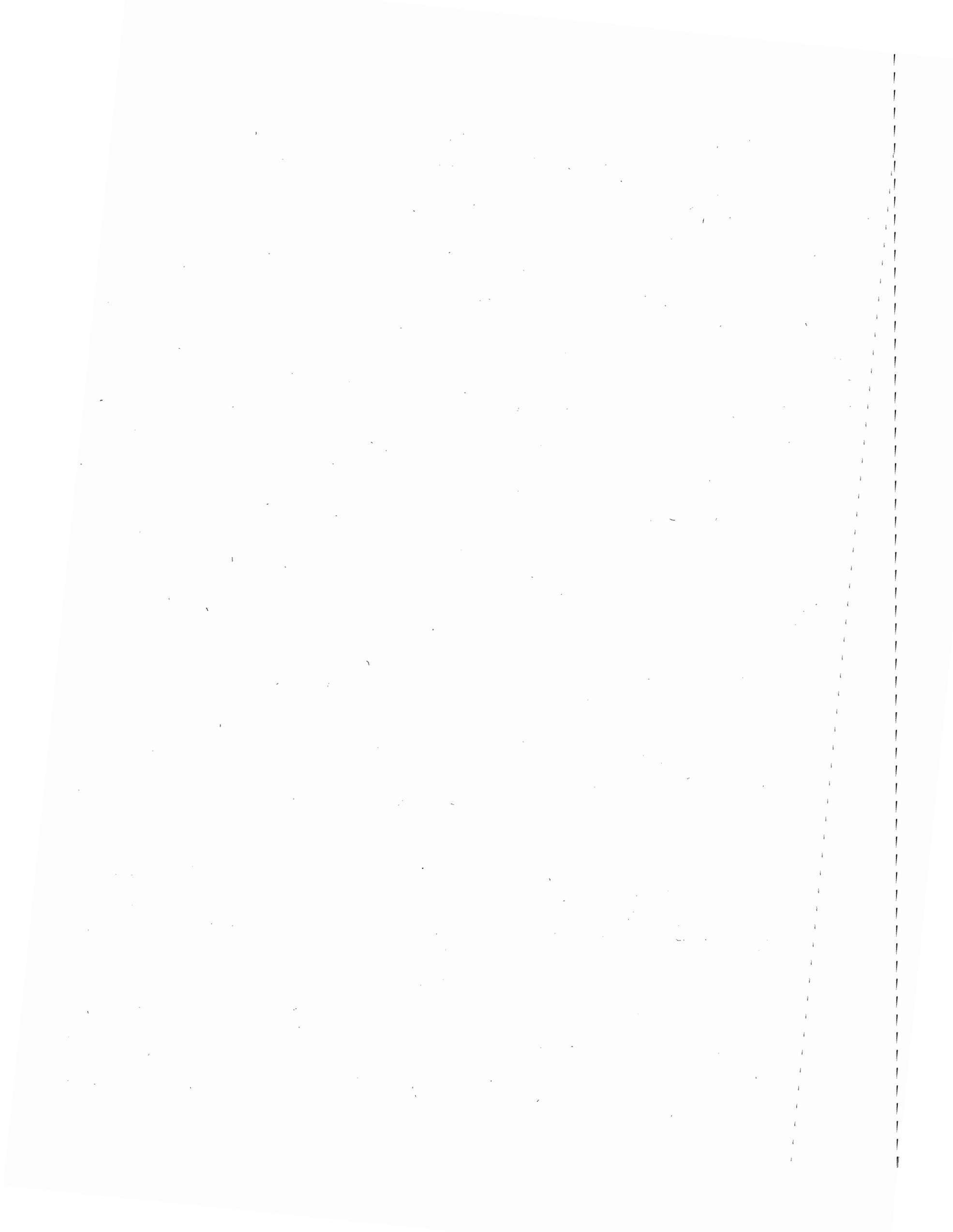
Why have the plants been listed?

There is no unambiguous way to delimit the exempted plants for both the public-owned and privately-owned utilities short of an actual list. The alternative is to depend on the courts or the commission to determine which plants are eligible for exemption. The utilities find this degree of uncertainty undesirable, feeling it will engender considerable delay. Because no external public agency document now exists which establishes current planned construction dates for all power plants in the state, the list in the bill is the next best option.

Have an excessive number of plants been listed?

