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1	MEMO	JOHN ROBERTS TO FRED FEILDING RE EARL BERGER (PARTIAL)	1	2/13/1984	B6	739

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THE WHITE HOUSE

WASHINGTON

January 25, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Letter to the President Enclosing a Copy of a Report Adopted by the Committee on Federal Legislation of the New York County Lawyers Association on H.R. 4043

Richard A. Givens, on behalf of the New York County Lawyers' Association, has sent the President a copy of a report adopted by the Association's Committee on Federal Legislation on H.R. 4043, as proposed to be amended by the House Committee on Science and Technology. H.R. 4043 as introduced was the Administration's proposal to encourage joint research ventures by reducing the risk of antitrust liability and eliminating the threat of treble damages for such ventures. The Association issued a generally supportive report on the Administration proposal. The present report reiterates the previous recommendations of the Association, urging greater efforts to promote particularly risky and expensive research in areas deemed vital to the national interest.

I recommend a brief letter thanking the Association for the report and advising that we have sent it along to Justice and Commerce. A draft is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

January 25, 1984

MEMORANDUM FOR EDWARD C. SCHMULTS
DEPUTY ATTORNEY GENERAL
U. S. DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT Orig signed by FFF

SUBJECT: Letter to the President Enclosing a Copy of a Report Adopted by the Committee on Federal Legislation of the New York County Lawyers Association on H.R. 4043

Attached for your information and whatever action you consider appropriate is a copy of a report by the Committee on Federal Legislation of the New York County Lawyers' Association on pending proposals to promote joint research projects. The report was sent to the President by the Committee.

Many thanks.

Attachment
FFF:JGR:aea 1/25/84
cc: FFFieldjng/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 25, 1984

Dear Mr. Givens:

Thank you for your letter of January 3 to the President. That letter transmitted a copy of the report of the Committee on Federal Legislation of the New York County Lawyers' Association on H.R. 4043.

We appreciate having the benefit of the views of the Association on this important topic. I have taken the liberty of sharing the report with officials at the Department of Commerce and the Department of Justice. As you know, those are the agencies most involved in our effort to secure legislation promoting the research necessary to improved productivity and economic development.

Once again, thank you for providing us with the informed views of the Association.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Richard A. Givens, Esquire
Botein, Hays, Sklar & Herzberg
200 Park Avenue
New York, NY 10017

FFF:JGR:aea 1/25/84
bcc: FFFielding/JGRoberts/Subj/Chron

[redacted]

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
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Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Richard A. Givens

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Subject: Writes President enclosing a copy of a report adopted by the committee on federal legislation of the New York County Lawyers Association on H.R. 4043

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CWHOLL		ORIGINATOR	84/01/18			/ /
		Referral Note:				
CWATTB		D	84/01/18		S	84/01/27
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ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

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(PREFIX)	(FIRST)	(LAST)	(SUFFIX)
MR.	RICHARD A.	GIVENS	

TITLE:

ORGANIZATION: NEW YORK COUNTY LAWYERS' ASSOCIATION

STREET: 14 VESEY STREET

CITY: NEW YORK STATE: NY ZIP: 10007

COUNTRY:

SUBJECT: ENCLOSES COPY OF REPORT ADOPTED BY THE COMMITTEE ON FEDERAL LEGISLATION OF THE NEW YORK COUNTY LAWYERS ASSOCIATION ON H. R. 4043

AGY/OFF	ACTION CODE	TRACKING DATE
PLRIGG	ORG	840109

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STAFF NAME: PRESIDENT REAGAN MEDIA: L OPID: LW TYPE IBA

COMMENTS:

CODES: REPORT PL INDIV: USER:

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Doug Riggs

NEW YORK COUNTY LAWYERS' ASSOCIATION
14 VESEY STREET
NEW YORK, N. Y. 10007
(212) 267-6646

January 3, 1984

Hon. Ronald Reagan
The President
The White House
Washington, D.C. 20500

My dear Mr. President:

Enclosed please find copy of report adopted by the Committee on Federal Legislation of the New York County Lawyers' Association on H.R. 4043.

Very truly yours,

RICHARD A. GIVENS

Botein, Hays, Sklar & Herzberg
200 Park Avenue
New York, N. Y. 10017

December 1983 Report No. F-3 H.R. 4043

NEW YORK COUNTY LAWYERS' ASSOCIATION
14 Vesey Street, New York, N. Y. 10007

COMMITTEE ON FEDERAL LEGISLATION

Report on H.R. 4043, 98th Cong., 1st Sess (1983) as proposed to be amended by the House Science & Technology Committee, H.Rep. No. 98-571, Part 1 (1983).

This Committee in its Report #F-2 (1983) commented on the Administration's proposed legislation to encourage joint research ventures (45 BNA ATRR 397 [9/15/83]). Since that time, the House Science and Technology Committee has issued its Report 98-571, Part 1 recommending legislation on this subject. As in the case of the Administration proposal, we strongly commend the objectives sought, believe many of the recommended provisions are desirable, and recommend further revisions in the legislation.

In approaching the issues involved, the Committee proceeded from the perception that joint research may be vital for critical, expensive, high risk efforts important to the national interest, but that competition and absence of complex bureaucratic structure often inherent in joint efforts is often more desirable for less expensive efforts, generally involving applied research, which make up the largest portion of research and development activity. At the same time, we proceeded from the starting point that almost all joint research efforts whether inherently desirable or not are lawful today under case law and the Justice Department's 1980 Antitrust Guide Concerning Joint Research Ventures, 1980 BNA ATRR Spec Supp #992, 12/4/80; see also U.S. Department of Justice, Antitrust Guide for International Operations 23-25 (1977), in 1977 CCH Trade Reg. Rep.#226, II (2/1/77); Note, 39 Geo. Wash. L. Rev. 1112 (1971).

Thus, by way of example, we assumed that research to provide a better ball point pen or an improved heat resistant plastic coffee cup could probably proceed best either through competitive efforts or under existing law without additional encouragement for jointness of effort. On the other hand, such major objectives as space industrialization, desalting of sea water, development of substitutes for vulnerable scarce materials, non-polluting power sources such as perhaps controlled nuclear fusion, and the like, may very well require joint efforts on a major scale, with both antitrust encouragement and encouragement by other means as well.

As stated in the Cover Story in Business Week of July 4, 1983, p. 62:

"When it comes to R&D, even conservative economists have little trouble justifying government help. It is generally agreed that innovations resulting from R&D provide social returns - in improved quality of life, jobs, and expansion of knowledge - that far exceed the private investor's return on his outlay.

