

P. Baggins

NAME: HGO269040

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THURSDAY, SEPTEMBER 25, 1980

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AUTHORITY; ACCOMPANIED BY: RICHARD M. FREEMAN, DIRECTOR,
TVA; AND JOHN L. FURGURSON, MANAGER, COLUMBIA DAM PROJECT,
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1 HGO269040 THE COLUMBIA DAM: A TENNESSEE VALLEY AUTHORITY
2 PROJECT

3 THURSDAY, SEPTEMBER 25, 1980

4 *House of Representatives*

5 *Subcommittee on Environment, Energy, and Natural*

6 *Resources, of the Committee on Government Operations*

7 WASHINGTON, D. C.

8 The subcommittee met, pursuant to recess, at 10:05 a.m.,
9 in room 2247, Rayburn House Office Building, Hon. Toby
10 Moffett chairman of the subcommittee presiding.

11 Present Representatives Deckard and Stangeland.

12 Staff present John R. Galloway, staff director; Edith
13 Holleman, counsel; and Cathy Sands, clerk.

14 Mr. *Moffett*. The subcommittee will come to order.

15 Today, the subcommittee is continuing its review of the
16 Tennessee Valley Authority's Columbia Dam Project on the
17 Duck River in Tennessee. For those of you who were not here
18 yesterday, let me just review the status of the project and
19 our oversight hearings.

20 The \$150-million Columbia Dam Project was begun in 1973
21 and is now approximately 35 percent complete.

22 In the past several years, it has become a matter of
23 heightened controversy because of questions raised about the
24 economic justification for the project, its adverse impacts
25 on fish and wildlife and some endangered species, and its

26 adverse impacts on water quality. Some critics have alleged
27 that a river development alternative would be more
28 economically and environmentally viable, particularly since
29 over 50 percent of the presently claimed benefits of the dam
30 are recreational.

31 Moreover, testimony in these hearings has indicated that
32 the project would produce minimal flood control and no power
33 benefits, benefits that are at the heart of TVA's historical
34 mandate.

35 Currently, the project is at a virtual standstill because
36 the U.S. Army Corps of Engineers has not issued a
37 dredge-and-fill permit necessary to divert the river and
38 allow further construction.

39 The record of TVA in this project and its relationship
40 with other agencies has not been particularly exemplary. Let
41 me just list a few examples.

42 TVA proceeded with construction over the separate
43 objections of the U.S. Fish and Wildlife Service and the
44 U.S. Army Corps of Engineers which considered the work
45 unlawful under both the Endangered Species Act and the Clean
46 Water Act. The General Accounting Office issued a major
47 report in 1974 that maintained TVA had overstated the
48 benefits of the project.

49 Parenthetically, those benefits have always been marginal,
50 even under TVA's analysis.

51 In March 1974 a federal judge held that TVA and its former
52 chairman, Aubrey Wagner, "did not reach their decision to
53 proceed with the construction of this project after a full,
54 good faith consideration of the environmental factors
55 aforementioned."

56 The Corps of Engineers finally succeeded in 1978 in
57 getting TVA to halt certain major construction activities
58 pending the issuance of a dredge-and-fill permit under the
59 Clean Water Act. By that time, however, TVA had managed to
60 complete 90 percent of the dam work and 35 percent of the
61 total project.

62 In 1978 TVA was asked by the Office of Management and
63 Budget for a report on more cost-effective alternatives to
64 achieve the essential water supply and flood control
65 benefits of the original project. TVA submitted--eight months
66 late and eight months after the relevant congressional
67 debate on the project--a report which was inadequate on its
68 face.

69 Moreover, we now know the report suppressed key
70 information developed by the TVA staff.

71 Subsequently, TVA managed to wring from Fish and Wildlife
72 a questionable biological opinion concerning the endangered
73 species. That opinion allows it to continue building the dam
74 before the endangered species issue is finally resolved.

75 That move not only frustrates the Endangered Species Act

76 but appears designed to confront Congress with a politically
77 distasteful situation, like Tellico, wherein enforcing the
78 law means stopping a virtually completed dam on behalf of
79 endangered species with few powerful friends.