Currently, there is approximately 36,000 MW of generating capacity in the state. At the recent rate of growth in demand (6.8%), another 36,000 MW of capacity would have to be constructed by 1985. Every three years, then, roughly one-third of this 36,000 MW must start construction. The 14,000 MW grandfathered in the list then is the one-third of needed ten-year capacity appropriate for the three year transition period and no more. In previous versions of the bill, the three year transition period was included but without specifically listing the plants. Under this previous version the same plants would have been eligible for exemption from the new commission.

If in fact a utility does not start construction on a plant in the list reasonably within the three-year period, or tries to build the plant in excess of legitimate need, the utility can be immediately challenged on the basis that the plant does not meet the criteria in Section 25501.3 nor the intent of Section 25501. Furthermore, the legislative declaration made in Section 25501.5 gives no approval of the power plants listed, but only states that those plants are subject to the jurisdiction of all other existing agencies with a siting role.



FILE
1575

Comments on Amendments to AB 1575 by Senator Biddle

On Monday, May 6, 1974, Senator Biddle offered amendments to AB 1575 to be considered on the floor. The amendments will eliminate (1) the power to set minimum energy efficiency standards for major appliances and (2) the limited preemption of local jurisdictions involved in powerplant siting. Both of these elements are vital to the bill and should not be eliminated.

AMENDMENT 1

The first amendment deletes the authority of the state energy commission to adopt minimum energy efficiency standards for major home appliances.

Response: These appliance standards to be set by the commission could be saving California the equivalent of 16 million barrels of oil annually by the year 1980, according to figures published by the federal government. While saving this energy, the standards will impose no burden on the appliance buyer since the bill requires the standards to result in no increased costs to the consumer. The industry admits publicly that such standards are feasible since they are now engaged in a program of efficiency measurements on major appliances, and that they will have sufficient time to comply with the standards. (The standards will become effective by July 1, 1977.) While the industry prefers a voluntary labeling approach, this effort in other states has not been effective. The consumer is confused by such labels, does not grasp the implications, and is swayed by many features other than efficiency.

The need for reducing the wasting of energy is clear. The provision in question protects both the consumer and the industry. The industry admits the provision is workable. The authority for setting appliance standards should be maintained.

AMENDMENT 2

The second amendment eliminates the ability of the commission, in the rare event that no reasonable and prudent alternative to a powerplant exists and a powerplant is needed to serve legitimate public needs, to authorize the construction of a powerplant which does not conform with a particular relevant local standard, ordinance, or law.

Response: This limited power in the bill in its present form has attempted to balance both the need to avoid excessive delays in powerplant siting and the protection of local interests. This preemptive authority is not to be invoked capriciously. The commission must first require a utility powerplant to conform to local rules. If the plant cannot be brought into conformance, the commission must call in the effected local officials and arbitrate some settlement which will eliminate the nonconformance. If this is not possible the commission must search for reasonable alternatives to the proposed plant. Then, if no alternative exists and the plant is necessary to accommodate projected demand, the commission may, after issuing a written decision acknowledging the need and lack of alternatives, approve the plant even though it does not meet certain local specifications.

This process, sensitive to local concerns, was characterized by the League of California Cities in an April 23, 1974 letter as protecting "insofar as is reasonable and practicable the governmental position of other public agencies and infringes only when no alternative is available".

In contract, the federal government has committed itself to more far-reaching preemption. These attempts will not be concerned with protection of local options unless leavened by a more sensitive state approach. At a minimum the present approaches at the federal level will require some sort of preemptive "one-stop" siting process within the state in order to avoid federal control.

The Governor and the utilities have voiced very strong opposition to attempts at removing the local preemption authority and would not favor enactment of legislation lacking this power. Local representatives have been included in the drafting of AB 1575 and have worked to include these many safeguards. Three previous Senate powerplant siting bills have passed out of this house with strong preemption provisions. None of them protected local interests with the care and detail of AB 1575. This provision should be preserved.

AMENDMENT 3

The last amendment involves two separate issues. The first portion voids the authority of the commission to preserve the AEC public safety guidelines relating to population densities near powerplants.