"R&D tends to be underfunded by the private sector, but it pays the public to make up the difference and thus capture the social spillover..." See C. Freeman et al., Unemployment and Technological Innovation (1982); Worsinger, "New Technologies and Antitrust," 47 N.Y.S.B.J. 651 (1975), also in 81 Case & Com. 33 (1976); Safire, "And I Will Be Heard," N.Y. Times, 5/22/75, p. 39.

As stated by Secretary of Commerce Malcolm Baldridge:

"...the Federal Government must fund R&D necessary for our national defense and basic, long-term research in the nondefense sector..." Testimony before the Subcommittee on Savings, Pensions & Investment Policy, Senate Finance Committee, Government Policies to Promote High Growth Industries Based on New Technologies and to Increase U.S. Competitiveness, 98th Cong., 1st Sess. 10 (1983).

Against this background, we recommended concentration of new legislative efforts on two goals:

(a) promoting the very high risk vital research where investment may lag due to the fact that society as a whole receives much of the benefit, which cannot be fully captured by the inventor or investor (see Terlecykj, Effects of R&D on the Productivity Growth of Industries (1974)) and

(b) assuring the business community that existing law which applies a rule of reason and not a per se ban to joint research efforts means what it says.

In our report #F-2 (1983) on the Administration bill, we recommended the following approach to the issue involved:

1. Presidential certification of technological objectives vital to the national interest would trigger both an absolute antitrust exemption for joint ventures in furtherance of such objectives (if found to require such joint efforts) and a direction to all agencies and instrumentalities of the United States to use their existing powers as appropriate to further these objectives. In this connection, we also recommended:-

(a) a definition of research venture including agreements on ownership of patents & information but not subsequent commercial manufacturing or marketing;

(b) Presidential designation of vital technological goals after consultation with industry, the scientific community and relevant governmental agencies;

(c) as noted, the consequences of designation would be:

(i) absolute antitrust exemption for ventures as to which very limited public filing is made assuming that the President also found that joint efforts to further the goal in question would be important; under our recommendation such filing need not specify detailed scope of venture, just the Presidentially designated category involved;

(ii) all agencies and instrumentalities of the United States will use their existing lawful powers to the extent appropriate to further development of the designated technologies. This would merely ask all federally controlled bodies to implement any defined national technological goals, without adding to their authority or compelling any action they think inappropriate for any reason.

2. Overall Rule of Reason. We further supported the concept contained in the Administration bill and in a modified form in section 9 of the bill recommended in the House Science and Technology Committee report, that the rule of reason should apply to joint research and development efforts, as is essentially the case under existing law, rather than any per se prohibition.

House Report 98-571, Part 1 supported the statutory restatement of the existing rule of reason applicable to joint research ventures, and other provisions which are discussed below.

A. - Safe harbor designed to insure legality for joint research ventures of specific types. In our view, no additional encouragement beyond the rule of reason is necessary for joint ventures in the run-of-the-mill or "ball point pen" category. On the other hand, we recommend an absolute exemption for joint ventures in vital areas involving high-risk efforts where joint efforts may be important. This would cover the types of ventures where additional encouragement is in the national interest. In other areas, we believe that the law is already hospitable to joint research ventures; none have been held illegal. As noted, the Justice Department has issued Guidelines on such ventures which are quite favorable to them. Where no vital national interest is at stake, the reconfirmation in the proposed legislation as contemplated by the Administration bill and the House Science Committee proposal should in our view be sufficient.

In many kinds of efforts, joint research is not particularly important and indeed could be harmful because feisty independent efforts may be more likely to be successful. See D.Hamberg, R&D: Essays in the Economics of Research and Development (1966); J. Jacobs, The Death and Life of Great American Cities (1969.) Internal bureaucratic barriers which could readily arise in any large-scale joint effort may be particularly detrimental:

"If too many approvals are required before an idea can be born, the probabilities are overwhelming against it." Tribus, Applying Science to Industry, 70 U.S. News & World Report 35 (1/8/71).

As stated by Winston Churchill:

"To hear some people talk one would think that the way to win a war is to make sure that every power contributing armed forces and branches of those armed forces is represented on all the councils and organizations which have to be set up and that everybody is fully consulted before anything is done. That is, in fact, the most sure way to lose a war." House of Commons, January 27, 1942, quoted in Never Give in! (Hallmark 1967) at p. 22.

If, notwithstanding these factors, a further safe harbor for "ordinary" as well as critical high-risk joint ventures is to be enacted, we do not favor the inclusion of any requirements relating to market shares or ability of outsiders to compete in the research, as proposed in section 3(c) (2) of the bill proposed by the House Science & Technology Committee Report. In our view, such a test should not be included since

(a) these criteria are inherently unpredictable and hence provide no safe harbor at all, and also because

(b) freezing firms out of a potentially successful joint venture so that they could theoretically compete for the research goal could lead to monopolization of the subsequent technologies by the members of the venture, contrary to rather than promoting competition in the long run.

Thus, although we do not believe any additional "safe Harbor" is warranted, if one were to be enacted, we would prefer language such as the following:

"No joint research and development project shall be held unlawful under the Sherman Act, the Clayton Act, section 5 of the Federal Trade Commission Act (Title 15, United States Code, sections 1 through 45) or any similar State or local law: Provided, that -

(a) any agreements other than to engage in the joint research and development project itself, and activity other than the conduct of a joint research and development project, shall be judged under applicable law without regard to this section, and

(b) nothing in this section shall prevent the Attorney General from obtaining injunctive relief against any conduct which the court finds would constitute or have the effect of, an agreement to retard rather than to advance research."

In this connection, we believe that the definition of research and development in the House Science and Technology Committee bill (section 12(5)) is sound in excluding manufacturing or marketing of products for commercial use. We would prefer "commercial sale" rather than "commercial use" however to insure that commercial sale of products intended for consumer use would also be covered.

