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Organizational Issues: Comments on the Issue and Option Papers of the Water Resources Policy Study of the Water Resource Council

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ORGANIZATIONAL ISSUES

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of the Water Resources Policy Study of the
Water Resources Council

by

David J. Allee

September 1977

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David J. Allee^{2/}

Mr. Griebenow, it is particularly fitting for me to be before you addressing the issue of how this nation should organize itself to manage its water resources. The Upper Mississippi River Basin Commission has developed an outstanding record, with very limited staff and funds and minimal formal authority. You have shown that a lot can be accomplished. How? By paying attention to people. By striving to bring together the necessarily many different agencies and levels of government that have a stake and role in managing this most ubiquitous natural resource. I will urge several policy options that will, among other things, provide you and other basin commissions with a wider role. But first let me point out what I am going to cover and indicate how the university community has itself organized to respond to other important elements of the Carter water policy initiatives.

I will have time today to touch upon only a few of the organizational issues that should be addressed. While they are a part of the topic "Institutional Arrangements" included in the July 15 Federal Register, they are addressed only partly in that and other sections. Many of the problems raised throughout the document will be solved differently than they are today, only if the cast of participants and the resources available for such participation are changed. I will not cover reorganization at the federal level. Except for planning, reorganization is also omitted from the July 15 document, presumably because other parts of the Carter administration are addressing that task. In any case, changing the basis of participation at the interstate river basin level and the intermunicipal local level may be much more important for water management.

1/ Notes for remarks presented at the regional hearing on water policy, July 28, 1977 at Minneapolis, Minnesota (Federal Register, Friday, July 15, 1977).

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Others in the university community will be commenting on topics which I cannot. The Universities Council on Water Resources (UCOWR) consists of almost all of the universities with organized, multi-disciplinary programs in water resources. At its annual meeting, this year at South Dakota State University, Brookings, July 24-27, UCOWR established a task force to respond to the issue papers and on which I serve. This task force will deal with the July 15 papers as well as those to be issued later on Water Law, Water Quality and Research. In order to meet the deadline, we will be drawing upon a previous, more considered, effort that included a week long workshop with the title, Integrating Water Quality and Water and Land Resources Planning. At this time I would like to submit for the record of this hearing The Report of the Work Group on Institutional Arrangements from that workshop which provides more detail and analysis than I can cover here.

The analysis of that work group puts particular emphasis on the benefits and means of strengthening the inter-interest bargaining arenas at the interstate river basin level and the intermunicipal local level. Our focus was on integrating planning for water quality, for water development and for land use. The distribution of political resources applied to each of these resource management tasks is so different that integration calls for emphasis at the points where the three governmental levels come together. Local governments dominate land use; state governments are more important in water quality than in land or water development. The construction agencies give the federal level more direct capacity in managing water development than in land use or water quality. When it chooses, a relevant agency of any one level can usually frustrate an initiative of either of the other two.

Bargaining between the levels of government is continuous and represents many interests. Of course, some are better represented than others, both overall and at any one level. The system will provide different results if the arenas for bargaining are changed and the resources available to those participating are shifted. Indeed, unless this happens, precious few of the options proposed will make much difference. To say that the role of the states or local governments should be strengthened has little meaning unless you say how this is to be done. Our analysis concluded that if state participation were strengthened through basin commissions in particular ways, and local governments through regional consortia of governments in particular ways, that the balance of interest might be much more desirable.

Consider the "golden rule" of American politics -- those with some gold have something to say about the rules. To a considerable degree, unless an interest has the potential to influence the budgeting process its concerns are less likely to be taken into account. The concerns of a particular interest are taken into account best when those involved in public management and project design take those interests into account as a matter of professional interest and expertise. Thus, providing funds or the opportunity to influence funding and staff capacity are key ways to strengthen participation and change results.

Strengthening the State Role Through
River Basin Commissions (RBC)

Why choose the river basin as a focus for providing access to the funding process and for augmenting staff capacity? Technically, river basins are excellent management units; they are the system that transmits externalities, that gives definition to the common resource. For example, some biologists see the watershed as the best simple definition of an ecosystem. Politically, river basins put the state-to-federal, state-to-state bargaining into a context where the terms and conditions should be different from basin to basin because basins differ greatly from one another. It will be less efficient for states to bargain separately with the federal government and then each other. It should be more efficient for the federal government to influence local government behavior if they work out the broad terms with the basin states first. This follows logically from the constitutional relationship between the states and the locals, and from their many program and fiscal relationships. Attention should be given to the proper balance of state and federal participation in basin commissions. Given the need for a Title II Basin Chairman to develop a constituency among his Governors, the difference with that of Compact Commissions may be more apparent than real, but should be reviewed with care as new roles for RBC's are considered.