Response: Presently, the AEC approves a site based on a 40-year population distribution projection which must not exceed a certain maximum. However, the AEC cannot control events to ensure the maximum is in fact never exceeded in 40 years. The bill offers two approaches to maintain these

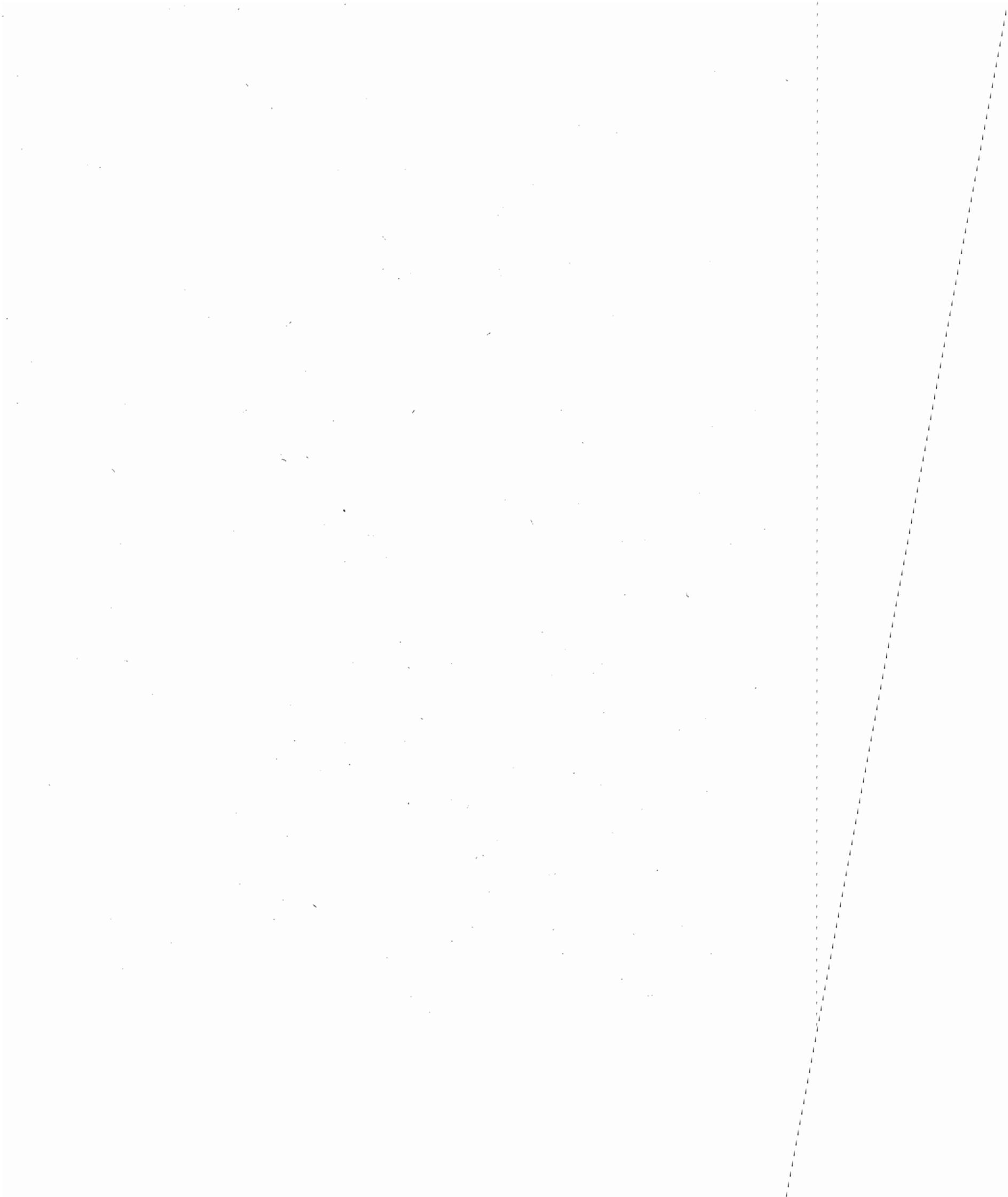
safety margins: transfer of development rights and local zoning subject to commission review. The commission is not itself given the power to zone but only to ensure that local actions do not jeopardize AEC public safety criteria. The proposed amendment would remove the commission's capability to review local zoning changes next to powerplants.

This review does not foreclose all local options, does not impose unreasonable burdens on local government, protects the general public's health and safety, and should be maintained.

The second paragraph is largely unnecessary. In effect, the enforcement of local ordinances would be required by this amendment.

Response: The bill now requires such enforcement, regardless of the nature or the stringency of the local regulation. However, the amendment would further allow a zoning decision to completely control a siting choice, an authority which even existing law may not provide. The substance of the amendment is then to eliminate the limited ability of the commission to site powerplants which must, of necessity, violate a local regulation. For the reasons discussed previously the loss of this authority must be avoided.