B. Certification - The House Science and Technology Committee bill also contemplates clearance by governmental authorities of proposed ventures, designed to permit firms to get an advance ruling that a projected venture was legal. We do not favor this approach, because it would involve massive additional bureaucratic effort, delay, discretionary power and intrusion of governmental officials into day-to-day business decisions. Additional requirements would be certain to be added as a result of the exercise of discretionary authority. Moreover, failure of a firm to seek clearance might be deemed lack of due diligent in subsequent litigation, even it Congress did not contemplate this, since statutes are often considered relevant to issues not directly covered by their literal terms. See, e.g., Silver v. New York Stock Exchange, 373 U.S. 341 (1963); Comm'r v. Lobue 351 U.S. 243, 249 (1956); Southern Pacific

Co. v. Arizona, 325 U.S. 761, 773 (1945); Parker v. Brown, 317 U.S. 341, 367 (1943); Stone, The Common Law in the United States, 50 Harv. L. Rev. 4, 12-18 (1936); Note, 82 Yale L. J. 258 (1972). What began as optional could end being in practice almost mandatory. We note that the Administration has not recommended any certification or clearance provision, and we believe its reluctance to do so is well founded.

If, however, any clearance procedure were enacted, we recommended that it be based on a finding under existing law without the addition of any complex new legislative criteria for legality, and that it be written so that if it worked well it could be extended to other types of contemplated private action now dealt with under the existing business review procedure. A provision of this type might contain language such as the following in our view:

"Any person contemplating entering into a joint research and development project may submit to the Attorney General such information as the Attorney General may require for the purpose of requesting a certificate from the Attorney General which may be issued if justified based on the information submitted, that the project would not violate the antitrust laws in the opinion of the Attorney General.

"Unless and until such a certificate issues, information submitted pursuant to this section shall be confidential to the same extent as information submitted under the Hart-Scott-Rodino Premerger Notification Act, section 7A of the Clayton Act, 15 U.S.C. §18A.

"If a certificate issues, the following information shall be made public: (a) the names of the participants, the general overall scope of the venture in categories of generality comparable to industry classification codes used by the Bureau of the Census, and the expected duration of the project, and (b) description of any action which the certificate states would in the opinion of the Attorney General not violate the antitrust laws. The information referred to in subsection (a) of this section shall be amended from time to time by the participants as applicable in order for the certificate to remain effective as provided in section 5 of this Act.

"A certificate issued under this section which remains effective and has not been revoked by the Attorney General, shall create a rebuttable presumption that the conduct described in the certificate does not violate any provision of the Sherman Act, the Clayton Act or Section 5 of the Federal Trade Commission Act. Issuance or denial of a certificate under this Act shall not be subject to judicial review other than in cases where the certificate is sought to be used and its effect upheld or rebutted."

By making the presumption created by clearance rebuttable, judicial review of, or absolute finality of, granting of certification may be avoided.

C. Modification of Damages. Both section 10 of the House Science and Technology Committee bill and the Administration bill use a modification of treble damage provisions as a means of promoting

joint research and development measures. In our view this is inadequate where promotion of such ventures is important and as noted we believe that an absolute exemption upon proper certification that the goal is vital to the national interest would be preferable. As to other ventures, we believe that the declaration of the applicability of the rule of reason should suffice in view of the current favorable state of the law.

If, however, any change in damage rules were to be adopted, we see no reason for treating joint research ventures differently than other conduct which may be subject to the rule reason. But we believe that the status of the conduct as subject to a rule of reason or a per se rule should not be the test, since some conduct violative of the rule of reason may be egregious, whereas there are borderline per se violations where the classification of the conduct as illegal is a close call, but if there is a violation it is clearly, e.g., price fixing. This arises, for example, where parallel conduct may or may not be evidence of a horizontal conspiracy which would be illegal per se if it is found to exist.

For these reasons, we would prefer that, as recommended by the Committee on Legislation of the Antitrust Section of the New York State Bar Association, if the rule as to damages is modified, the test should be based on the court's finding as to the foreseeability of the illegality of the conduct proved. This could be accomplished by language such as the following:

"If after the trial or granting of summary judgment in any case under any of the antitrust laws, the court finds that conduct found to violate any of the antitrust laws [pick up usual definition] and to cause damage, was such that based on the state of the law at the time of such conduct, a reasonable person could not have clearly foreseen that the conduct engaged in the form engaged in would be unlawful, then only actual damages, interest, and the cost of suit including reasonable attorney's fees may be recovered for such conduct, and damages arising out of any violation shall not be trebled notwithstanding any other provision of law. Whether this section applies shall be a question of law. No evidence of the actual knowledge or belief of any party that any conduct was or was not unlawful, or of the receipt of, or request for, advice from any public or private source, shall be admissible in connection with issues raised by any party under this section, except written advice, if any, received from a governmental agency having jurisduction over conduct of the type involved."

Discussion While we do not believe that any "safe harbor" other than for joint ventures seeking to develop technologies defined as vital to the national interest is necessary, the version set forth above would exempt all true research and development joint ventures absolutely, thus putting an end to the issue. This would be acceptable although not the optimum treatment of the problem in our view, since virtually no research and development joint ventures have been held illegal or are likely to be seriously anticompetitive. Such ventures were not a reason for adoption of any of the antitrust laws. The antitrust laws are not a significant barrier to such ventures

other than due to misapprehension in any event, so a complete exemption would remove any problem or perceived problem without any significant harm to antitrust objectives.

The key to the acceptability of this absolute safe harbor exemption on a blanket basis is the narrow definition of research and development projects which is contained in the House Science and Technology Committee proposal. No "ancillary restraints" beyond agreements on the ownership of patents and information would be covered by the safe harbor.

In our view, a "laundry list" of required and prohibited features of joint research ventures should not be included because with the tight definition of research project included in the House Science and Technology Committee proposal, little harm could be caused no matter what the arrangements between the parties might be if limited to the actual conduct of a specific research venture. An overall blanket patent pool, or other objectionable activity would in our view not fit within the definition. If it were desired, the list of activities not deemed part of joint research could be expanded to include arrangements relating to technologies other than those that were the subject of the joint effort. This is not done in the draft provisions set forth above because of the danger that an overly detailed list will contain omissions and suggest that omitted items are somehow covered by the basic definition.

The use of any market share test for a safe harbor, or any requirement that others be able to form a similar venture or do the research separately would be very harmful in our view because it assumes that competition in the particular research involved is the only important objective. Competition in an industry as a whole is the primary antitrust concern. See Continental T.V., Inc. v. GTE Sylvania, Inc., 433 U.S. 36, 52 n. 19 (1977). This concern may be injured by the use of such requirements for several reasons:

(a) In many instances research may be so expensive, risky and lumpy that only an industry-wide effort would succeed and promote competition by U.S. industry with foreign competitors or with other industries serving related needs. In wartime we would certainly do this. To bar it would remove much of any benefit of the safe harbor in the only area where it has any real importance to the national interest - where very large, high-risk, vital research is involved (e.g. perhaps the supercomputer, desalting of sea water, controlled nuclear fusion, space manufacturing, substitutes for scarce strategic materials, etc.). We would prefer to pursue these through Option A, of course, but if a safe harbor were chosen it should certainly cover the very situations where joint effort might be most important.

