

REORGANIZATION AND PROPOSED REORGANIZATION
RELATING TO ENERGY AND NATURAL RESOURCES

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INTRODUCTION

On June 29, 1973, President Nixon sent to Congress a message which outlined his proposed strategy for reorganizing the Federal Government, to deal more efficiently with energy and natural resources. The message announced his creation of a new advisory function in the Executive Office--the Energy Policy Office. The President also outlined in this message his proposal to comprehensively restructure the Executive Branch in order to streamline the management of energy and natural resources.

With respect to natural resources other than energy, this proposal is substantially the same as the proposal for a Department of Natural Resources (DNR) in the 92nd Congress. However, the current proposal for a Department of Energy and Natural Resources (DENR), an Energy Research and Development Administration (ERDA), and a Nuclear Energy Commission (NEC), differs considerably from the earlier proposal in its treatment of the structure for energy research and development, and in its re-allocation of the functions of the Atomic Energy Commission.

This report is divided into four basic sections: the first will describe the announcements and proposals of the President's June 29 message; the second compares the current DENR/ERDA/NEC proposal with its predecessor, the DNR; the third summarizes comments and questions raised during hearings on the current proposal; and the fourth compares relevant aspects of the President's proposal to important energy legislation of this Congress.

Chapter One:

The June 29 Proposal

Five organizational units were either set up or proposed in the President's statement of June 29. An Energy Policy Office (EPO) was established by Executive Order in the Office of the President.^{1/} A Department of Energy and Natural Resources (DENR) based on an expanded Department of the Interior, was proposed; an Energy Research and Development Administration (ERDA) based mainly on the research and development functions of the AEC, was proposed; a Nuclear Energy Commission (NEC), also part of the proposal, would assume the licensing and regulatory role of the AEC, and would keep the same five-member commission format. Bills H.R. 9090 and S. 2135 have been introduced at the President's request to establish these entities. Finally, the President directed that an Energy Research and Development Advisory Council be established to provide expert scientific input into these structures.

I. The Energy Policy Office (EPO)

The EPO, located in the Executive Office of the President, combines the functions of the Special Committee on Energy and the National Energy Office, which were established immediately after the April 18, 1973 Presidential Energy Message.^{2/}

The director of the EPO is to serve as Assistant to the President for Energy, and it was announced in the June 29 statement that Colorado Governor John A. Love is to hold this position.

^{1/} Executive Order 11726, June 29, 1973,

^{2/} Executive Order 11712. 38 Fed. Reg. No. 75, p. 9657.

According to the President's statement: "This office will be responsible for the formulation and coordination of energy policies at the Presidential level." In the accompanying White House "Fact Sheet", duties of the EPO Director were listed as follows: as the President's principal energy advisor, to be responsible for identifying major problems, reviewing alternatives, making policy recommendations, assuring that agencies develop short and long range energy plans, and to monitor the implementation of approved energy policies.

The Special Energy Committee which the EPO Director replaced consisted of three Assistants to the President--John D. Ehrlichman, Henry A. Kissinger, and George P. Shultz--who were to provide policies and guidance for the Director of the National Energy Office.

The National Energy Office had the following functions assigned to it:

- advise the President through the Special Committee on Energy with respect to all Federal energy programs and related matters;
- recommend policies and guidelines pertaining to energy matters for all energy related programs in the Executive Branch;
- assure development of comprehensive plans and programs to insure availability of adequate and dependable supplies of energy;
- assure that Federal energy policy is properly coordinated;
- evaluate all such programs;
- advise the heads of departments and agencies of findings and recommendations when appropriate;
- make recommendations to the Director of the Office of Management and Budget on proposed funding of energy programs;
- serve as a clearinghouse for prompt consideration of energy problems;
- report to the President on these matters through the Special Committee on Energy.

These, then, are the functions assumed by the current EPO. Executive Order 11726 of June 29, 1973 established the EPO, superseding the earlier order, and abolished the Special Energy Committee and the National Energy Office. The President's statement indicates that Charles DiBona, who headed the National Energy Office, will continue as special consultant on energy matters, and will be working "within the new office."

The EPO duties in addition to those assumed from the National Energy Office, are listed in the June 29 Executive Order:

- identifying major problems, present and prospective in energy areas;
- making energy policy recommendations to the President;
- reviewing alternatives in energy matters with executive branch agencies and outside groups;
- insuring that executive branch agencies develop short and long-range plans for dealing with energy matters;
- monitoring implementation of approved energy policies, with the assistance of the Office of Management and Budget;
- providing guidance and direction to the Oil Policy Committee and its Chairman;
- providing advice to Cost of Living Council on energy;
- assuring development of comprehensive plans and programs to assure availability of adequate and dependable supplies of energy;
- initiating studies to be carried out by appropriate Government agencies.

A comparison of the duties assigned to the National Energy Office and those of the EPO indicates that EPO is given more initiative in formulating policy, and

it reports directly to the President rather than through a committee of advisers, as the previous office was required to do.

II. The Department of Energy and Natural Resources (DENR)

In 1971, during the 92nd Congress, President Nixon proposed a massive restructuring of the Executive Branch, in which seven of the Executive Department would be dismantled, and their elements reconstituted in four new larger cabinet-level departments: Natural Resources, Economic Affairs, Community Development, and Human Resources. The intention was to organize the functions of the Federal Government around "basic goals" of society. This proposal was based almost entirely on the recommendations of the President's Advisory Council on Executive Organization, known generally as the "Ash Council," after its Chairman, Roy L. Ash. These recommendations were made following studies by the Council which began in 1969.

The present proposal for the DENR is built upon the core concept of the 1971 proposal for a Department of Natural Resources (DNR). In areas other than energy, there are few differences between the DNR and DENR in functions to be transferred from other agencies.

However, the current proposal goes beyond that of 1971 in its effect on the Atomic Energy Commission (AEC), which would be split between the proposed Energy Research and Development Administration (ERDA) and the proposed Nuclear Energy Commission (NEC). The June 29 proposal suggests a totally new entity, the independent ERDA, with most energy research functions thus removed from the DENR. This is a significant difference from the functions of the DNR in the 1971 proposal, which would have left AEC basically intact and which would have given most other energy R & D and policy to the DNR.

TABLE 1

ORGANIZATION OF THE DEPARTMENT OF ENERGY AND NATURAL RESOURCES
(DENR)

Energy & Minerals Administration	Land & Recreation Resources Administration	Water Resources Administration	Oceanic Atmos. & Earth Sci. Administration	Indian & Territories Affairs
<u>From Interior:</u> --Office of Coal Research --Office of Energy Conservation --Office of Energy Data & Analysis --Office of Oil and Gas --Office of R & D --Bureau of Mines (except energy research centers) --Mining Enforcement and Safety Admin. --Bonneville, South-eastern, Southwestern & Alaska Admins.	<u>From Interior:</u> --Bureau of Outdoor Recreation --Bureau of Land Management --National Park Service --Bureau of Sport Fisheries and Wildlife <u>From Agriculture:</u> --Forest Service	<u>From Interior:</u> --Bureau of Reclamation --Office of Saline Water --Office of Water Resources Research <u>From Army (Corps of Engineers):</u> --Policy, planning and funding of Civil functions. <u>From Agriculture:</u> --Aspects of Soil Conservation Service: --River Basin Surveys and Investigations Program --Planning and funding for large watershed and flood prevention projects.	<u>From Interior:</u> --Geological Survey <u>From Commerce:</u> National Oceanic and Atmospheric Administration (NOAA)	<u>From Interior:</u> Combine Office of Territories & Bureau of Indian Affairs
<u>From AEC:</u> --Uranium & Thorium Assessment Program				
<u>From Transportation:</u> --Office of Pipeline Safety				
		<u>From Water Resources Council:</u> --All functions		

The White House Fact Sheet on the DENR states:

DENR would have the responsibility for assuring that future demands for water, timber, minerals, and energy resources are met without sacrificing our forests, lakes, wilderness, beaches, and the general environment--the oceans, the atmosphere, the lands and their interaction.

DENR would have an organization and managerial capability which could most effectively and vigorously develop and implement comprehensive natural resources policies and programs.