AB 1575 is the result of many months of hearings, deliberations, and negotiations. All major interests were involved in working out the details of this bill and are now agreed it provides sufficient safeguards and is workable. The bill has been subjected to the full processes of both houses and has benefitted from this process. The amendments offered by Senator Biddle would destroy two key provisions of this bill. Acceptance of these amendments would create serious problems in the bill and reduce its effectiveness. Approval of the AB 1575 without further amendments is urged.



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STATE SENATOR
ALFRED E. ALQUIST

THIRTEENTH SENATORIAL DISTRICT

REPRESENTING
SANTA CLARA COUNTY
IN THE

Senate



COMMITTEES
PUBLIC UTILITIES AND
CORPORATIONS
CHAIRMAN
FINANCE
ELECTIONS AND
REAPPORTIONMENT
EDUCATION

*FILE
AB 1575*

May 7, 1974

Members of the Senate
State Capitol
Sacramento, California

Dear Colleague:

The State Energy Resources Conservation and Development Act (AB 1575) was reported out of the Finance Committee favorably on May 1, and will shortly be considered on the Senate floor. The bill is now supported by:

Honorable Ronald Reagan, Governor
Honorable Houston I. Flournoy, Controller
Honorable Evelle J. Younger, Attorney General
Honorable Tom Bradley, Mayor of Los Angeles
City Council of Los Angeles
Pacific Gas and Electric Company
Southern California Edison Company
San Diego Gas and Electric Company
Los Angeles Department of Water and Power
California Municipal Utilities Association
AFL-CIO
Sierra Club
Planning and Conservation League
Assembly Science & Technology Council, Panel on Energy
Planning Programs
Lester Lees, Director of Environmental Quality Lab,
California Institute of Technology and Chairman
of the Lieutenant Governor's Energy Workshop
James H. Krieger, Co-chairman of the Lieutenant Governor's
Energy Workshop

Supporting editorials have also been published in the Los Angeles Times and the McClatchy Newspapers and delivered by KABC-TV in Los Angeles. Recent editorials from the San Jose Mercury and the Los Angeles Times are attached for your consideration.

A number of questions have consistently been raised about provisions of this bill concerning appliance efficiency standards and the preemption of local jurisdictions involved in powerplant siting decisions. These issues were considered fully in the Assembly and have been dealt with in both the Public Utilities and Corporations Committee and the Finance Committee of the Senate.

To give you the benefit of much of this prior discussion, two brief papers are attached which summarize the main points of each dispute.

We hope you will find this information of value and urge your favorable consideration of this bill.

Best regards,



ALFRED ALQUIST



CHARLES WARREN

AA:CW:vlg
Enclosures

PREEMPTION OF LOCAL GOVERNMENT IN SITING

The commission created by AB 1575 is authorized to certify powerplant sites in lieu of certification by all other local and state agencies presently involved in powerplant siting (Section 25500), with the exception of the Coastal Commission which the Legislature is prevented from preempting.

The debate over this authority has pointed out (1) that the preemptive power is necessary in order to consolidate deliberations ("one-stop siting") and to avoid excessive delays in constructing powerplants to serve the public but (2) that the rights and desires of the local residents directly affected by the plant must be protected.

AB 1575 achieves a balance between these two objectives by:

- (a) Having ordinances and laws applicable to siting which are adopted by local government enforced by state energy commission (Sections 25216.3, 25523, and 25525).
- (b) Overriding local laws and ordinances only after attempting to bring a plant in compliance and working out a solution acceptable to local agencies (Sections 25523(b)), and even then only when no reasonable and prudent alternative to the plant exists (Section 25525).
- (c) Facilitating local input through conducting hearings on siting in the area slated for the plant giving adequate notice, circulating reports and applications for comment,

and providing opportunity for written comment from any citizen (Sections 25505, 25506, 25509, 25510, 25519 (e) and (f), and 25521).

Furthermore, existing processes for obtaining water contracts, bonding authority for ancillary facilities, and other similar arrangements operating at the local level indirectly related to siting are not affected by AB 1575.

The Senate has previously recognized the importance of preemption through its passage of SB 1195 and SB 1310 in 1972 and SB 283 in 1973, all of which provided a "one-stop" approach and its defeat of SB 1062 in 1972, a siting bill which did not preempt other agencies. But even in recognizing the importance of one-stop siting, these previous bills did not provide the very sensitive protection of local interests now included in AB 1575. Indeed, the preemption provisions have been characterized by the League of California Cities as necessary and reasonable.