(b) Market share definition is well known to be an extremely difficult, time-consuming and unpredictable affair. See Landes & Posner, Market Power in Antitrust Cases, 94 Harv. L. Rev. 937 (1981); Stein & Brett, Market Definition and Market Power in Antitrust Cases, 24 N.Y. L.S. L. Rev. 639 (1979). To include such an issue within a

"safe harbor" would insure that it would be anything but safe. No responsible counsel could be sure that a given venture would pass such a test except in very rare instances. Hence the entire purpose of the safe harbor would be defeated. This would be particularly true if an affirmative requirement of practicability of others doing the research were imposed, or a requirement for a certain number of similar sized firms or groups of firms.

(c) Freezing out some members of an industry by barring an industry-wide joint research venture might or might not promote competition for the research, depending on whether the outsiders had the resources, priorities, expertise, incentives and intention to attack the same problem at the same time despite the fact that a joint venture was already racing toward the same goal. Many firms might decide to place their efforts elsewhere and not compete in such a contest. If they did, they might not succeed - and if they did, they would possibly beat the joint venture to a patent. Either way, only one "winner" might well emerge. This could lead to monopoly control of the resulting activity, whereas an industry-wide joint venture would be likely to embrace licensing of the technology on an industry-wide basis. For the "ins" to beat the outs because of a requirement in an antitrust provision would be paradoxical in the extreme. Of course this result could occur under the proposal advanced here, but would not be advanced by a legal requirement! Of course, again, this problem may be a reason for using Option A and the rule of reason rather than a safe harbor at all. For "improved ball point pen" joint ventures, maybe no major additional encouragement is needed at all beyond what is offered by the favorable existing law; for big, lumpy and vital efforts, more is required.

The draft of a possible certification approach contains no detailed statutory requirements but asks the Attorney General to apply existing law. This is based on the common perception that existing law is reasonably satisfactory, with the possible exception of the current Department disfavor of industry-wide research ventures (which would be codified by some legislative language that has been proposed!). The procedure is simple and would be capable of expansion to non-research venture areas if desired so that the business review procedure would have some real impact apart from merely assurance that Department action was unlikely. Our version gives the certificate effect as a rebuttable presumption of legality. This would no doubt influence courts, and if combined with the treble damage provision which we suggest if action in that area is desired, would of course avoid treble damage exposure since one would not reasonably expect that certified conduct was illegal. Judicial review would be exercised at the time the certificate was raised in subsequent litigation, thus avoiding additional initial litigation over certifications that might otherwise not be litigated. Judicial review of the grant or denial of certificates would make the Attorney General an adjudicative agency, with Administrative Procedure Act review. A parallel body of law arising out of certificates and their review would arise alongside that generated by current types of enforcement cases, as well as a new phylum of procedural issues. We recommend that Congress not embark on a new path of legal complexity of this type unless absolutely required.

CONCLUSION

In our view, the two most crucial aspects of all of these issues are:

(1) The maintenance of a strict definition of research and development project, so as to prevent the use of any exemption, safe harbor, rule of reason provision, detrebling section or other provision from providing the entering wedge for subsequent monopolistic or cartel behavior.

(2) The inclusion of other, additional measures for promotion of risky, expensive research in areas vital to the national interest. Our recommendation in this respect in our prior report merely recommends legislation directing all existing agencies to do whatever they can with their existing powers in ways they themselves believe appropriate to further defined national goals. This concept should be very hard for anyone to oppose. On the other hand it could have a powerful impact, since both regulatory agencies that may pose barriers and credit granting and regulating agencies would be directed to do what they can to help once a national goal has been defined, just as they would do in wartime or under other government-wide policy-creating statutes such as the National Environmental Policy Act, Civil Rights laws and provisions like the National Transportation Policy. While additional measures are also needed for an effort on the scale of the problem to be undertaken, this would be a very significant start in a way that would involve no problems of the type associated with formation of a new agency or the granting of additional statutory authority to existing agencies.

This is merely a form of technology assessment to identify needed technologies in furtherance of an antitrust exemption where other agencies can also help, without expanding the total role of the public sector as it now exists. This would supplement the role of, e.g., the Office of Technology Assessment which looks at pre-defined proposed technologies. The objective here would be to look at some that are not yet proposed but should be researched in the national interest. No regulatory or even credit granting power is added to whatever now exists.

Respectfully submitted,

COMMITTEE ON FEDERAL LEGISLATION

Richard A. Givens, Chair

Wendell B. Alcorn, Jr.	Carolruth Feinman	Rory Michael McLaughlin
Thomas Charles Bivona	Howard Brett Felcher	Virginia Hudson Phifer
Judith K. Braun	John W. Finley, Jr.	James W. Rayhill
Robert Stephen Clemente	Jack Harold Halperin	David A. Schmudde
William Francis Connell	George Joseph Koelzer	Milton Sherman
William Stephen DeCarlo	Robert Elihu Kushner	Harrison J. Snell
Nanette Dembitz	George W. Leopold, Jr.	Brian Weiss

Denis McInerney, Ex-Officio
M. Robert Goldstein, Ex-Officio

THE WHITE HOUSE

WASHINGTON

February 6, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Letter to President of Farmland Industries

Richard Darman has asked for our views by close of business today on the attached draft letter from the President to Kenneth A. Nielsen, President of Farmland Industries. The letter was prepared by OPD and has been approved by Joe Wright, Deputy Director of OMB. It is in response to a letter from Nielsen, on behalf of the "500,000 farm families who comprise the Farmland system," urging the President to support expansion of the Commodity Credit Corporation credit guarantee program. The letter was accompanied by a resolution signed by 1,089 members of the "Farmland family." The memorandum from Roger Porter to Darman seeking clearance of the letter notes that "there is good reason to believe" that it might be reproduced in the Farmland Industries newsletter.

On the specific point of the resolution, the response notes that the Administration has approved a $1 billion increase in agricultural export credit guarantees, bringing the total to $4 billion, the second highest level ever (though still short of the resolution's $6 billion request). The rest of the letter recognizes the problems plaguing the agricultural community, and reviews Administration efforts to respond to them. The letter also looks to the future, calling for "a new farm bill" in 1985 and efforts to open markets for American farm products. The letter concludes by noting that the Administration is embarking on a comprehensive review of food and agriculture programs.