80 The history of TVA's treatment of congressional mandates
81 has created a preception in many minds thzt TVA has been
82 less than candid with either Fish and Wildlife, OMB Office
83 of Management and Budget , the Corps of Engineers , or
84 Congress in its zealous promotion of this project. We know
85 that these projects involve decisions which must not be made
86 without full and honest disclosure of the relevant facts to
87 the agencies and to the public.

88 Our witnesses today are from the Tennessee Valley
89 Authority. They are S. David Freeman, the chairman; and the
90 director, Richard M. Freeman; who are accompanied, as I
91 understand it, by John Furgurson.

92 Gentlemen, welcome to the subcommittee. It is the practice
93 of this subcommittee to swear in all witnesses. I would ask
94 that you stand, please, and raise your right hands.

95 Do you swear to tell the truth, the whole truth, and
96 nothing but the truth, so help you God?

97 Chairman *Freeman*. I do.

98 Director *Freeman*. I do.

99 Mr. *Furgurson*. I do.

100 Mr. *Moffett*. Welcome, and thank you for your cooperation

101 with the subcommittee on this matter.

102 Let me say to the chairman, that I know you have a
103 prepared statement. Without objection, that will be
104 considered part of the record. You are free to read it or to
105 paraphrase it in any way that you desire.

106 Before you proceed, let me say this. My opening statement
107 was somewhat critical of TVA, but it should in no way be
108 construed as an overall criticism of your performance in the
109 time that you have been there. There are so many marvellous
110 things, I feel, that you have been trying to do on other
111 issues.

112 I would not want anything that the subcommittee or the
113 Chair says on this one issue to overshadow in any way your
114 work on alternative energy projects, on moving TVA in the
115 direction of conservation-based energy policy. This kind of
116 emphasis is rather consistent with what you have stood for
117 in your many years of energy work.

118 I want you to know that the Chair has a great deal of
119 respect for your record and your performance, and I think
120 that I can speak for the subcommittee on that point.

121 However, today we are here to take a look at one project
122 which is of great concern to this subcommittee and to water
123 policy overall. It is our view--and, again, I think I can
124 speak for the subcommittee in its entirety, both sides,
125 minority and majority--that there is an important role for a

126 congressional subcommittee to play vis-a-vis these kinds of
127 projects and perhaps a more aggressive role in scrutinizing
128 these projects than has existed in the past in any of the
129 other committees.

130 This is obviously one of the more controversial projects.
131 That is why we are here, and that is why we have been
132 holding these hearings.

133 Does the gentleman from Indiana have a statement?

134 Mr. *Deckard*. No, Mr. Chairman.

135 You may proceed, Mr. Freeman.

136

137 TESTIMONY OF S. DAVID FREEMAN, CHAIRMAN, TENNESSEE VALLEY
138 AUTHORITY; ACCOMPANIED BY: RICHARD M. FREEMAN, DIRECTOR,
139 TVA; AND JOHN L. FURGURSON, MANAGER, COLUMBIA DAM PROJECT,
140 TVA

141

142 Chairman *Freeman*. Thank you, Mr. Chairman and Mr. *Deckard*.
143 I deeply appreciate your opening remarks.

144 In a sense, I was hoping that perhaps your interest in the
145 Columbia Dam might bring you down to the valley where we
146 could show you some of the innovations and things that we
147 were doing.

148 On Sunday I will be dedicating our first modular solar
149 home, which TVA has developed, housing for middle income
150 people incorporating solar energy. We would like to show you

151 one of the 200,000 homes that has been insulated in the last
152 few years, pursuant to our home insulation program, and the
153 waste heat part that we are developing.

154 We would also like to show you the scrubbers and pollution
155 control equipment that we are putting in our power plants,
156 so that TVA is the leader in compliance with the Clean Air
157 Act and is not contributing, as it did in the past, to the
158 acid rain problem.

159 The Tennessee Valley is today exhibiting, I hope, a new
160 yardstick, a yardstick for economically priced power, but
161 one that is environmentally sensitive and that emphasizes
162 our lowest cost form of energy conservation.