MINIMUM ENERGY EFFICIENCY STANDARDS FOR APPLIANCES

In Section (c) of AB 1575, the state energy commission is required to adopt standards for energy efficiency in high energy-using appliances to become effective on July 1, 1977. This particular section of the bill is vigorously opposed by the Association of Home Appliance Manufacturers (AHAM) and the General Electric Company and their representatives have made several major objections.

(1) Are efficiency standards technically possible for appliances other than air conditioners?

The written statements of three appliance engineers in testimony indicate the standards are technically feasible so long as a standard use test pattern is established, as required in the bill.

In addition, the Assembly Science and Technology Advisory Council, the Rand Corporation, the Cal Tech Environmental Quality Lab, and the Office of Emergency Preparedness in the White House all concur that the standards are feasible.

In testimony, even AHAM admitted that they are currently engaged in the measurement of energy efficiencies of many of the major home appliances.

The bill specifically protects the industry from being faced with an impossible standard by constraining the commission to consider only feasible and reasonable measures.

(2) Will labeling achieve the same result as a mandatory standard?

New York State has had little success with its two-year-old labeling law. Testimony from a professional appliance engineer indicates labeling is "ineffectual" as an energy conservation technique since the consumer may not understand such information and is swayed by many factors other than efficiency.

AHAM indicated it was backing a labeling bill at the federal level. Originally, however, this bill by Senator Tunney called for minimum standards, but was weakened at the insistence of the industry. Tunney's staff indicated a preference for the minimum standard approach.

(3) Will efficiency standards raise appliance costs to consumers?

Higher efficiency does not necessarily mean higher purchase price. In 1972, one manufacturer sold eight models of 6,000 BTU room air conditions with the following efficiencies and retail prices:

<u>Model</u>	<u>Efficiency (BTU/watt-hr.)</u>	<u>Price</u>
1	4.9	\$200
2	6.1	160
3	6.1	170
4	6.1	180
5	6.7	210
6	6.9	170
7	6.9	180
8	6.9	190

As this table indicates, the most efficient model was among the cheapest (No. 6 - \$170) and the least efficient model was among the most expensive (No. 1 - \$200). Obviously the selling price of these room air conditioners is influenced by many factors other than efficiency (i.e., trim features, fan speeds, ventilation and exhaust features), obscuring the effect of efficiency on price.

But regardless of the impact of higher efficiency on purchase price, improved efficiencies will reduce the annual energy consumption of the appliance and thereby decrease operating costs. In other words, even if a more efficient appliance initially were costlier, these costs could be repaid in as little as two to three years through lower operating expenses. After this balance point is reached, the consumer will actually be saving money.

In Section 25402 (c) the guarantee is given that there will be no higher total costs (both initial costs and operating costs) borne by the consumer owing to the efficiency standards: "Such standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliance concerned." Since this guarantee is incorporated as a direct constraint on the standard-setting authority of the commission, higher total costs to the consumer are avoided.

(4) Will appliance standards save substantial energy?

Using data developed in the report, The Potential for Energy Conservation, issued by the Office of Emergency Preparedness in

the White House in October 1972, minimum efficiency standards for only 4 major appliances (water heaters, ranges, refrigerators, and air conditioners) would save California the energy equivalent of 42,000 barrels of oil per day or 16 million barrels annually--by no means an insignificant amount.

(5) Will the standards program be very costly to the state government?

Certification and enforcement for the vehicle emission standards program in the state costs \$650,000 per year. If the appliance program had costs as high (which is doubtful because of the reduced requirements for after-purchase testing), it would be the equivalent of paying 4¢ for each barrel of oil saved.

(6) Is there too little time for industry to comply with such standards?

The AHAM witnesses indicated that 18-24 months would be required to develop testing and certification procedures for implementing appliance efficiency standards. The industry is now, at its own expense, developing appropriate testing procedures and has over 36 months to prepare for the standards to be established by the state energy commission.

(7) Because of interstate commerce complications, should individual states adopt appliance standards?

The Congress has avoided implementing similar standards, largely due to pressures from the appliance industry. Similar interstate commerce concerns were voiced when California implemented vehicle emission standards, yet market relations were not seriously disrupted. Senator Tunney's staff points out that members of the appliance industry have opposed even a federal labeling bill saying this should be left to the states. The ambivalent industry position may indicate a more fundamental opposition to any substantive efforts in this area rather than a concern for interstate commerce complications.