...The President has again stressed the need to consolidate key natural resources functions in the new Department so that we can meet better our national objectives.

Thus the DENR would be assigned a policy function in developing and implementing comprehensive natural resources policies generally.

Table 1 on the preceding page outlines the components from each agency which are proposed for transfer to the five organizational units of the DENR.

The White House Fact Sheet indicates that the units to be transferred to the DENR have a combined budget total for FY 1973 estimated at \$5.38 billion, and the total number of full-time employees would be 91,149.

III. The Energy Research and Development Administration (ERDA)

As proposed, the ERDA would be an independent agency to be established as the focal point for research and development on all forms of energy; its objective would be the development, in cooperation with industry, of new energy sources. It would conduct or sponsor nearly all the Federal Government's research and development programs involving all phases of energy production.

In Title IX of H.R. 9090, the proposed legislation states in Sec. 1101 (3):

"That it shall be the function of the Energy Research and Development Administration to exercise central responsibility for planning, coordination, support, and management of research and development programs respecting all forms of energy sources. In carrying out this function, the Administration shall be responsible for assessing the requirements for research and development in regard to various forms of energy sources in relation to near-term and long-range needs, for policy planning in regard to meeting those requirements, for undertaking programs for the optimal development of the various forms of energy sources..."

Thus the ERDA is given a critical policy role in determining which types of energy sources will be the subject of extensive Government research and development. The President has already given a similar short-term mandate to the AEC, which would comprise most of ERDA. In his June 29 statement, he directed the AEC to undertake "an immediate review of Federal and private energy research and development activities...and to recommend an integrated energy research and development program for the nation." In connection with this study, the President directed the AEC Chairman to report by September 1 of this year projects to which an additional \$100 million should be allocated in FY 1974, and to report by December 1 recommendations for energy R & D for FY 1975.

The ERDA would be built around the research and development operations of the AEC. Accordingly, all functions of the AEC would be transferred to the ERDA, except (1) the uranium and thorium assessment program, which would go to the DENR, and (2) the licensing, regulatory and related environment and safety functions, which would go to the proposed Nuclear Energy Commission.

Specifically, the program transferred from AEC to ERDA would include:

- nuclear materials production
- reactor development
- military applications
- physical research
- biomedical and environmental research
- controlled thermonuclear (fusion) research
- non-nuclear energy research and development
- other non-regulatory functions (which includes foreign relations projects in cooperation with other nations).

From the Interior Department, all fossil fuels research and development, as well as other R & D, would be transferred to the ERDA. Specifically, this would include:

- Office of Coal Research
- energy research centers of the Bureau of Mines
- underground power transmission R & D
- the pilot plant on coal conversion in Bruceton, Pennsylvania.

The actual organization of the ERDA is not spelled out in the June 29 proposal; the White House Fact Sheet states:

Specific proposals for the internal organization of ERDA will be made at a later date, following study of R & D and production functions that would be transferred from AEC, functions to be transferred from other agencies and new programs. The internal organization would reflect clearly ERDA's role in non-nuclear energy R & D while assuring continued progress on the nuclear energy functions transferred from AEC.

The statement indicates that ERDA would be headed by an Administrator, a Deputy Administrator and Assistant Administrators for major programs and supporting functions. Estimated budget figures for 1973 for the transferred AEC programs are \$2.25 billion; from the Department of Interior, programs transferred were estimated in the FY 1973 budget at \$72 million.

IV. The Nuclear Energy Commission (NEC)

This is the unit which would retain the five-member commission structure of the present AEC, and which would retain its licensing, regulatory and related functions. However, only \$40 million of the 1973 AEC budget is associated with these functions. Studies are underway to determine which specific functions and resources would be given to the NEC. It is expected by the White House that ERDA would perform in necessary research and development support of NEC on a reimbursable basis.

V. Advisory Council on Energy Research and Development

The Advisory Council is to be composed of leading experts in energy technology from outside the Federal Government who will give technical advice to the EPO on energy R & D plans and programs. Few other details about this Council have been announced, and the entity was not yet functioning in late August, following the President's Statement.

Chapter Two:

Comparison of Current DENR/ERDA/NEC Proposal
with Previous DNR Plan

There are very significant differences between the 1971 DNR proposal and the 1973 proposed DENR in the area of energy organization; in the non-energy areas, the differences are few. However, the differences in the energy area are so significant that the DENR/ERDA/NEC proposal has become primarily an energy reorganization plan, as well as the over-all natural resources proposal constituted by the 1971 DNR.

Subsequent to introduction of the 1971 proposal, as energy problems received increasing public attention, some critical comment was directed at the fact that energy in the DNR was relegated to merely one of five administrations in a huge agency that very possibly would not be able to give energy policy and programs adequate attention.

The acute awareness of the nation's energy problems prevailing today is reflected in the current proposal, which established five units, each focused on different aspects of energy issues. Even in the over-all natural resources agency, the word "energy" has been added to the title, despite the fact that fewer real energy functions are directly assigned to the DENR than were given to the DNR in the 1971 proposal.

The proposals for the DNR and the DENR both offer the same administrative format, establishing five administrations to handle five natural resource areas. The only difference in this format is that the former DNR's energy unit was called the "Energy and Mineral Resources Administration (EMRA)", and the proposed DENR unit is named the "Energy and Minerals Administration."

Table 2 on the following page gives a comparison and illustrates the differences in elements proposed for transfer to each of the five Administrative units in each of the proposals.

I. Differences in Organization of Non-energy Areas

Under the 1971 DNR proposal, seven other major departments were to be divided among the four new units; the non-energy differences in the DENR proposal arise primarily from the continued existence, under the 1973 DENR proposal, of the Agriculture Department. Thus the Agriculture Department would retain the Economic Research Service and the Agricultural Research Service's Soil and Water Conservation section. These would have been transferred to the Land and Recreation Resources Administration under the 1971 DNR proposal.

In 1973 the transfer of the Power Marketing Agencies is proposed for the Energy Administration instead of being transferred to the Water Resources Administration as in the DNR proposal. Also, under the DNR, all functions of the Soil Conservation Service would have been transferred from the Agriculture Department, but under the DENR, only some aspects of the SCS would be switched from Agriculture: River basin surveys and investigations programs, and planning and funding for large watershed and flood prevention projects.

There are no differences between the DENR and the DNR with respect to the Oceanic, Atmospheric and Earth Sciences Administration or in the Indian and Territorial Affairs unit.

Table 2: Comparison of Units Transferred: 1971 DNR and 1973 DENR/ERDA

Administrative Unit	DNR (1971)	DENR (1973)	ERDA (1973)
To: ENERGY AND MINERALS UNIT			
From: <u>Interior</u>	Bureau of Mines: All functions	Bureau of Mines <u>except</u> energy research centers	Energy research centers of Bureau of Mines
	Office of Coal Research		Office of Coal Research
	Office of Oil and Gas	Office of Oil and Gas	
	Oil Import Administration and Appeals Board	Abolished in 1973	
	Office of Minerals and Solid Fuels	Abolished-function transferred to Assistant Secretary of Energy & Minerals	
	Defense Electric Power	Not mentioned in 1973 proposal	
	Underground Power Transmission Research		Underground Power Transmission Research
		Office of Research and Development (established in 1973)	

Comparisons of units transferred (cont'd)

Administrative Unit	DNR (1971)	DENR (1973)	ERDA (1973)
To: ENERGY AND MINERALS UNIT (cont'd.)			
From: <u>Interior</u>		Office of Energy Conservation (established in 1973)	
		Office of Energy Data Analysis (established in 1973)	
		Mining Enforcement and Safety (established in 1973)	
	(Put in Water Resources in DNR)	Bonneville, Southeastern, Southwestern, and Alaska Power Marketing Administrations	
From: <u>Atomic Energy Commission</u>	Raw materials management generally	Uranium and Thorium assessment	
	Uranium enrichment		Nuclear materials production
	Plowshare Program: just funding and policy		Plowshare Program: all functions

Comparisons of units transferred (cont'd)

Administrative Unit	DNR (1971)	DENR (1973)	ERDA (1973)
To: ENERGY AND MINERALS (cont'd.)			
From: <u>Atomic Energy Commission</u>	Civilian reactor development: funding and policy (R & D to stay in AEC)		Reactor development: all programs, civilian and military
			Controlled thermonuclear research (fusion)*
			Physical research*
			Biomedical and* environmental research
			Military applications*
			Other non-regulatory * functions
			Non-nuclear energy* research and development
From: <u>Department of Transportation</u>	Oil and Gas Pipeline Safety	Office of Pipeline Safety	

*Not proposed for transfer to DNR in 1971; these units would have stayed in the AEC under the 1971 plan.