163 I would also like to preface the summary of my prepared
164 testimony with this statement, Mr. Chairman, which I think
165 will put your inquiry in perspective with respect to the
166 Tennessee Valley Authority. After this project is over, we
167 are out of the dam building business. We do not have any
168 plans for damming up any more rivers, creeks, or anything
169 else.

170 As a matter of fact, we are out of the stream
171 channelization business. This board has taken decisive
172 action to put an end to the era of building dams in the
173 Tennessee Valley, because we think that that era has come to
174 an economic conclusion as far as economical projects are
175 concerned.

176 Of course, Tellico and Columbia are cases in and of
177 themselves. As my testimony shows, they are projects on
178 which the Congress has directed us to proceed.

179 I do think, from the standpoint of your overall
180 perspective, it is important for us to put on the record
181 that we do not have any dam planning people anymore. We are
182 and have been for some decades a leader in flood plain
183 management. We are trying to work with the remaining flood
184 areas in terms of persuading local governments to enact
185 ordinances to keep people from building in the flood plains.
186 The structural approach is no longer cost-effective for the
187 future in the Tennessee Valley.

188 Therefore, I think TVA is doing a lot of things that I
189 know you do not have time to go into this morning. Perhaps
190 your interest in this particular project will give you an
191 occasion to come down to the Valley and let us show you the
192 things. TVA does have a responsibility to the Nation to be a
193 yardstick, and I think we are performing that function on
194 the problems of the 1980s, just as the Authority did on the
195 problems of the 1930s.

196 Mr. *Moffett*. I think some of us would like very much to
197 have any information that you might develop on how to keep
198 people from building in the flood plains. I think it is a
199 problem in most of our districts. I know it is in my own
200 case, in New England.

201 We are very proud of our local planning and zoning set up
202 and processes. It does produce a sort of local pride and
203 local control, which is nice, but the flip side of it is
204 that we have an enormous problem in that regard.

205 Chairman *Freeman*. If you think it would be useful to the
206 committee, we would be glad to furnish you with a concise
207 report on what we have done and what our approach is and how
208 we view that opportunity. I think it is very relevant to the
209 entire Nation for the future.

210 Mr. *Moffett*. Thank you.

211 Chairman *Freeman*. We share this committee's obvious
212 interest in this Nation becoming more cost-effective in the
213 expenditure of public resources.

214 The history of the Duck River project began long before
215 Director *Richard Freeman* or I joined the TVA board. My
216 testimony is therefore largely a recitation of history
217 gleaned from TVA files.

218 The history of the Columbia Dam Project did not begin with
219 the Tennessee Valley Authority. It began in the mid-1960s
220 when community and civic leaders in Maury, Marshall,
221 Bedford, and Coffee Counties, in Tennessee, asked TVA to
222 help them make studies for the comprehensive unified
223 resource development of this region of middle Tennessee.

224 The Duck River and its proposed development were seen as
225 the key to this effort. At that time the Duck River was an

226 erratic stream, flooding during the winter and spring and
227 nearly drying up during the summer.

228 TVA and the Upper Duck River Development Agency, an agency
229 of the State of Tennessee, jointly decided that a
230 multipurpose reservoir development offered the best
231 potential for controlling the river and providing new
232 economic and recreational opportunities.

233 In 1969, after extensive studies, TVA issued a feasibility
234 study of a two-dam project Normandy Dam near Shelbyville,
235 Tennessee, and Columbia Dam at Columbia, Tennessee. Congress
236 reviewed the project proposals and first appropriated funds
237 in December 1969. Every year since, Congress has reaffirmed
238 its support of the project

239 Following enactment of the National Environmental Policy
240 Act, TVA issued a draft environmental impact statement in
241 June 1971. After a public hearing in the area, a final EIS
242 environmental impact statement was published in April
243 1972. As the chairman correctly stated, this EIS was found
244 to be legally insufficient by the courts after a challenge
245 by the Environmental Defense Fund and others. TVA
246 supplemented the EIS in June 1974 and court approval
247 followed.

248 Construction of Normandy Dam began in June 1972 and was
249 completed in 1976 at a cost of \$37.4 million. As the
250 chairman noted, construction of Columbia began in 1973 and

251 is now virtually at a standstill awaiting a Section 404
252 permit from the Corps of Engineers.