I have no objections to the letter. It is a direct response to an inquiry concerning agricultural policies; there is no explicit or implicit endorsement of Farmland. Any reproduction and distribution of the letter is Farmland's business; all we are doing is writing to Nielsen.

Attachment

THE WHITE HOUSE

WASHINGTON

February 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Letter to President of Farmland Industries

Counsel's Office has reviewed the above-referenced draft letter from the President, and finds no objection to it from a legal perspective.

FFF:JGR:aea 2/6/84
cc: FFFielding/JGRoberts/Subj/Chron

ID # _____ CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Richard G. Darman

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Letter to President of Farmland Industries

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
WHolland		ORIGINATOR	84 10 02			1 1
		Referral Note:				
CWAT 18		D	84 10 03		S	84 10 06
		Referral Note:				
			1 1			1 1
		Referral Note:				
			1 1			1 1
		Referral Note:				
			1 1			1 1
		Referral Note:				

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 2/2/84 ACTION/CONCURRENCE/COMMENT DUE BY: 2/6/84 - Monday

SUBJECT: LETTER TO PRESIDENT OF FARMLAND INDUSTRIES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	McFARLANE	☐	☐
MEESE	☐	☑	McMANUS	☑	☐
BAKER	☐	☑	MURPHY	☐	☐
DEAVER	☐	☑	OGLESBY	☑	☐
STOCKMAN	☐	☑	ROGERS	☐	☐
DARMAN	☐P	☑SS	SPEAKES	☐	☑
FELDSTEIN	☑	☐	SVAHN	☐	☐
FIELDING	☑	☐	VERSTANDIG	☑	☐
FULLER	☑	☐	WHITTLESEY	☐	☐
HERRINGTON	☐	☐	_____	☐	☐
HICKEY	☐	☐	_____	☐	☐
JENKINS	☐	☐	_____	☐	☐

REMARKS:

Please provide any comments/edits on the attached by Monday, February 6th.

Thank you.

RESPONSE:

1984 FEB -2 AM 10:37

Richard G. Darman
Assistant to the President
Ext. 2702

THE WHITE HOUSE

WASHINGTON

February 1, 1984

MEMORANDUM FOR RICHARD DARMAN

FROM: ROGER B. PORTER RBP

SUBJECT: Letter to President of Farmland Industries

The attached letter was drafted by the Office of Policy Development in response to correspondence from Mr. Kenneth A. Nielsen, President of Farmland Industries, Inc. The letter has been reviewed and approved by Joe Wright at OMB.

There is good reason to believe that this letter could receive wide distribution in Farmland Industries' publication which is sent to all of its 500,000 members.

Recommendation: That the President sign the attached letter to Kenneth A. Nielsen.

THE WHITE HOUSE

WASHINGTON

February 1, 1984

Dear Mr. Nielsen:

Thank you for your letter and the resolution on agricultural exports signed by 1,089 members of the Farmland family. My staff tells me they unrolled the document and discovered that it stretched almost a quarter of the length of the Old Executive Office Building, right next door here to the White House. If you have never seen the hallways of that building, I can assure you that is a long way.

The resolution and accompanying signatures are testimony to the importance of exports to the agricultural community. Nobody in this Administration understands that better than I do. We are committed to working with you to see to it that farmers and ranchers across this country are able to exercise their comparative advantage in the international market place. As proof of that commitment, I recently approved a $1 billion increase for agricultural export credit guarantees in fiscal year 1984. The new total of $4 billion is the second highest level ever provided and almost twice what the previous administration made available.

I know the last three years have been tough ones for those of you involved in agriculture. Worldwide recession, large crops in other countries, the strong dollar, last summer's drought, East-West tensions, and unfair trade practices have contributed to low farm commodity prices and cash flow problems for many producers.

It appears, however, that we now are making considerable headway towards a brighter future for the American farmer. We have made remarkable progress in reducing the inflation, interest, and unemployment rates. The day I took office, the rate of inflation (as expressed by changes in the Consumer Price Index) was 12.4%, and prime interest rates were over 21%. Today, the annualized increase in inflation is down to 3.2%, and the prime has declined to 11%. A year ago the unemployment rate was 10.7%; today it is 8.2%. That marks the largest drop in the unemployment rate in over thirty years. All this means that we are well on our way to sustained economic recovery, and that is good news for the country in general and agriculture in particular.

On the agriculture front, my Administration has taken dramatic steps to help bring production and demand into balance. We implemented the PIK program to help cut back on production and to

reduce government-held surpluses of farm commodities. We negotiated a new long term grain agreement with the Soviet Union that increased by 50% the amount of grain the Soviets are required to buy from the U.S. We also have been challenging the European Community and Japan to reduce the unfair trade practices employed against U.S. farmers; on one occasion we added strong emphasis to our warnings by subsidizing the sale of wheat flour and dairy products to Egypt. Taken together, these actions have allowed us to stabilize agriculture.

Yet with all these successes, we still have many challenges before us. In agriculture, the number one issue on the agenda is the future direction of food and agriculture policy. We are going to have to write a new farm bill in 1985 that responsibly addresses the problems that all of us have experienced over the last few years.

We have to reduce the cost of Federal farm programs; we simply cannot afford the outlays experienced in 1982 and 1983. We have to become more competitive in international markets; that means that our domestic farm programs must be designed and our trading partners persuaded to allow us to exercise the comparative advantage we have in agricultural production. We have to continue to rehabilitate our image as a reliable supplier to the world; the words "agricultural trade embargo" cannot be a part of our vocabulary. We have to help create the circumstances that will permit developing countries to have access to our food and fiber products; that means we have to work for a free flow of trade both to and from our shores and provide appropriate bilateral and multilateral assistance to those countries in need. In addition, we must work to maintain the resource base that makes our bountiful harvests possible.

These are but a few of the critical challenges you and I must confront in the months to come. And confront them we will.

My Administration now is devising a process for a comprehensive review and assessment of current food and agriculture programs. The purpose of this endeavor is to better prepare us to participate in the debate on the future direction of food and agriculture policy. We will be tapping every available source of information and ideas -- both inside and outside government. We are looking for broad participation in this important endeavor, and we trust that we will have the benefit of the views of the Farmland family on the major issues of importance to agriculture.