An important option for an RBC role is a real voice in recommending to the President and the Congress what should be the composition and level of the budgets of the several federal agencies. Basin budgeting has been practiced by the Corps of Engineers, but analysis of budget requests across all functions and agencies at the basin level is not done by anyone. If the basin is to be any sort of a management unit, such analysis is fundamental. The data collection problems of the Section 80 cost-sharing study by the Water Resources Council suggests that to date RBC's do not even have a good inventory of what is being spent by whom and for what. Close cooperation between OMB and the RBC's and testimony before the Congress are obviously involved at a minimum.

Cost sharing for special social and environmental objectives through RBC's should also be considered. The Appalachian Regional Commission has demonstrated this means of influencing others to achieve mutually agreed-upon federal-state objectives.

The politics and requirements of needed augmentation of technical analysis present another option. The evaluation of environmental, social and regional development effects of projects called for in the Water Resources Council's Principles and Standards usually is poorly done. None of the primary water agencies are well staffed for environmental, social and regional development analysis, and there are substantial economies of scale in such analysis. The present arrangements lead to very uneven analysis, at least, and biased analysis, at worst. The RBC's could provide data bases, assistance in evaluation and design, and affirm the final results. Equally as important as the economies and effectiveness that could be obtained through RBC's, the specialized staffs and state-federal nature of the RBC's would provide a needed point of access for interests that are concerned with these diffused objectives.

Regulatory authority is currently exercised by the Delaware and Susquehanna RBC's. Like most such authority, it has achieved only a little more than those being regulated are prepared to accept. But that little is enough to justify its consideration as an option. Regulatory authority changes the bargaining context somewhat and may result in a more formal and considered treatment of the public interest.

Repeatedly changes in pricing, charges as incentives and shifts in subsidies, are considered in the Policy Study papers. But how and who is to carry them out is left vague. Pricing is being applied in the Delaware through the RBC and is under study by the Susquehanna. Opportunity cost pricing makes economic sense; applying the principle through RBC's may make administrative and political sense because it can be worked out to deal with the very different conditions in each basin and can be selectively imposed.

Strengthening the Role of Local Governments

Local governments probably have more potential -- both realized and yet unrealized -- to integrate and coordinate governmental services from state and federal agencies than any coordination arrangements devised so far at the state and federal level. While local governments can influence state and federal decisions substantially, they are nonetheless often limited to choosing between what is offered. Of course, it is commonplace to observe the parochialism of local governments and problems this creates in intergovernmental competition for development. The conventional wisdom is to seek an urban centered region as the arena for hammering out more efficient and comprehensive development programs. But rural areas need special attention to increase their governance capacity in resource management. Rural areas tend to have good access to state government and strengthening the capability of state agencies to provide staff support is a strategic option. Note that by chance rather than design, the "208" water quality planning program has evolved along exactly those lines.

Water quality planning is not the first federal program to have utilized a multi-jurisdictional local approach to resource management and planning. Coastal Zone Management (Commerce), Urban Studies (Corps), Total Water Management (Bureau of Reclamation), Resource Conservation and Development (Soil Conservation Service), Development Districts (Economic Development Administration), Local Development Districts (Appalachia Regional Commission) and several HUD programs are but some of the current examples of federal programs that operate at that level. Characteristically, funding has been sporadic, fattening the coffers of the consulting firms more than they have left behind expertise in an increasingly effective intergovernmental institutional arrangement. Likewise, sporadic funding has made regional planning agencies become experts in grantsmanship where the plan is the product. Problem solutions actually put in place will not come about with short term, quick and dirty studies. Providing for continuity in funding for this approach to strengthening local participation is an important policy option.

Note that intermunicipal planning agencies should become building blocks in two coordinative systems at once. They should relate to the river basin and to the state. By the nature of constitutional and other program ties the linkages to the state should be dominant. Thus, if they are made effective in servicing local government officials, they will strengthen both state and local participation.