Comparisons of units transferred (cont'd.)

Administrative Unit	DNR (1971)	DENR (1973)	
To: LAND AND RECREATION RESOURCES ADMINISTRATION	Bureau of Land Management	Same	
	Bureau of Outdoor Recreation	Same	
From: <u>Interior</u>	National Park Service	Same	
	Bureau of Sport Fisheries and Wildlife	Same	
	From: <u>Agriculture</u>	Forest Service	Same
		From Economic Research Service: Natural Resources Economics	(Not transferred in 1973)
From Agricultural Research Service: Soil and Water Conservation		" "	

Comparisons of units transferred (cont'd)

Administrative Unit	DNR (1971)	DENR (1973)
To: WATER RESOURCES ADMINISTRATION		
From: <u>Department of the Interior</u>	Bureau of Reclamation	Same
	Office of Saline Water	Same
	Power Marketing Agencies (Bonneville, Southeastern, Southwestern & Alaska)	(Put in Energy and Minerals Administration in 1973)
From: <u>Department of Agriculture</u>	Soil Conservation Service: All functions	Aspects of Soil Conservation Service: --River Basin Surveys and Investigations and Programs --Planning and funding for large watershed and flood prevention projects
	From Farmers Home Administration: Watershed Loans	Not transferred in 1973
From: <u>Army Corps of Engineers</u>	Policy, planning and funding of civil functions	Same
From: <u>Water Resources Council</u>	All Functions	Same

Comparisons of units transferred (cont'd)

Administrative Unit	DNR (1971)	DENR (1973)
To: OCEANIC, ATMOSPHERIC AND EARTH SCIENCES ADMINI- STRATION		
From: <u>Department of the Interior</u>	Geological Survey	Same
From: <u>Department of the Commerce</u>	National Oceanic and Atmospheric Administration (NOAA)	Same
To: INDIAN AND TERRITORIAL AFFAIRS		
From: <u>Department of the Interior</u>	Bureau of Indian Affairs	Same
	Office of Territories	Same

II. Differences in Organization for Energy

Table 2 shows the differences in elements proposed for transfer to the EMRA of the DNR and those proposed for assignment to the ERDA and DENR under the 1973 proposal. In this section, the more prominent differences in the area of energy will be discussed specifically.

A. Impact on Atomic Energy Commission Functions

In the 1973 proposal, the Atomic Energy Commission would be split up and divided between the ERDA and the NEC in the 1973 proposal. This is in marked contrast to the 1971 plan, in which the AEC was to remain intact, except for the transfer of funding and policy planning in civilian reactor development (R & D was to stay in AEC), the transfer of the Plowshare Program's funding and policy, and of the uranium enrichment program. Whereas the 1971 proposal created an Energy and Minerals Resources Administration (EMRA) within the DNR which would have a function in energy research and development, the 1973 DENR would be given no specific research and development functions. It should be noted that the 1971 plan, however, left to the AEC actual research and development operations in civil nuclear energy, with its planning and budgeting to take place in the EMRA.

Under the 1971 proposal, AEC would have remained also as the regulatory agency for civil nuclear power, whereas the 1973 proposal would bring about the separation of nuclear energy licensing and regulatory functions from the other operations of AEC (or under the new proposal, the ERDA). The latter is a long-sought goal by many critics of AEC, who feel that combining development of nuclear energy with

regulation of that development for public safety in one agency prevents the desired objectivity on the part of the regulators. Title XI, Sec. 1101(b) of H.R. 9090 states that this division "is in the public interest."

The EMRA of DNR would have had a budget of \$695 million for all operations, with 6,100 full-time, permanent employees. The ERDA has a proposed estimated budget of \$2,322 million for Fiscal Year 1973 and 6,570 full-time, permanent employees. The Nuclear Energy Commission, which would retain the structure of the AEC and its regulatory functions, but not its operating functions, would have a budget of \$40 million for FY 1973, with 1,275 full-time employees.

B. Policy Roles

The establishment of a national policy for energy has been a continuing high priority interest in both the 92nd and 93rd Congress, and so the considerably different policy roles delineated in the 1971 and 1973 reorganization proposals are significant.

In the 1971 proposal, the Energy and Mineral Resources Administration in the DNR would have as one of its functions the formulation of national energy resources policy. And in fact, no energy policy functions were to be assigned to any new unit except DNR. During hearings on the DNR proposal, Secretary of the Interior Morton testified:

President Nixon recently stated that the single authority established in DNR would be "better able to clarify, express, and execute Federal energy policy than any unit in our present

structure" and that it would provide "a focal point where energy policy in the executive branch could be harmonized and rationalized." 1/

In contrast, under the 1973 plan, energy policy functions would be assigned to three units: the EPO, the DENR and the ERDA.

The bulk of the Federal energy policy role would be assigned in the 1973 proposals to the already established Energy Policy Office, a factor which was not introduced at all into the 1971 equation for reorganization. Among the duties of the EPO, the Director would be made responsible for "making policy recommendations to the President with respect to energy matters, and working with executive branch agencies and outside groups in reviewing policy alternatives with respect to energy matters." 2/

ERDA would be given a substantial policy role in H.R. 9090, in Section 1101(a) (3), which directs it to exercise "central responsibility for policy planning, coordination, support, and management of research and development programs respecting all forms of energy sources. However, a policy role for ERDA is not mentioned in the President's June 29 statement, or in the Fact Sheet accompanying the proposal.

Concerning the functions of the DENR, the Declaration of Purpose of H.R. 9090, Sec. 101(2)(c) does not include policy making among them; but the White House Fact Sheet does indicate a policy role for the DENR:

1/ U.S. Congress. Senate. Committee on Government Operations. 92nd Congress, First Session. Hearings. "Establish a Department of Natural Resources." On S. 1431. Part 3. August 5, 1971. U.S. Gov't. Printing Office, Washington, D.C. p. 1073.

2/ Executive Order 11726, June 29, 1973.

"In addition to the functions located in DENR's Energy and Minerals Administration, the Secretary would be responsible for and have resources to assemble information with respect to energy resources and demands in all sectors, perform analyses and identifying energy policy and program options that would provide guidance to other operating agencies and assistance to the Energy Policy Office and other agencies of the Executive Office of the President." (p. 5)

C. Energy Functions

The range of energy functions assigned to the DNR and the DENR are significantly different, largely because the ERDA was an additional measure proposed in the 1973 plan, which would be assigned all the energy research and development functions. The 1971 DNR would have had a number of energy resource functions as well as some research and development (excluding nuclear); but the emphasis in the 1973 DENR is entirely on operational energy resources programs and service operations. In connection with centralizing the energy functions of this nature, the power marketing agencies--Bonneville, Southeastern, Southwestern, and Alaska--would be transferred under the 1973 plans to the Energy and Minerals Administration (EMRA), rather than to the Water Resources Administration, which is where they were to be assigned within the 1971 DNR.

Table 3 on the following page shows the distribution of energy functions proposed for the EMRA of DNR in 1971, and compares them with the proposed distribution among the EPO, the EMA of DENR, and ERDA in 1973.

During hearings on the 1971 plan, the concepts of EMRA's functions were outlined as follows by Secretary of the Interior Morton ^{1/} :

^{1/} U.S. Congress. Senate Committee on Government Operations, op. cit. pp. 1079-1080.