This will be an extraordinary undertaking, not only because of its size and scope but also because of the timing. Agriculture is at a crossroads; the future of this great productive sector of our economy is now. I am rolling up my sleeves in preparation to

meet that future. I hope your sleeves are rolled up too, because we have much work to do together if we are to realize a better state of affairs for farmers and ranchers and the people of this Nation.

Sincerely,

Ronald Reagan

Mr. Kenneth A. Nielsen
President
Farmland Industries, Inc.
P.O. Box 7305
Kansas City, Missouri 84116

FARMLAND INDUSTRIES, INC.

post office box 7305/kansas city, missouri 64116

December 9, 1983

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

Mr. President:

Farmland Industries and its member owners strongly support a demand-oriented agricultural export policy. Currently, there is no U.S. Government program which is more important to the export effort of American agricultural producers than the Commodity Credit Corporation's Credit Guarantee Program (GSM-102).

The world recession, the oil crisis, and high interest rates have created a debt problem in many countries which are major agricultural importers. As a result, agricultural importing countries are actively seeking credit from Farmland/FAR-MAR-CO and other agricultural exporters. The CCC Credit Guarantee Program makes credit available to agricultural importers by guaranteeing the exporter and the lender that they will be paid.

In fiscal 1983, Farmland/FAR-MAR-CO sold over half of its total exports under the Credit Guarantee Program. The delay in the approval of the fiscal 1984 credit guarantee program by the Administration has already hindered FAR-MAR-CO's grain exports.

Mr. President, at our Annual Meeting last week in Kansas City, delegates officially voiced unanimous support for the enclosed resolution: "Agricultural Exports--Credit Guarantees Urgently Needed." Although time was limited, over 1,000 delegates and their wives also were able to personally sign the resolution.

Mr. President, I hereby respectfully submit to you the resolution for your consideration. The 500,000 farm families who comprise the Farmland system strongly encourage positive action to achieve this urgent, worthwhile objective.

Sincerely yours,

Kenneth A. Nielsen

Ken Nielsen
President
Farmland Industries, Inc.

Enclosure

AGRICULTURAL EXPORTS--CREDIT GUARANTEES URGENTLY NEEDED

TO EXPRESS THE CONCERN OF FARMERS AND RANCHERS WHO OWN THE FARMLAND SYSTEM OF COOPERATIVES THAT, BECAUSE OF THE DEPENDENCE OF AMERICAN AGRICULTURE ON A STRONG EXPORT PROGRAM, IT IS A MATTER OF NATIONAL URGENCY THAT THE UNITED STATES GOVERNMENT IMMEDIATELY ANNOUNCE AN EXPANDED EXPORT CREDIT GUARANTEE PROGRAM FOR FISCAL 1984.

RESOLUTION

WHEREAS, the economic well-being of American farmers and ranchers affects all sectors of the nation's economy; and

WHEREAS, declining agricultural exports result in lower farm income and increased pressures for government expenditures on domestic agricultural programs; and

WHEREAS, the government's budget deficit is not affected by the expansion of an "off-budget" credit guarantee program; and

WHEREAS, there is an erosion of U.S. market shares in declining world agricultural markets since governments in other agricultural exporting nations are aggressively taking markets away from the United States; and

WHEREAS, the Commodity Credit Corporation (CCC) credit guarantee program is an extremely important agricultural export promotion program and is used extensively by Farmland/FAR-MAR-CO and other grain exporters; and

WHEREAS, the Administration has not yet announced a credit guarantee authorization level for fiscal year 1984;

NOW THEREFORE BE IT RESOLVED, THAT THE PRESIDENT OF THE UNITED STATES CAUSE TO BE ANNOUNCED AT THE EARLIEST POSSIBLE DATE AN AUTHORIZATION OF AT LEAST $6 BILLION OF CCC CREDIT GUARANTEES FOR FISCAL YEAR 1984 AS A POSITIVE SIGNAL TO AMERICAN FARMERS AND FOREIGN BUYERS THAT THIS ADMINISTRATION INTENDS TO REGAIN AND STRENGTHEN OUR POSITION IN THE INTERNATIONAL AGRICULTURAL MARKETPLACE.

THE WHITE HOUSE

WASHINGTON

February 6, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Go America, Inc.

George P. Hurdes, President of Go America, Inc., has written the President, asking him to support the use of the "Go America" symbol throughout government and industry. The copyrighted symbol, apparently the principal asset of Go America, Inc., is intended by its promoters to be used as a means of rekindling pride in American quality and productivity.

Go America, Inc., is not a 501(c)(3) organization, and it would be inappropriate for the President to endorse the use of a symbol that is the copyrighted property of a private corporation. The "Go America" paraphernalia accompanying Hurdes's letter suggests that Go America, Inc., intends to market the emblem in a variety of ways, and I do not think the President should promote this private, commercial venture.

Anne Higgins referred the letter to us, requesting a recommendation on a response. A memorandum to Higgins is attached, noting that it would be inappropriate for the President to endorse the use of an emblem that is the copyrighted property of a private corporation.

Attachment

THE WHITE HOUSE

WASHINGTON

February 6, 1984

MEMORANDUM FOR ANNE HIGGINS
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR OF CORRESPONDENCE

Orig. signed by FFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Go America, Inc.

You have requested a recommendation from this office on a response to the letter from George P. Hurdes, President of Go America, Inc., to the President. In his letter Mr. Hurdes asked the President to support the use of the "Go America" symbol throughout industry and government.

It would be inappropriate for the President to endorse the use of the "Go America" symbol, since it is the copyrighted property of a private corporation. Mr. Hurdes may be thanked for his supportive comments, but we must decline his request for Presidential endorsement of the use of his emblem.

FFF:JGR:aea 2/6/84
cc: FFFielding/JGRoberts/Subj/Chron

ID # 193138

PR014-12

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 831120

JCR

Name of Correspondent: George P. Hurdles

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: asks for Presidential support for the use of GO AMERICA Symbol throughout gaverment and industry

ROUTE TO:		ACTION			DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD		Type of Response	Code	Completion Date YY/MM/DD
	Coltrgg	ORIGINATOR	831227				/ /
	CU FIEL	Referral Note:					
		C	831128				/ /
	CWATIS	Referral Note:					
		D	831129			S	840110
		Referral Note:					
			/ /				/ /
		Referral Note:					
			/ /				/ /
		Referral Note:					

ACTION CODES:
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S - Suspended

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Type of Response = Initials of Signer
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Completion Date = Date of Outgoing

Comments: _____

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Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

Go America, Inc.