Increased local capacity should lead to more initiatives at the local level for solutions to their own problems. Indeed, some students of the water policy field foresee the day when direct federal construction could be limited to only the largest multi-state projects. Local perception of flood risks will continue to be biased but perhaps not so badly as today. Local myopia toward downstream water quality will continue. Higher discount rates and shorter planning horizons, lower sensitivity to broad social goals and national needs will all call for substantial federal investment, guidelines and initiative capacity to make up for local shortcomings. But increased local capacity to use technical expertise and to influence funding options should lead to solutions that are less capital intensive, less structural and more management intensive. Indeed, water projects in the future should become management grants to carry out an agreed-upon design rather than financing of construction grants as is the present standard for most of the \$12 billion or so spent annually by the Federal Treasury on water resources.

Implementing the Options

Most of the options laid out in the Issue and Option Papers need the organizational changes suggested above, or something comparable, to be effective. Only a few of these can be covered here.

In issue area No. 1, planning and evaluation objectives are seen to produce several problems. Federal policy is inconsistent by functional area and a part of this is that only direct federal construction is covered by the Water Resource Council's Principles and Standards (P&S). Options for how to announce a federal role are discussed (1A3) and what the federal role might be (1A4). Either implement everything by federal agencies or nothing; consolidate existing grant and loan programs and make them consistent with federal implementation through P&S; or simply apply P&S to the existing pattern of grants and loans. Obviously, the last option is the least disruptive and appears to promise the least until one considers that the Principles and Standards could be more effectively implemented through supportive services provided by the RBC's than at the Washington level and through the agencies.

Planning and evaluation procedures are seen as leading to a federal orientation toward construction rather than non-structural management techniques (1B5). Note that this implies applying cost sharing, regulatory, and technical assistance skills that are more highly developed in water quality than water quantity management. Roles now played by state and particularly local governments are called for to implement non-structural measures. Cost-sharing rules that are more evenhanded between federal funds for operation and maintenance (O&M) as opposed to construction, are obviously essential. Federal funding of local operating costs

has been shunned in so-called public works programs. But how do we gain experience with O&M cost sharing, limit abuses and enhance effectiveness? Basin and regional organizations can have greater capacity to work across agency and jurisdictional lines and bargain out the needed new quid pro quo's, than individual agencies at either state or federal level.

Cost-sharing options, as laid out, also consider changes in financing and shifts in initiative which would change the point of view under which a project proposal is developed. The need to insure that all the many federal, state or local interests are adequately represented wherever the initiative for proposals is shifted, suggests linking changes in cost sharing to changes in bargaining arena. As presented in the issue and option paper, discussion of cost sharing as an incentive to encourage consideration of interests not well represented by the current project developers is limited. When the incentive concept is considered the organizational question is obvious. Who has to agree can be as important as the share and the function the cost share is supposed to be for.

Under the heading institutional arrangements concern for instream flow is expressed. In every option, reality suggests a bargained result between interests with varying degrees of access at federal, state and local level. The results should be much greater if an open, institutionalized process were designed that relied more upon public education and competent analysis and less upon adjudication in the courts. Basin and regional bargaining arenas have that potential. The Delaware and Susquehanna are well underway because of their unique compact arrangements. Problems of integration of water quality and water quantity (3-3) is where the original UCOWR workshop started their analysis. Conjunctive management of ground and surface water (3-3) and inflexibility of allocation arrangements (3-4) and all of the elements of issue area No. 4 -- Conservation -- are likewise subject to implementation through either the river basin organization or the local regional organization or a combination of the two. I invite you to go down the lists of "provide for...", "require the ...", "establish a Federal-State program for", statements and ask who and how should these be done. Consider the advantages of representation and coordination presented by either the river basin or local regional organizations. I think you will find many that apply.

A charge for consumptive use is already applied by one RBC and is being considered by another (4A1). The Appalachian Regional Commission has experience in offering cost-sharing inducements (4A2). RBC's are in the comprehensive management programs (4B1) and could easily relate them to funding priorities (4B2). Coordination of water resources uses now controlled by other jurisdictions is a part of the compact commission approach and could be added to Title II RBC's (4B3). And economic incentives for reduced water use call for a regional agency (4B4) and reuse (4C1) and so on.

Strengthening the role of the states and local governments by encouraging their participation in river basin commission and regional planning agencies is urged by the UCOWR study. They provide a means for implementing many of the Carter policy review options. Indeed, were these arrangements already stronger, they would probably have already implemented many of the changes identified.