TABLE 3

COMPARISONS OF ENERGY FUNCTIONS PROPOSED FOR
 THE ENERGY AND MINERAL RESOURCES ADMINISTRATION OF THE DNR IN 1971,
 THE ENERGY POLICY OFFICE, DEPARTMENT OF ENERGY AND NATURAL RESOURCES, AND
 THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION IN 1973

The 1971 proposal	The 1973 proposal		
	EPO	DENR	ERDA
EMRA of DNR			
Formulation and implementation of national energy resources policy	X	X	
Development of energy production technology;			X
Development of resource development and utilization technology;			X
Management of uranium stockpile;		X	
Production of enriched uranium;			X
Ore body and resource delineation and information;		X	
Resource conservation;		X	
Supply, demand, and other economic information		X	
Mining, recovery, processing and utilization studies;		X	
Waste disposal, reuse, recycling and substitutes studies;		X	X
Protection and restoration of mined areas;		X	
Research and informational service;			X
Fostering mining health and safety;		X	
Fostering oil and gas pipeline safety		X	
Related environmental considerations		X	X
Statistics and Information	X	X	

Sources: 1971 proposal, Cf. Papers Relating to the President's Departmental Reorganization Program: A Reference Compilation. Washington, D.C.: U.S. Government Printing Office, 1971, p. 169.

1973 proposal, Executive Order 11726, the White House Fact Sheet on President Nixon June 29, 1973, message; and bills H.R. 9090 and S. 2135.

Problem solving:

The Nation needs a strong, unified agency authority to solve crucial and complex problems that relate to energy exploration, development, production, transportation, conversion, and use. It will also have to face up to such troublesome situations as supply and demand, environmental effects in energy and mineral production and disposal of solid wastes.

The new Energy and Mineral Resources Administration will be able to deal effectively with such problems as making adequate energy available; considering the interrelationships of all energy forms for technical and economic planning; and devising leadtime needed for technological developments related to future needs for clean energy.

Statistics and Information:

The responsibility for statistics and information... will include collection, compilation, analysis and publication of all kinds of energy and mineral statistics on an integrated basis, heretofore unattainable. An urgent need exists today for an analytical capability to develop available data into useable reports that have options and recommendations which Departmental managers and other decisionmakers can use to make policies and develop programs.

Research and Development:

This Administration will have responsibility for a broad range of research and development activities, including those that relate to coal, petroleum, and natural gas, oil shale, nuclear energy, urban refuse, health and safety, metallurgy, mining and underground power transmission, among others. A consolidated approach to these various energy forms seems absolutely necessary to abate the present crisis, and to provide a planning focus for our future energy needs.

Regulation:

The Administration's regulatory and enforcement program will be extremely important because it will have to create a healthy and safe environment in the mining and energy industries. At the same time, it will be utilized to ensure a balanced supply and demand pattern for the Nation's mineral and energy resources.

(Note, however, that this reference to regulation did not include energy functions of the Federal Power Commission or the AEC.)

Proprietary operations:

The special proprietary operations of the Energy and Minerals Resources Administration will consist of the uranium enrichment program, the management of our Nation's uranium stockpile, and our helium conservation program. Placing these operations under a single Administrator will offer numerous opportunities to improve and simplify management practices.

Summary:

Thus, by improved information and statistic collection and evaluation, coordinated program and policy planning, an integrated energy and minerals research and development program, a more systematic regulatory effort, and a more effective series of proprietary operations, the Administrator for Energy and Materials Resources can do much to improve the outlook for a fuel-and-metal dependent society.

In the 1973 proposal, the ERDA is given the primary energy research and development role in the Federal Government. An important difference between the 1971 and 1973 distributions of energy R & D functions is the integration of nuclear and non-nuclear research, which is present in the 1973 proposal, but lacking in 1971.

In the President's June 29 message, he describes the proposed functions of the ERDA as follows:

The new Administration would have central responsibility for the planning, management and conduct of the Government's energy research and development and for working with industry so that promising new technologies can be developed and put promptly to work. The new Administration would be organized to give significant new emphasis to fossil fuels and potential new forms of energy, while also assuring continued progress in developing nuclear power.

D. Energy Research and Development

Some of the primary differences relating to energy research and development between the 1971 and 1973 energy reorganization proposals have emerged in the discussions above, but will be restated here in order to bring them all together.

In the 1973 proposal, research and development on all phases in energy is singled out for concentrated effort in an independent agency, the Energy Research and Development Administration (ERDA). This is in marked contrast to the 1971 plan, in which energy R & D was not integrated into one unit--nuclear remained in the AEC but with policy and funding of nuclear work in EMRA/DNR, non-nuclear was assigned to the DNR. Energy matters within the DNR were put in the energy and minerals administration which reported to the DNR Secretary, and not, as in the case of ERDA, directly to the White House.

The failure to integrate R & D of all types was criticized because there was the fear that there would be competition between the nuclear and non-nuclear research activities for funding and priority, and the possibility that such competition could work against a rational balancing of available funding among the different options for energy research.

The 1971 legislation (H.R. 6959 of the 92nd Congress) specified that one function of the proposed DNR was to "conduct scientific research and encourage development of technology to conserve and efficiently utilize natural resources with minimum impact on the environment, undertake programs for the optimal development of various energy sources, including nuclear power..." And the summary report and review on the proposed DNR listed the following functions with direct or indirect research and development implications:

- development of energy production technology;
- development of resources development and utilization technology;
- ore body and resources delineation and information;
- mining, recovery, processing and utilization studies;
- waste disposal, reuse, recycling and substitute studies;
- protection and restoration of mined areas;
- research and informational service.

The 1973 legislation, H.R. 9090, specifies that it shall be ERDA's function to "...exercise central responsibility for policy planning, coordination, support, and management of research and development programs respecting all forms of energy sources." In carrying out this function, ERDA is responsible for assessing the requirements for research and development in regard to various forms of energy sources in relation to near-term and long-range needs, for policy planning for meeting those requirements, for undertaking programs for the "...optimal development of the various forms of energy sources..."

As noted in the previous sections of this report, the bulk of the proposed ERDA functions would be composed of those transferred from AEC. Although the

Nuclear Energy Commission (NEC) retains the AEC format and its regulatory functions, most of the operations of AEC are to go to the ERDA, and the reorganization is in many respects the expansion of present AEC R & D to include fossil-fuel R & D from the Department of the Interior. The latter is currently a much smaller-scale effort, although part of the President's energy plan calls for the considerable enlargement of aspects of fossil-fuel research.

Section 1301 of H.R. 9090 would transfer to ERDA "all the functions of the Atomic Energy Commission...except as provided in subsection 301(h) of part A and in section 1701..." Subsection 301(h) would transfer to the DENR the AEC's uranium and thorium assessment functions. In essence, all research and development of the operation part of the AEC would be transferred to ERDA. Examination of the AEC budget estimates indicated a FY 1973 total of \$1.3 billion for the following R & D programs which would be transferred to ERDA.

Nuclear Materials--process development-----	\$ 32.2 million
Waste Management--technology development-----	4.9
Development of airborne waste treatment-----	0.5
Weapons Program--R & D-----	263.4
Weapons testing-----	178.7
Nuclear Materials Security--R & D-----	2.5
Naval Reactor Development-----	149.8
Civilian Reactor Development-----	293.0
Applied Energy Technology-----	14.2
Space Nuclear Systems-----	38.0
Physical research-----	240.8
Controlled Thermonuclear Research-----	37.0
Biomedical and environmental Research-----	93.1
TOTAL	\$1,348.1 million

The President's message says that the new ERDA would have "...central responsibility for the planning, management and conduct of the Government's energy research and development and for working with industry so that promising new technologies can be developed and put promptly to work." This new Administration would be organized to give "...significant new emphasis to fossil fuels and potential new forms of energy, while also assuring continued progress in developing nuclear power."^{1/}

Section 308 of H.R. 9090 would transfer to ERDA the Office of Coal Research, and also that part of the Bureau of Mines relating to fossil fuel energy research and development,^{2/} and for underground electric power transmission research.

^{1/} The President also said he is directing the Chairman of the AEC to undertake an immediate review of Federal and private energy research and development activities, under the general direction of the Energy Policy Office, and to recommend an integrated energy research and development program for the Nation. This program should encourage and actively involve industry in cooperative efforts to develop and demonstrate new technologies that will permit better use of our resources.