P.O. Box 1049 • Monument, Colorado 80132 • (303) 488-2815

December 15, 1983

193138

The Honorable Ronald Wilson Reagan
President of the United States
Washington, D.C. 20097

Dear Mr. President,

You have made tremendous strides in bringing our nation out of difficult economic times and into a recovery that could be the beginning of a new era in world economic stability.

Your recent rekindling of our sense of patriotism is a step toward a new sense of pride in America. We believe this should extend one step further....to a renewed pride in American quality and productivity.

We can once again hone our competitive edge by bringing a message to every American: that Pride in Quality American Goods and Services in the workplace and in the marketplace, will earn us the economic growth and prosperity we all seek.

Our contribution to this new spirit is the GO AMERICA Symbol. It has the potential to unify this cause nationwide. We have a nationalistic fervor probably stronger than any other nation in the world. If we rally to the call for greater competitiveness through quality and productivity, Americans would vastly improve not only their own way of life, but help to bring about a new prosperity worldwide.

The GO AMERICA Symbol, similar to the highly successful Advance Australia campaign, could be that simple reminder to each of us to do our best, to strive for excellence, and to commit to competitiveness through quality and productivity.

Mr. President, we ask for your support by considering the use of the GO AMERICA Symbol throughout government and industry. We have a corporate team committed to GO AMERICA already working for this vital cause.

We have formed the GO AMERICA Foundation to funnel resources to our youth and our labor force to provide the rewards and incentives so vitaphasizing quality workmanship and productivity.

The GO AMERICA symbol can be a sign to the world that America is committed to excellence and stands ready to compete fairly and squarely in the world marketplace. It could become the "American Label" representing to all of us our national GO AMERICA Spirit!

Respectfully yours,

GO AMERICA, Inc.

George P. Hurdes
President

THE WHITE HOUSE

WASHINGTON

February 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Earl C. Berger

Earl C. Berger, a California attorney, has written several brief letters to Craig Fuller, threatening to place a lien on the White House to satisfy what he considers to be an outstanding judgment against the United States. Fuller has not responded. Berger was the lead attorney in the successful class action brought against the United States by certain public school teachers, March v. United States, 506 F. 2d 1306 (D.C. Cir. 1974). Berger contends that the United States has not complied with the Court of Appeals instructions on remand, both as to payments owed the teachers and attorneys fees owed him.

FOIA(b)(6) In fact, according to Ted Grossman, the Justice Department attorney handling the case, [redacted] The litigation has been largely resolved, consistent with the Court of Appeals opinion. This week Grossman intends to go into court seeking to vacate the judgment against the United States under Federal Rule of Civil Procedure 60(b), with the consent of the plaintiff class (now represented by counsel other than Berger). The basis for the motion will be that the judgment has been satisfied.

FOIA(b)(6) [redacted]

Since this matter is still technically an active case, I recommend referring Berger's letters to Justice for whatever reply the attorneys handling the case consider appropriate. A memorandum to Jensen accomplishing this is attached.

Attachment

February 13, 1984

MEMORANDUM FOR D. LOWELL JENSEN
ACTING DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Earl C. Berger

The attached letters from Earl C. Berger, threatening to impose a lien on the White House in satisfaction of an alleged outstanding judgment against the United States, are referred for whatever direct reply you consider appropriate. We have not responded in any way. Members of my staff have discussed this matter with Civil Division attorney Theodore Grossman, who is handling the case in which Berger was involved.

Many thanks.

Attachment

FFF:JGR:aea 2/13/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 25, 1984

FOR: FRED F. FIELDING

FROM: DAVID B. WALLER

SUBJECT: Earl C. Berger

We have received several letters recently from the above-referenced individual, a lawyer in California, who advises that he will execute a lien against the White House, unless we comply with a 1974 D.C. Court of Appeals judgment decided in his favor.

In the ruling, March v. United States, 506 F.2d 1306, the Court reversed and remanded a District Court decision denying relief to teachers in the Defense Department's Overseas Dependents School System, who brought a class action challenging the methods used by DOD to fix teachers' salaries.

The case spawned litigation involving substantial attorneys' fees in which I had some involvement at Hogan & Hartson. I suggest, therefore, that this matter be reassigned to someone else on the staff.

Our intern, Steve Abrams, has done some initial research in this matter and should be contacted by the attorney to whom you reassign the case.

To J Roberts

pls advise

ID # 142171 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Earl C. Berger

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Writes Craig Fuller re: his "Order for Remand"

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
OVP (BOLL)	DD ORIGINATOR	83/12/29			/ /
	Referral Note:				
OVP (TB)	DD A	83/12/29			/ /
	Referral Note:				
	/ /				/ /
	Referral Note:				
	/ /				/ /
	Referral Note:				
	/ /				/ /
	Referral Note:				

ACTION

DISPOSITION

ACTION CODES:
A - Appropriate Action
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I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
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X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.

ACTDATE = 831229
ADDNUMB =
CREDATE = 831229
DOCDATE = 831220
DSPDATE =
NAME = BERGER
RCVDATE = 831229
RECID = 193141CU
STATE = CA
UPDATE =
ZIP = 94301

DD
E 831220
IBA
L
CRAIC FULLER
CAFULL
MR. EARL C. BERGER
PALO ALTO CA 94301
485 HAMILTON AVENUE
CT WRITES CRAIG FULLER REGARDING HIS "ORDER FOR REMAND"
N CUHOLL ORG 831229
CUAT14 RSA 831229

END OF DOCUMENT

ACTDATE = 831227
ADDNUMP =
CREDATE = 831228
DOCDATE = 831220
DSPDATE =
NAME = BERGER
RCVDATE = 831227
RECID = 193141CA
STATE =
UPDATE = 831229
ZIP =

OPID WS
DOCDATE 831220
RECTYP ATW
NAME EARL C. BERGER
SUBJECT LETTER TO FULLER REGARDING PREVIOUS LETTER WHICH
IS UNANSWERED
SUBCODE WH004
ACTION CUFIEL RSA 831227 A/R - SEE COMMENTS (1) S
COMMENTS (1) I THINK WE JUST FILED THE FIRST LETTER WHEN IT CAME IN

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

ID # 193171 CU

who has looking?

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Earl C. Berger

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Further correspondence to Craig Fuller.