Legislative Counsel opinion #9715 indicates there are no unreasonable interstate commerce burdens.

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

COPY

Sacramento, California
May 13, 1974

Honorable Raymond Gonzales
Assembly Chamber

Energy Resources: Powerplants
(A.B. 1575) - #9867

Dear Mr. Gonzales:

You have directed our attention to Assembly Bill No. 1575, as amended in Senate May 2, 1974, relating to energy resources, and have asked the following two questions which are considered below.

QUESTION NO. 1

Would the authority of local governments be superseded in respect to regulating the location of nuclear thermal powerplants which are subject to the jurisdiction of the State Energy Resources Conservation and Development Commission?¹

OPINION NO. 1

With certain exceptions, the authority of local governments would be superseded in respect to regulating the location of nuclear thermal powerplants which are subject to the commission's jurisdiction.

¹ Hereinafter referred to as the "commission."

ANALYSIS NO. 1

The provisions of A.B. 1575 would, if enacted, among other things, enact the Warren-Alquist State Energy Resources Conservation and Development Act (Div. 15 (commencing with Sec. 25000), P.R.C.²). Very generally, such provisions would provide for the establishment of the commission (Sec. 25200, et seq.), the forecasting and assessment of energy demands and supplies (Sec. 25300, et seq.), for conservation of energy resources by designated methods (Sec. 25400, et seq.), and for certification of power sites and facilities (Sec. 25500, et seq.); require the commission to develop and coordinate a program of research and development in energy supply, consumption, and conservation and the technology of siting facilities (Sec. 25600, et seq.), and provide for the development of contingency plans to deal with possible shortages of electrical energy or fuel supplies (Sec. 25700, et seq.).

Initially, we note that any city or county may enact reasonable zoning ordinances which are not in conflict with the general law under the police power of Section 7 of Article XI of the California Constitution (Lockard v. City of Los Angeles, 33 Cal. 2d 453). This would generally include the authority to issue permits for the construction of powerplants.

Section 25500 would provide as follows:

"25500. In accordance with the provisions of this division, the commission shall have the exclusive power to certify all sites and related facilities in the state, except for any site and related facility proposed to be located in the permit area^[3], whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency

² All section references, unless otherwise indicated, are to sections of the Public Resources Code, as proposed to be added by A.B. 1575.

³ The area in which permits for developments are required under the California Coastal Zone Conservation Act of 1972 (Sec. 27000, et seq.; and particularly Sec. 27104).

to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

"After the effective date of this division, no construction of any facility or modification of any existing facility shall be commenced without first obtaining certification for any such site and related facility by the commission, as prescribed in this division." (Emphasis added.)

The term "site" would mean "any location on which a facility is constructed or is proposed to be constructed" (Sec. 25119). "Facility" would include any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto (Secs. 25110, 25120).

Generally, as can be seen from the above, A.B. 1575 would, except as to sites and related facilities proposed to be located in the permit area, grant to the commission the exclusive power to certify all locations for electrical generating facilities, including nuclear thermal powerplants, with a generating capacity of 50 megawatts or more. The issuance of a certificate by the commission would be in lieu of any permit, certificate or similar document required by any state, local or regional agency, and after the effective date of this bill, no construction of any facility or modification of any existing facility would be permitted without obtaining certification for any such site and related facility from the commission.

Therefore, we think that, generally, the authority of local governments would be superseded in respect to regulating the location of nuclear thermal powerplants which are subject to the commission's jurisdiction.

At this point, it is observed that local governments would be provided an opportunity to participate in the process of forecasting and assessment of energy demands and supplies by A.B. 1575 (see Secs. 25302, 25303, 25305, and 25307) and to provide information, data, and their views in

connection with the approval of a notice of intention to file an application and the certification of any site and related facilities (see Secs. 25505, 25506, 25509, 25510, 25512, 25513, 25514, 25519, 25523, and 25536). Furthermore, the commission would not be permitted to certify any facility contained in an application if the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that such facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving such public convenience and necessity (Sec. 25525).

It is also noted that the commission would not be authorized to approve a site for a facility at a state, regional, county or city park, wilderness, scenic, or natural reserve, area for wildlife protection, recreation, or historic preservation, or natural preservation area in existence on the effective date of this bill, or any estuary in an essentially natural and undeveloped state, unless it finds that such use is not inconsistent with the primary uses of any such land and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of such lands is obtained (Sec. 25527).