The President said also that he was directing the AEC Chairman, in consultation with the Department of the Interior and other agencies, to recommend by September 1 specific projects to which an additional \$100 million would be allocated during fiscal year 1974. By December 1, the AEC Chairman is to recommend energy research and development programs to be included in the fiscal year 1975 budget.

^{2/} Sec. 308(2) specifies that the Bureau of Mines functions to be transferred are those that relate to or are utilized in connection with "fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines to provide greater efficiency in the extraction, processing, and utilization of energy resources such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies."

The Office of Coal Research contracts for research and development of new and more efficient methods of mining, preparing and utilizing coal. It contracts for, sponsors, cosponsors, and promotes the coordination of research with recognized interested groups (including, but not limited to, coal trade associations, education institutions, and agencies of States and political subdivisions). The aspect of insuring a clean environment while minimizing or eliminating pollution-causing energy products is an important consideration in all OCR research projects. The Office also is seeking to expand the use of coal through development of new uses. In accordance with the President's energy message of June 4, 1971, the OCR is responsible for accelerating the coal gasification program to develop a process or processes that can result in commercial-scale plants producing a clean, high quality gas from coal by 1980. This accelerated activity will be funded two-thirds by the Government and one-third by industry sources in the range of \$30 million total funding annually for the next several years.^{1/}

The FY 1973 budget of the OCR was \$43.9 million and its FY 1974 request was \$52.5 million. The Fact Sheet mentions \$58 million for FY 1973.

The Bureau of Mines was budgeted for \$19.8 million for mineral resources development related to energy in FY 1973, and \$18.0 million is requested for FY 1974. The research and demonstration thus funded is designed to provide greater efficiency in the extraction, processing, and utilization of energy resources, to conserve those resources, to develop alternative energy resources such as oil shale and synthetic fuel, to improve methods of managing energy related wastes and

^{1/} Appendix to Budget of the United States, FY 1974, p. 561.

pollutants, and to provide technical guidance needed to establish and administer national energy policies. ^{1/}

The Fact Sheet says that the energy research centers of the Bureau of Mines and the synthane pilot plant for high BTU coal conversion are to be transferred to ERDA and gives the FY 1973 funding level at \$13 million.

The underground power transmission research is funded at \$1 million for FY 1973, according to the Fact Sheet.

In the 1971 proposal, in contrast, all functions of the Office of Coal Research and of the Bureau of Mines would have gone into the EMRA of the DNR.

The Energy Policy Office is to have a research role. Its director is responsible for the following functions relating to the chief policy officer with respect to energy matters, energy research and development:

- identifying major problems, present and prospective, in the energy areas;
- making policy recommendations to the President with respect to energy matters;
- working with Executive Branch agencies and outside groups in reviewing policy alternatives with respect to energy matters;
- reviewing, commenting on, and making separate recommendations on all other energy-related matters which require Presidential attention;
- monitoring the implementation of approved energy policies with the assistance of the Office of Management and Budget. ^{2/}

^{1/} Ibid., p. 555.

^{2/} Executive Order 11726, June 29, 1973.

In his message, the President announced he is establishing an Energy Research and Development Advisory Council reporting to the EPO. According to the Fact Sheet, this council is to be composed of leading experts from outside the Federal Government. It is to provide technical advice on major directions and substance of an integrated R & D energy program.

E. Regulation

Regulation of energy activities is a feature of both the 1971 and the 1973 plans.

Secretary of the Interior Morton in testifying on the reorganization in 1971 said this of EMRA's regulatory functions: ^{1/}

The Administrator's regulatory and enforcement program will be extremely important because it will have to create a health and safe environment in the mining and energy industries. At the same time, it will be utilized to ensure a balanced supply and demand pattern for the Nation's mineral and energy resources.

However, the 1971 reorganization bill, H.R. 6959, in describing the functions of the proposed DNR, did not mention regulation.

On the whole, any regulatory activities of Interior Department units transferred to DNR's EMRA would have continued, while the regulation of nuclear power would have continued to be carried on by the independent AEC.

^{1/} Establish a Department of Natural Resources. op. cit., p. 1079.

The President's proposals in 1971 to establish four superdepartments did not extend to the regulatory activities of the Federal Power Commission. However, the President's Advisory Council on Executive Reorganization in January 1971 did report on several independent regulatory agencies, including the FPC, and recommended that Congress "...establish a new framework within which the agencies might be structured now and for the future."^{1/} Council Chairman Roy L. Ash reported that the statutorily expressed intentions of Congress and the changing demands of the national economy and the public were not best served by the existing system of regulatory administration. Changes in characteristics of the regulated industries compelled establishment of a new structural framework, the report said.

The major recommendation of the Council was that transportation, power, securities and consumer protection regulatory functions be administered by single administrators, appointed by the President.

Concerning the Federal Power Commission, the Council came to the following conclusion:^{2/}

If Federal regulation is to respond to dynamic technological advance and structural changes in the power industry, as well as to rapidly accelerating demands for power, that regulation must be accountable, timely, balanced in the interest of all parties, and coordinated with related matters. Collegial bodies have not met and cannot be expected to meet these criteria. With responsibility and authority vested in and delegated by one man, with limited internal review of agency decisions, and with judicial review vested in a specialized Administrative Court, power regulation could be more effective. The Federal Power Agency could establish appropriate priorities and devote itself to the neglected but important role of formulating policy to deal with current problems and to anticipate future needs.

^{1/} The President's Advisory Council on Executive Organization. A New regulatory Framework. Report on Selected Independent Regulatory Agencies. Washington, D.C.: U.S. Government Printing Office, 1971, 198 p.

^{2/} Ibid, p. 112.

In the 1973 plan, regulation for minerals and fossil fuels would remain with their parent units in DENR. ERDA would have no regulatory responsibilities for energy, although it would retain regulation for physical security of nuclear materials.

Regulation of nuclear power would be carried on by the regulatory side of the AEC which would be separated and transformed into a Nuclear Energy Commission. The NEC would have a budget of \$40 million and about 1,275 full time employees. The Fact Sheet notes that studies will begin immediately to ascertain which of the functions and resources now under the operating side of the AEC should be transferred to the NEC in support of its regulatory functions. Additionally, ERDA would be available to perform work in support of NEC on a reimbursable basis. ^{1/}

Looking at energy regulations more generally, the President has directed a comprehensive study of Federal energy regulatory activities be undertaken to see whether reorganization is desirable. The study is to be a year's duration. ^{2/}

^{1/} Until now, R & D needed by the AEC's regulatory side has been funded from operating funds. Unless the NEC would be given funds for this purpose, it would not be able to reimburse ERDA for the R & D it might need.

^{2/} According to the Fact Sheet:

"...A number of Federal agencies are engaged in such (regulatory) activities including the Atomic Energy Commission, Federal Power Commission, and others that carry out energy regulatory functions as a part of broader missions such as the Departments of Interior and Transportation, Corps of Engineers, EPA, and Interstate Commerce Commission. A wide variety of interests and objectives are involved, including economic, public health and safety, environment, and adequacy and reliability of energy supply. The study will be undertaken over the next year to determine whether existing organizational arrangements are most efficient and effective for balancing the interests and objectives involved. The interface with State and local regulatory activities will also be considered and opportunity for Congressional and public participation in the study will be provided. OMB will be responsible for assuring that the study is completed."

F. Governmental Structure

Several of the offices transferred to the DENR in the 1973 proposal were not in existence in 1971. These are the Office of Research and Development, the Office of Mining Enforcement and Safety, the Office of Energy Conservation, and the Office of Energy Data Analysis, all units which were set up in the Department of the Interior in May, 1973. In its creation, the Office of Research and Development was given duties connected with functions which would be transferred in the June 29 proposal to the ERDA. This leaves the role of this office unclear. Both the Office of Energy Data Analysis and Office of Energy Conservation will carry out functions that have necessary input into policy determinations, and thus into functions of the EPO.

The effectiveness of a Federal agency depends in part upon its access to the Executive Office. Agencies which report to the Executive Office through a department head may lack some of the initiative, flexibility and concentration of purpose characteristic of organizations which can deal directly.