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CWHOLE	ORIGINATOR	84,01,20			/ /
	Referral Note:	Cont. corresp			
CWAT18	A	84,01,20			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				

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Comments: _____

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5/81

ID # 192171 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

DPW has letter correspondence on this

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Earl C. Berger

☐ MI Mail Report **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Encloses a letter to Mary Futrell re. Salaries for Teachers

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
WHOU	ORIGINATOR	84/01/19	JV		1 1
	Referral Note:		Cont Corresp.		
CU AT 18	D	84/01/19		S	84/01/27 JV
	Referral Note:				
		1 1			1 1
	Referral Note:				
		1 1			1 1
	Referral Note:				
		1 1			1 1
	Referral Note:				

ACTION

DISPOSITION

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5/81

ID # 102111 CA

OFFICE OF CABINET AFFAIRS
ACTION TRACKING WORKSHEET

DPW

Action resulting from:

- [x] Document (attached)
- [ ] Telephone call
- [ ] Meeting (attach conference report if available)

Document Date: 83 / 12 / 20

From: Earl C. Berger

Date Received: 83 / 12 / 27

SUBJECT: Letter to Fuller re: previous letter which is unanswered.

ACTION CODES:

A - Appropriate Action	D - Draft Response	R - Direct Reply w/Copy
B - Briefing Paper	F - Furnish Fact Sheet	S - For Signature
C - Comment/Recommendation	I - Info Copy Only/No Action Necessary	X - Interim Reply

ROUTE TO:

Date Sent	Name	Action Codes	Date Due	Action Taken
83/12/27	1. Fred Fielding	A/R	/ /	
/ /			/ /	
/ /			/ /	
/ /			/ /	
/ /			/ /	
/ /			/ /	

COMMENTS: 1. I think we just filed the first letter when it come in.

ORIGINATOR: ☐ Anderson ☐ Carey ☐ Fagan ☐ Fuller ☐ Gibson ☐ Gonzales ☒ Hart ☐ Herbolsheimer

Keep this worksheet attached to the original incoming material and when the assigned action is complete, return to:

OFFICE OF CABINET AFFAIRS
Attention: Karen Hart (x2823), West Wing/Ground Floor

Earl C. Berger
ATTORNEY AT LAW

485 Hamilton Avenue
Palo Alto, CA 94301
(415) 327-1733

January 10th 1984

Craig Fuller, Esquire
The White House,
Washington,D.C., 20005

Dear Mr. Fuller,

By letter of August 22, 1983, you were advised that the President (and his staff) are subject to execution, but you failed to acknowledge this important news.

Your acknowledgement and "news" is awaited; which if not received in the next few days will impel suggested execution.

Yours very truly,

Earl C Berger

Earl C. Berger

Earl C. Berger
ATTORNEY AT LAW

485 Hamilton Avenue
Palo Alto, CA 94301
(415) 327-1733

September 28,1983

no response - file (no record of 8/22 letter)

Craig Fuller, Esquire
White House,
1600 Pennsylvania Ave., N.W.,
Washington, D.C.

RE: 506 Federal 2nd 1306,
March et al v. U.S.A.

Dear Mr. Fuller:

If you do not wish to respond to my letter dated August 22, 1983, in writing, we can discuss the matter in person at the Hotel Washington, D.C., where I will be October 2nd to October 6th,1983.

It is my feeling that all property claimed as owned by the U.S.A, can be attached and executed, and will be.

Sincerely,

Earl C. Berger

Earl C. Berger
ATTORNEY AT LAW

485 Hamilton Avenue
Palo Alto, CA 94301
(415) 327-1799

December 20,1983

192141

Craig Fuller, Esquire
White House, Washington, D.C.

Dear Mr. Fuller,

Enclosed: my letter of August 22,1983, which you have not answered although you see the President twice daily.

As I advised Senator Laxalt, the other day, I shall execute unless the matter is taken care of.

Very truly yours,

Earl C. Berger

Earl C. Berger
ATTORNEY AT LAW

425 Hamilton Ave.
Palo Alto, CA 94301
(415) 327-1733, mornings.
and evenings: (415)326-3558

August 22,1983

193141

Craig Fuller, Esquire
The White House,
Washington, D.C., 20006.

RE Execution against the White House

Dear Mr. Fuller,

I am preparing litigation looking forward to executing and selling the White House of our President, because the Order for Remand has not been properly honored or carried out.

But I am not averse to compromise, and payments due to the teachers and myself as their attorney.

Very truly yours,

Earl C. Berger

P.S. Each of the teachers is and has been fully sui juris; but only Messrs. Cole and Groner, have received any pay. Please see Public Law 86-91 as amended by Public Law 89-391; to date I have received nothing, while Cole and Groner, fiduciaries, have converted over a million dollars, and went over to the other side. The Court of Appeals decision must be honored. 506 Federal 2nd 1306 is res judicata. If you wish I can explain further.

ecb

January 12,1984

Dear Mr. Fielding,

A copy of the letter to Ms. Futrell is enclosed for your information.

Letters to Mr. Fuller go unacknowledged or acted on. He ought to advise Mr. Reagan that his fortncoming campagin may be harmed by functionaires, but can be avoided simply.

ECB

January 17, 1984

Ms. Mary Harwood Futrell,
President: NEA
1201 16th St.,N.W.,
Washington, D.C., 20036

RE: Salaries for Teachers

Dear Ms. Futrell,

I am a Life Member of NEA, as is Mrs. Florence Wright Berger, my wife.

As such I take the liberty of addressing you.

Ever since Easter, 1955, I have given my time to NEA teachers' welfare, without compensation; only in individual cases, where they were in danger, and then for very little fees. No fees, whatever, as to their welfare and salaries as a class.

Years ago they were removed from the General Schedule and got their own classification as employees subject to Public Law 86-91 (and amended to give them "equal to" - rather than just "in relation to") salaries; salaries equal to those of their counterparts in school districts in the U.S.A. Thus it has become unnecessary for these overseas teachers to require increases; they would automatically get such raises without striking; they would be entitled to equal to salaries in districts of 100,000 populations and larger districts.

When those overseas teachers simply asked for leave to visit their Inspector General, they were "accused" of intending to strike and the MP's would take over ! Although their request was denied, and they never struck.

Undresigned was also instrumental in obtaining Public Law 86-91 and 89-391, the amendment - from Congress.

Their Director all that time, and on the appeal of the U.S.A., from the injunction requiring such laws to be honored, the U.S. Court of Appeals, for the D.C. Circuit, on November 12, 1974, decreed and ordered compliance with those laws, but to date, some 9 years later, the government has not honored the Court of Appeals' decision and order for remanding the case to its District Court for juugment conistent with its decision.