Also, there would be certain designated sites and facilities which would be excluded from the power facility and site certification provisions (Secs. 25501, 25501.3, 25501.5), and there would be an authorization for the commission to exempt certain thermal powerplants from such provisions (Sec. 25541). As to an excluded or exempted site and facility or thermal powerplant, the authority of local governments would not be superseded, unless the person proposing to construct it waives the exclusion or exemption (see Secs. 25501.7, 25502.3, 25542), as more fully discussed in Analysis No. 2.

In summary, therefore, it is our opinion that with certain exceptions, the authority of local governments would be superseded in respect to regulating the location of nuclear thermal powerplants which are subject to the commission's jurisdiction.

QUESTION NO. 2

Would the authority of local governments be superseded in respect to regulating the location of an excluded

or exempted site and facility, including the nuclear thermal powerplant referred to in subdivision (e) of Section 25501.3?⁴

OPINION NO. 2

The authority of local governments would not be superseded in respect to regulating the location of an excluded or exempted site and facility, including the nuclear thermal powerplant referred to in subdivision (e) of Section 25501.5, unless the person proposing to construct such a facility waives the exclusion of the site and related facility from the power facility and site certification provisions.

ANALYSIS NO. 2

Section 25501, a part of the power facility and site certification provisions, would read as follows:

"25501. The provisions of this chapter do not apply to any site and related facility which meets either of the following requirements:

"(a) For which the Public Utilities Commission has issued a certificate of public convenience and necessity before the effective date of this division.

"(b) For which construction is planned to commence within three years from the effective date of this division." (Emphasis added.)

As can be seen from the above, if any site and related facility meets the requirement of subdivision (b) of Section 25501, it would be excluded from the power facility and site certification provisions of A.B. 1575.

⁴ The proposed San Joaquin Nuclear Project of the Department of Water and Power of the City of Los Angeles, to be located in Kern County near the City of Wasco.

Honorable Raymond Gonzales - p. 6 - 49867

Section 25501.3 enumerates conditions under which a proposed site and related facility would be deemed to be one for which construction is planned to commence within three years from the effective date of A.B. 1575 within the meaning of subdivision (b) of Section 25501. Section 25501.5 would provide that the Legislature finds and declares that various designated proposed sites and facilities, including the proposed site and facility referred to in subdivision (e) of that section, meet the requirements of subdivision (b) of Section 25501.

It is a well established principle that the courts will accord great weight to legislative declarations (Monterey County Flood Control and Water Conservation Dist. v. Hughes, 201 Cal. App. 2d 197, 209).

Therefore, we think that a court, applying the above principle, could determine that there was a reasonable basis for the legislative findings in Section 25501.5 and thus uphold such exclusions. Thus, it is our opinion that the sites and facilities referred to in Section 25501.5, including the one referred to in subdivision (e), would be excluded from the power facility and site certification provisions of A.B. 1575, and the authority of local governments in respect to the location of such facilities would not be superseded (Sec. 25542).

In addition to the exclusions pursuant to Sections 25501, 25501.3, and 25501.5, the commission is authorized to exempt thermal powerplants with a generating capacity of up to 100 megawatts if it makes certain findings (Sec. 25541). As to any such exempted powerplant, the authority of local governments in respect to its location would not be superseded (Sec. 25542).

However, we observe that any person proposing to construct a facility which is excluded or exempted may waive, as prescribed, the exclusion or exemption of such site and related facility from the power facility and site certification provisions; and, if so, any and all of such provisions would apply to the construction of such facility (Secs. 25501.7, 25502.3). Therefore, any person proposing to construct a facility on an excluded or exempted site, including the

Honorable Raymond Gonzales - p. 7 - #9867

site referred to in subdivision (e) of Section 25501.5, could waive the exclusion of such site and related facility from the power facility and site certification provisions, and, in that case, the commission, as discussed generally in Analysis No. 1, would have the exclusive power to certify such site and facility.

Very truly yours,

George H. Murphy
Legislative Counsel

By
Victor Kozielski
Deputy Legislative Counsel

VK:mcj

Two copies to Honorable Charles Warren,
pursuant to Joint Rule 34.

FLOOR STATEMENT - AB 1575
May 14, 1974

AB 1575 creates the State Energy Resources Conservation and Development Commission with responsibility for five basic programs: forecasting of electrical needs; energy conservation; power plant siting; research and development; and emergency planning. The measure is the result of four years of effort by both houses to develop a solution to our electrical energy problems and is a balance between the interests of utilities, environmental groups, and the administration.