The 1971 proposal called for energy to be handled entirely by EMRA, which was to be a constituent unit within the Department of Natural Resources. In dealing with outside agencies, the EMRA Administrator would have had to clear his actions through the Secretary or his Deputy, through under secretaries ^{1/} and through an Assistant Secretary for Research and Development. ^{2/} As contemplated by the 1971

^{1/} DNR would have had two Under Secretaries to serve as a staff arms of the departmental leadership in such areas as the development of overall policy strategy and plans for implementation, organization business management, information systems, resources deployment, and the efficiency and effectiveness of the department.

^{2/} The Assistant Secretary for Research and Development would directly support the departmental leadership and would guide, promote, evaluate and coordinate the research technology and technology transfer activities of the department.

plan, the EMRA Administrator and other Administrators within DNR would be the managers and implementors of the Department's programs.

The 1973 proposal divides energy activities among an Energy Policy Office in the Executive Office of the President, whose director presumably has direct access to that office; the Administrator of ERDA, who as head of an independent agency would deal directly with the Executive Office of the President; a Nuclear Energy Commission whose Chairman also would deal directly with the Executive Office of the President; and the Energy and Minerals Administration of the DENR.

In essence, the 1973 plan removes one tier of intervening management from the arrangement proposed in 1971 in most areas of energy management. In comparison with the present situation, the 1973 plan in essence creates one more agency, the ERDA, to report directly to the Executive Office of the President, leaves the renamed AEC (the NEC) in essentially the same structural position, and creates an Energy Policy Office which, in part, would take on functions from the Office of Science and Technology, a former unit of the Executive Office of the President which had an energy policy staff and which was abolished on June 30, 1973.

Chapter Three:Questions Raised in Connection
With the Administration Proposal

Several questions were raised during the hearings on the Administration proposal. The more important of these, and the witnesses' comments, are summarized below. ^{1/}

Need for Greater Elaboration of Proposal

Most witnesses contended that further work is required to specify in the two bills, H.R. 9090 and S. 2135, details on the transfers of agencies to the new units, and to reconcile these transfers with the existing statutory authorities. Chairman Chet Holifield, who chaired the House hearings, was especially concerned with the need to reconcile the Atomic Energy Act provisions with such transfers-- that important provisions should not "fall between the cracks" when the AEC regulatory and research functions are divided between the NEC and the ERDA. In this connection, Holifield expressed a desire to see the functions split between NEC and ERDA spelled out in detail. Roy Ash, Director of the Office of Management and Budget, expressed his preference for a more complete broad delineation, leaving the minor details to be worked out later.

Concern for the role of the General Manager of the AEC was expressed--in particular whether this function would continue or be abolished. Contradictory testimony was recorded on this point. A deputy of Mr. Ash indicated that since

^{1/} Hearings were held by the House Government Operations Committee, Subcommittee on Legislation and Military Operations, on July 24, 25, 26, 31, and Aug. 1, 1973, and by the Senate Government Operations Committee, Subcommittee on Reorganization, Research, and International Organizations, on July 31 and Aug. 1, 1973.

the two-tiered structure of AEC (regulation and R & D) would not longer exist, the need for a General Manager would not persist. He expressed the hope of avoiding the need for a General Manager, having instead an Associate Director take on these duties. However, Dixie Lee Ray, Chairman of the Atomic Energy Commission, stated that all positions set up by the Atomic Energy Act, including the General Manager, would be transferred. No position is abolished, she said, since this legislation would not amend the Atomic Energy Act. General Manager positions would go to the ERDA, she indicated.

Regarding the need for spelling out in detail the split between NEC and ERDA, AEC witnesses indicated they felt the transfers of general functions made the split quite clear what would go where, since these functions within the AEC were clearly delineated.

Should ERDA and DENR be Combined?

The question arose several times that if the rationale for reorganization was the centralization of energy management, it would seem more logical to include the functions of ERDA in the DENR. Several witnesses favored the separation of energy Research and Development activities into the ERDA, to achieve a concentrated effort.

Roy Ash conceded that according to organizational theory these functions should be combined, but in light of existing capabilities, the best way to meet the urgent short-term need is to take advantage of AEC's already functioning structure and laboratory facilities. Ash indicated that it would be desirable to avoid an "organizational trauma" for AEC; because of the urgency of the energy problem, the "NASA-type treatment" is needed and can best be supplied by AEC.

Secretary of the Interior Rogers Morton conceded some difficulties in the rationale of this splitting of energy functions; but he favored it because it is "the route we must go to get the technology." He pointed out that in the "real world", ERDA is the kind of structure that can attract funding. He also argued that a research organization would have the advantage of being free of the burdens of reconciling the pressures of regulation and/or resource management.

An issue raised was whether these units, the DENR, the ERDA, and the NEC, could not be enacted separately. Roy Ash stressed the importance of enacting the three units as a package. However, comments in the media before the legislation was announced indicated that the ERDA and NEC were being considered as possibly due for separate consideration, with DENR thought to be potentially too controversial in non-energy areas; this might prove a hindrance to speedy action on reorganization for the intense focus needed soon on energy, particularly R & D.

Effects on Congressional Jurisdictions

One of the major problems involved in major reorganization of legislatively authorized Federal agencies is the effects on congressional committee jurisdictions over those agencies, and potential opposition to such changes by members of the affected committees.

Though this is a major question connected with the proposal, it was discussed only a few times. Very briefly, but emphatically, Chairman Holifield indicated his intense concern that matters of congressional jurisdiction be considered--and resolved--in detail. Interior Secretary Morton indicated his concern about effects on congressional jurisdiction, particularly in regard to the closely related question of the survival of the transferred federal agencies and bureaus as individual entities within the DENR.

An OMB deputy indicated that the DENR Secretary would clearly have authority to merge or otherwise rearrange the transferred entities after the DENR was formed. Morton made clear his concern that such mergers should not occur before the connected congressional jurisdiction matters were resolved. It is expected that established congressional jurisdictions over the individual entities would continue as at present, even though these units were located in the DENR; Morton emphasized that this situation must continue until agreements to the satisfaction of Congress were made in the cases of units to be merged or dissolved.

Policy Focus and Overlaps or Conflicts Among the Proposed Units

As discussed in Part II(B) of the first section of this report, policy roles are assigned to the EPO, the DENR, and the ERDA. Questions pertaining to the policy role and possible overlaps or conflicts were asked of several witnesses. It was agreed by the respondents to this question that EPO is the primary policy focal point and has the over-all coordination responsibility. However, Secretary Morton pointed out that policy development for the specific area of energy conservation, for example, was to be located in the DENR.

The OMB witnesses indicated that the EPO could well be temporary, and once the DENR were to be established, its functions would ideally include the EPO role, eventually. Governor Love, EPO Director, testified, on the other hand, that due to the nature of its coordinative role, the EPO will continue to be needed indefinitely.

All of the witnesses saw a substantial amount of back-up for EPO to be contributed by the DENR and ERDA, especially in the case of the Energy Data Office in Interior which is slated for transfer to DENR.

The major R & D priorities study now being prepared is being done by AEC, which will form the basis of ERDA, thus forming a substantial precedent for a policy role by ERDA.

Regional Aspects of DENR

In response to a question about decentralization and the DENR, OMB Director Ash explained that each of the five administrations of the DENR would have its own representative in each of the ten Federal Regions. In addition, there would be a representative of the DENR Secretary's Office in each of the regions to take a coordinative role for the other five DENR representatives in each region.

A question was raised as to whether the regional administration representatives might not have problems being responsible to both the head of their DENR Administration in Washington and to the Regional representative of the DENR Secretary in the field. Mr. Ash's deputy answered that no problem is foreseen; as long as the line of authority in Washington from the Secretary to each Administration is clear, the line of authority in the field would be clear.

Viability of the Remaining Departments

The question of the viability of the Departments from which units would be transferred, particularly the Agriculture and Commerce Departments and the Army Corps of Engineers, was raised. The representatives of the Departments indicated there would be no problem for them after the proposed transfers were to take place. Particularly in the case of NOAA and the Forest Service, these entities were portrayed as self-contained within the Departments where they are now, and able to be transferred without disrupting their functions, or the functions of the remaining Departments.

Location of Indian and Territorial Affairs

The question was raised several times, whether Indian and Territorial Affairs would not be more logically transferred to the Department of Health Education and Welfare, since community welfare programs are handled there.

Both OMB and Interior spokesmen answered that the peoples to be affected had indicated a preference to be associated with the Department handling land questions. This has been historically the case, communications of long standing had been established and should be continued, and the relationship of the Federal Government to these peoples was basically through the land, they said.

Possible Over-emphasis of Atomic Energy in an AEC-based ERDA

Concern was expressed that, in an ERDA based on AEC research and development facilities, there might be an over-emphasis on nuclear power generation at the expense of non-nuclear forms of energy. AEC Chairman Ray acknowledged the concern and gave "strong assurances" that this would not occur in the ERDA, and that the laboratories of the AEC stand ready to work with enthusiasm on other energy forms. She pointed out that the mandate of the AEC has been primarily atomic energy, but indicated her feeling that an enlarged mandate would bring equal work in other areas.

She indicated that her agreement that the bill proposing ERDA should make this clear and spell out the assurance that equal consideration be given to all forms of energy research by ERDA.

Location of Coal Mining Safety in DENR

It was suggested that perhaps a more logical location for Coal Mining Safety and Enforcement would be in the Department of Labor. While OMB Director Ash saw this as an open and good question, Interior Secretary Morton indicated a strong preference for keeping development and regulation of mining technology close to the mining safety and enforcement functions. He said that, since mining safety is so integrally related to use of technology, these two have a definite logical connection.

Water Resources Questions

A number of specific questions were brought up concerning handling of water resources questions. Among these: the existence of the Water Resources Council as a functioning entity within the DENR was not expected to continue; handling of water resource projects would follow the same steps as they do now. The Army Corps of Engineers was expected to continue functioning without disruption after the proposed transfer of funding, policy and planning of its civil projects to the DENR.

Chapter Four:Comparison of the June 29 Proposal
With Legislation of the 93rd Congress

In this chapter, relevant aspects of the President's June 29 energy announcement and the proposals in it will be compared to legislation pertaining to the same subjects which is now before the Congress.

I. Establishment of a Council on Energy Policy

The Senate passed on May 10, 1973, S. 70, the Energy Policy Act of 1973. One major purpose of this Act is the establishment of the Council on Energy Policy. This body would have basic purposes very close to those of the Energy Policy Office established by President Nixon on June 29, 1973. However, there are some considerable differences between the EPO and the proposed CEP in the makeup of the President's advisory mechanism, in the scope of the duties given the two bodies, and in their required responsiveness to Congress.

A. Description of CEP proposal.

The purpose of the Council are described in Sec. 3 as follows:

- (1) Serve as a central point for the collection, analysis and interpretation of energy statistics and data necessary to formulate policies for wise energy management....
- (2) Coordinate all energy activities of the Federal Government, and provide leadership to State and local governments and other persons engaged in energy activities; and
- (3) Prepare, after consultation with other interested organizations and agencies, a long-range comprehensive plan (Energy Plan) for energy development, utilization, and conservation...

In Section 4, all Federal agencies are directed to have specific functions to bring about wise energy use and development; this include preparing an "energy resource statement" for actions falling under CEP guidelines. These statements would describe the effect of the proposed activity on the Nation's over-all energy posture; and the inclusion in every major proposed Federal action or proposal of a detailed statement on whether the proposal or action is consistent with the Energy Plan of the CEP, and a justification if it is not.

The Council is to be composed of three full-time members, appointed by the President with the advice and consent of the Senate. One of the Council members would be designated Chairman. The Council would be authorized to employ a "competent, independent staff", to utilize the statistical information, services, and facilities of public and private agencies, in order to avoid duplication.

Specific duties of the Council are delineated as follows:

- To serve as principal adviser to the President and the Congress on energy policy and to exercise leadership in formulation of Government policy concerning domestic and international energy issues;
- To make recommendations to the President and the Congress resolving conflicts between the policies of different Federal agencies as they relate to energy;
- To develop within eighteen months, and annually update, an Energy Plan for energy development, utilization, and conservation in the U.S. to carry out the purposes of Sec. 3, and to hold annual hearings on the Energy Plan;
- To review all legislative recommendations and reports sent to Congress, and their accompanying energy resource statements; if the Council disapproves, it shall send to Congress and the involved agency a statement of its position;
- To keep Congress fully and currently informed of all its activities;

- Any budget estimates, recommendations, testimony or comments on legislation sent to the Office of Management and Budget is to be sent concurrently to Congress;
- To promulgate within six months, guidelines for preparation of energy resource statements by other Federal agencies. These guidelines are to be implemented by Federal agencies within six more months. It is also to promulgate guidelines for the collection, and initial analysis, of energy data by other Federal agencies.
- The Council is to prepare and submit to the President and the Congress beginning by Jan. 1, 1974, an annual energy report to accompany the Energy Plan, which is to include an estimate of energy needs of the U.S. for the next 10 years; estimates of domestic and foreign energy supply; current and foreseeable trends in price, quality, management and utilization of energy resources; catalog of research and development efforts funded by the Federal Government to develop new technologies and meet other energy needs; recommendations for improving energy data and information; a review and appraisal of the adequacy and appropriateness of technologies, including regulatory practices, employed by all levels of government; and recommendations for level of funding for development and application of new technologies.

B. Similarities between EPO and CEP

The already established EPO and the proposed CEP are more similar than different in the fundamentals.

Both are designed to be the focal point for energy policy formulation and evaluation. This includes identification of major problems, speedy access to the President, and assessing legislative recommendations.

Both would be located within the Executive Office of the President and would advise him directly.

Each would provide a coordinating role for the many Federal agencies that deal with various aspects of energy matters; they would both provide the over-all perspective for resolution of clashes among agencies in relation to energy.

Both would use statistical and information sources and facilities of existing agencies, not generate their own.

C. Major Differences Between EPO and CEP

One of the major differences between EPO and the suggested CEP is that the EPO is headed by a single Assistant to the President for Energy, often termed the "energy czar", whereas the CEP would be headed by a three-member council. The council is a more amenable concept to those who feel that energy decisions involve such a large number of important variables that the broader perspective of three persons is needed.

The relationship to Congress of the CEP would be significantly different. The EPO has basically no official relationship at all to Congress, and is considered part of the President's staff. However, the CEP would have many ties to Congress: to begin with, the three Council members would be appointed by the President, but must be confirmed by the Senate; the Act states that CEP must keep Congress fully informed about all its recommendations and activities; and would be required to make specified regular reports to the Congress.

The CEP would have a number of specified duties in addition to those assigned the EPO. It would prepare a specific "long-range" Energy Plan for energy development, utilization, and conservation; however, a similar role is implied in EPO's duties--"insuring that Executive branch agencies develop short-and long-range plans for dealing with energy matters". The CEP is directed to prepare an annual energy report which is to be submitted to Congress and the President, which is to estimate current and future energy trends and needs. The CEP would have central duties in preparing guidelines for the "energy resource statements" which would be required of all Federal agencies by the Act. These statements are designed to

resemble the Environmental Impact Statements required in the National Environmental Policy Act. These energy resource statements would form an additional tool for CEP, and, in addition to formulating the guidelines for agencies to use in their preparation, the CEP would evaluate the statements and make recommendations on them to Congress (in the case of legislative proposals) or to the President (in cases of Federal activities).

II. National Energy Research and Development Act of 1973

On March 19, 1973, Senator Jackson, Chairman of the Senate Interior Committee, introduced S. 1283, which is a major proposal for a national program for research, development and demonstration in fuels and energy. The act is in two parts--the first, establishment of the Energy Research Management Project; the second, creation of five separate and independent government development corporations for five different types of energy forms or sources: one each for coal gasification, shale oil, advanced power cycle development, geothermal energy, and coal liquefaction.

Among the basic purposes of this legislation is to "provide within ten years the option and the capability for self-sufficiency for the United States through the development of socially and environmentally acceptable methods for the development and utilization of domestic energy sources."