At present we have no central planning for power plant siting and almost no planning for energy conservation. The permit process for new energy facilities is fragmented into a multitude of approvals. Most power plants now require well over 30 different permits before construction can begin, causing extensive and often unnecessary delays in bringing new power on line. On the other side, little attention is given by any agency to balance the use of energy with reasonable energy saving measures. Such a balance is necessary if we are to be assured of sufficient energy supplies in the future. This balance has been achieved in AB 1575.

I need not remind you that we are fast approaching a new era; one in which the earth's resources will be stretched to their limit and may at times be beyond any monetary value. The boldness shown by the Arab world recently has revealed the vulnerability of the industrialized world to shortages of raw materials.

Where in the past men were enslaved by the lack of machines, we may now have exchanged masters by our dependence upon machines. Indeed, our appetite for energy and other resources may be satiated only at the expense of our civil liberties or even our form of government. The desire to be equally affluent may exceed the ardent love of freedom.

We can alter this trend by changing our present profligate energy use, and steering a course for balanced energy use and reasonable energy conservation. We must insure that our energy is used wisely and that we develop alternate energy sources and avoid dependence on any one resource. A multiplicity of resources will insure the utmost flexibility and security for the state.

The creation of the Energy Resources Conservation and Development Commission will be a first step in what promises to be a herculean task; that of avoiding a resource catastrophe. We must all work together to prevent such an occurrence. AB 1575 represents the kind of cooperative effort necessary to solve this problem.

I urge an aye vote.

PRESS RELEASE 74-26

DATE: "Today" in this copy
is Wednesday, 15 May 1974

FROM: Senator James Q. Wedworth
3086 State Capitol
Sacramento, California
(916) 445-2848

ENERGY BILL "RIPOFF"

SENATOR CHARGES

Legislation to establish an all-powerful commission to control the use and development of existing and potential energy today was branded as a "ripoff against the poor and persons on fixed incomes" by Senator James Q. Wedworth.

The measure, Assembly Bill 1575 was passed by a bare 21-14 majority in the State Senate yesterday. Wedworth was a principal opponent of the hotly debated bill in the Senate.

"This is the same old story," the Southland lawmaker said after the bill was passed under a call of the Senate, "the do-gooders have once more socked it to the retired persons on small fixed incomes and the poor."

Senator Wedworth pointed out that under provisions of the far-reaching bill homeowners "will get the largest increase in their gas and electric bills in the history of the state." The increase, he explained, will be "only partly due to the surcharge tax provisions included in the measure for support of another bureaucracy."

The bill by Assemblyman Charles Warren of Los Angeles, provides the surcharge will be imposed on all electricity sold within the state, yielding an estimated \$16 million yearly.

(more)

Supporters of the bill admitted the surcharge provisions "probably would add 50 cents a year to the average household electric bill," an admission that provoked derision by Wedworth.

"I wonder who they think they're kidding," he speculated. "We all know from bitter experience that when proponents of laws imposing new taxes or surcharges say the levy will only amount to around 50 cents a year that the figure is generally deliberately understated."

Senator Wedworth said "this surcharge is ultimately going to wind up in the bills for electricity sold to households, just as they are now rated at the bottom of the rate-fixing totem pole on gas and electric rate cards."

In the final analysis, he charged, "we have a situation in which retired persons on fixed incomes and our generally less affluent citizens are going to get stuck with the price of supporting the whims of a new five-member commission with fantastic powers --- and that commission will enjoy the same, or even more, unbridled authority and power enjoyed by most bureaucracies and bureaucrats."

Wedworth said he was "surprised by some of the measure's supporters, because they usually profess to be concerned with government by the people and their consciences should now make them pretty uncomfortable because of the ripoff this actually represents."

The energy commission bill is one of the most extensive measures before the current session of the Legislature.

(more)

May 15, 1974

Efforts of Senator Craig Biddle of Riverside to amend the bill to retain some semblance of local control and responsiveness to the will of the people were supported by Senator Wedworth, but the amendments were narrowly defeated.

Senator Biddle joined Wedworth in charging that "we are overreacting to the so-called energy crisis, and we are creating more problems than we are solving by this measure."

The principal burden of those additional problems, at least the fiscal impact, will come to rest on the fixed-income retired and economically distressed part of the population, Senator Wedworth repeated.