A. The Energy Management Project

The Energy Management Project (EMP), among its proposed duties, would review Federal activities in, and financial support for, energy and fuels research and development to determine the capabilities of on-going research; formulation of a comprehensive energy R & D strategy for the Federal Government; advancing energy research in all areas; improving management techniques of existing energy systems

through quality control and other methods; and utilization of funds authorized in this act for supplements to on-going energy R & D programs of the Federal Government.

The EMP would have an interagency committee structure composed of representatives from the Interior Department (one), the AEC (one), the FPC (one), the NSF (the Director), the EPA (one), NASA (one), and other representatives of Executive Branch agencies found to be appropriate by the President (number unspecified). The Project would be given the power to enter into contracts or agreements for studies and surveys with non-Federal entities and to transfer funds to Federal agencies in order to carry out aspects of the EMP's duties.

Section 102(f) prescribes that the EMP would be an interim organization, establishing within the Federal Government central responsibility and institutional capability for maintaining continuing assessment and direction of energy R & D in Government and private industry, "pending the reorganization of the Federal energy agencies to attain and support the objectives of a national energy policy."

B. The Development Corporations

The development corporations would be funded and operated independently of each other and of the EMP. A basic assumption in each case is that "the total research and development effort is too large for any single company to risk undertaking and a consortium of companies would be difficult to assemble without Federal leadership." Each DC would select the two most technically feasible methods for attaining its goal and then to establish a demonstration-type facility for each method. If the methods prove feasible, the corporation would proceed to commercial-scale operations; at the end of ten years, or before, the Board of directors would

dissolve the corporation, at which time all patent rights of the Corporation would be vested in the General Services Administration (GSA).

In assembling industrial participation in carrying out these functions and purposes, the GSA would be authorized to enter into contractual arrangements with private entities.

C. Comparison with H.R. 9090

There can be little direct comparison between S. 1283 and the Administration's reorganization proposal; but the two do interact in several ways.

First, the Energy Management Project is envisioned only as an interim measure until major reorganization were to occur, such as that proposed by H.R. 9090. Thus enactment of the Administration proposal would mean dissolution of the EMP, if that body were then in existence, or its deletion from S. 1283 if it were to be considered after the DENR bill were passed.

If the Energy Research and Development Administration (ERDA) of the reorganization proposal were to be enacted, the Development Corporation concept could be used by ERDA to accomplish its ends.

Thus, enactment of H.R. 9090 would mean that the first parts of S. 1283 would become obsolete, but would leave the development corporation concept as still available as a tool for the ERDA.

III. Department of Natural Resources and Environment

In each Congress since the 89th, Senator Moss has introduced a proposal for a department which would combine resources management and environmental regulatory functions. The proposal for the Department of Natural Resources and Environment (DNRE) in this Congress--S. 27--closely resembles the 92nd Congress Administration

proposal for a Department of Natural Resources (DNR--described in the first chapter of this report) except that it would include in DNRE most functions of the Environmental Protection Agency, and would assign Indian and Territorial Affairs to the Department of Health, Education and Welfare (HEW).

Thus, except for the latter two differences from both the previous and current Administration proposals, the DNRE proposal differs from the DENR/ERDA/NEC proposal in the same ways the old DNR proposal does.

Hearings were held on the DNRE proposal in the 90th Congress. It is argued by Senator Moss that combining environmental regulatory functions with functions of resource management would optimize the resolution of conflicts between these two functions. Both environmental protection and resource management are vital needs, and one agency concerned with both can best resolve conflicts between them, it is argued. Critics of this concept argue conversely, that, in such a conflict, a single agency could more easily fail to fairly balance all the factors on each side.

The transfer of the Indian and Territorial Affairs functions to HEW instead of the DNRE (or other natural resources Department) is a subject often raised in connection with the previous and current reorganization proposals; it is argued that economic development, education, and community services are, and should be, among the functions of primary concern to the agency dealing with Indian and territorial affairs, and thus these should be dealt with in a department whose main focus is in those areas of concern.

Glossary of Titles and Acronyms for Proposed and Existing Agencies

<u>Acronym (if used)</u>	<u>Agency</u>	<u>Description</u>	<u>Page on which discussed</u>
	Advisory Council on Energy Research and Development	Council of experts to give technical advice to EPO.	10
AEC	Atomic Energy Commission	The existing independent regulatory agency for nuclear research and development.	7; 8; 9; 19; 28
CEP	Council on Energy Policy	A proposed presidential advisory unit in the Executive Office, which would be authorized by S. 70, the Energy Policy Act of 1973.	44-48
DENR	Department of Energy and Natural Resources	A proposed Cabinet-level department which would be created by reorganizing existing agencies, urged in President Nixon's June 29, 1973, message.	5-7; 11-36

Glossary of Titles and Acronyms for Proposed and Existing Agencies (cont.)

<u>Acronym (if used)</u>	<u>Agency</u>	<u>Description</u>	<u>Page on which discussed</u>
DNR	Department of Natural Resources	Predecessor of DENR, Cabinet-level Department proposed in 1971, but not acted upon in 92nd Congress.	5; 11-36
DNRE	Department of Natural Resources and Environment	A proposed Cabinet-level Department, would be established by S. 27.	50
DOT	Department of Transportation	Existing Cabinet-level agency that administers transportation affairs; its pipeline safety function would be transferred to DENR under Presidents proposal.	7
DC	Development Corporations	Proposed in S. 1283-- federally funded corporations established to develop specific energy technologies.	49
EMA	Energy and Minerals Administration	A major subdivision of the proposed DENR, which would handle energy matters.	6

Glossary of Titles and Acronyms for Proposed and Existing Agencies (cont.)

<u>Acronym (if used)</u>	<u>Agency</u>	<u>Description</u>	<u>Page on which discussed</u>
EMRA	Energy and Mineral Resources Administration	A major unit in the proposed DNR in 1971.	22; 32; 35
EMP	Energy Management Project	A proposed interim interagency committee, which would be responsible for assessing and directing Federal energy policy and projects, that would be authorized by S. 1283.	48
EPO	Energy Policy Office	Central energy policy advisory unit in Executive Office of the President, established June 29, 1973.	2-5; 20; 40; 46-48
ERDA	Energy Research and Development Administration	A proposed independent agency to administer programs for energy research and development.	7-10; 11-36
	Indian and Territorial Affairs	A major unit within both DNR and DENR.	7; 42; 51

Glossary of Titles and Acronyms for Proposed and Existing Agencies (cont.)

<u>Acronym (if used)</u>	<u>Agency</u>	<u>Description</u>	<u>Page on which discussed</u>
	Interior Department	The existing Cabinet-level department that acts as custodian for the Nation's natural resources, and would form the nucleus for the proposed DENR.	7; 8; 9
	Land and Recreation Resources Administration	A major unit proposed within both the DNR and DENR.	7; 12
	National Energy Office	Predecessor of EPO, staffed Special Committee on Energy.	3
NOAA	National Oceanic and Atmospheric Administration	An existing research and service unit within the Commerce Department.	7
NEC	Nuclear Energy Commission	Proposed independent regulatory agency which would assume AEC's regulatory and licensing role.	10; 20; 34
	Oceanic, Atmospheric and Earth Sciences Administration	A major unit within both DNR and DENR.	7

Glossary of Titles and Acronyms for Proposed and Existing Agencies (cont.)

<u>Acronym (if used)</u>	<u>Agency</u>	<u>Description</u>	<u>Page on which discussed</u>
OCR	Office of Coal Research	An agency within the Interior Department.	7; 29-30
OMB	Office of Management and Budget	The President's budget office.	
	Water Resources Administration	A major unit within both DNR and DENR.	7
WRC	Water Resources Council	An existing agency policy body for water resources policy.	7

Legislation

H.R. 9090

House bill introduced by request of the Administration, which would establish the DENR, ERDA, and NEC.

S. 2135

Senate bill to establish DENR, ERDA, and NEC.

GOVT PUB ~~JAN 28 1974~~

GOVT PUB ~~JAN 31 '77~~

GOVT PUB ~~FEB 21 '77~~