253 The Duck River project has had the overwhelming support of
254 local citizens and officials since its inception. Both the
255 Tennessee legislature, which created the Upper Duck River
256 Development Agency, and four governors have publicly
257 endorsed completion of the project.

258 I realize that local support for a dam is not novel. Most
259 local dam projects have local support. That is natural and
260 not unique, but the support for this project is special.

261 What I think is worth mentioning about this project is
262 that I think it is the first one in the East of the United
263 States where the local people actually contributed some
264 money. The local municipalities agreed to underwrite the
265 water supply portion of the construction costs of the
266 project by making a repayment commitment of \$16.2 million.
267 This is one of the reforms in water policy that the
268 Administration has suggested, which I do not think has yet
269 been enacted.

270 There may be some questions about the amount of money or
271 the size of the contribution, but I think it is worth noting
272 that there is a contribution of \$16 million for the water
273 supply aspect that the local people are putting up with a
274 five-cent per thousand gallon charge on their water. It does
275 distinguish the local support for this project from, I

276 think, any other project of this kind.

277 I mention that, because I think it is relevant to the

278 history of the project.

279 TVA entered into a contract with the Upper Duck River

280 Development Agency in 1971 to reflect this commitment. In

281 the contract the local development agency agreed to repay to

282 the Federal Treasury the \$16.2 million for water supply from

283 the sale of water to the cities of Manchester, Tullahoma,

284 Shelbyville, Lewisburg, and Columbia for a period of 50

285 years. The amount is now being accumulated through a

286 five-cent per thousand gallon surcharge for water used,

287 which began eight years ago in January 1972.

288 TVA agreed to include in the project design provisions for

289 certain projected water supply needs in the area. These

290 cities have financed and constructed a major regional water

291 system in reliance on TVA's commitment to build the Duck

292 River project.

293 As far as Director Richard Freeman and I, and the TVA

294 board as it is presently constituted, are concerned, the

295 only issue with respect to the Columbia project which we

296 have encountered, since I have been on the board, has been

297 the serious conflict between the project and the Endangered

298 Species Act. That conflict has been resolved through the

299 consultation process, as provided by Section 7 of the act,

300 with the Secretary of the Interior.

301 As a result of the conflict, in January 1978 TVA was
302 requested by the Office of Management and Budget to study
303 possible modifications of Columbia Dam and Reservoir, as
304 originally designed, so as to satisfy the essential water
305 supply and flood control needs of the area and still be in
306 compliance with applicable laws such as the Endangered
307 Species Act. TVA's April 1979 report to OMB summarizes the
308 results of TVA's study.

309 It was not an exhaustive study but it was responsive to
310 the OMB directive. It was not intended to be complete
311 because there was no occasion for a complete alternatives
312 study. It was responsive to the request that OMB made of us,
313 to see if there were some alternatives that would be in
314 better harmony with the apparent conflict with the
315 Endangered Species Act.

316 A draft of the report was issued in February 1979 and was
317 given wide dissemination. Numerous comments were received
318 from the public, state and local officials, Federal
319 agencies, and various interested environmental
320 organizations. Dick Freeman and I also gave our input into
321 the report, and all of these comments were reflected in the
322 final report. The committee has been furnished copies of the
323 report which discussed various alternatives for completing
324 the project in harmony with the Endangered Species Act.

325 In the course of making the report, the staff came up with

326 a conservation plan which will enable us to complete the
327 project as planned with the conservation plan. Ultimately,
328 that served to solve the endangered species problem.

329 The Endangered Species Act of 1973, as amended, provides
330 in part that no Federal action be undertaken which would
331 jeopardize the continued existence of any endangered or
332 threatened species or result in the destruction or adverse
333 modification of habitat judged by the Department of the
334 Interior to be critical.

335 The mussel population in the Duck River has been declining
336 for many years, probably because of deteriorating physical
337 conditions and quality of the water. The project as
338 originally planned threatened to flood the habitat of
339 certain endangered mussels.

340 In order to resolve the conflict, TVA has worked closely
341 with the Department of the Interior since 1979 to develop a
342 conservation program for the endangered species. Both TVA
343 and Interior believe that this program will be successful
344 and will enhance the long term survival and growth of mussel
345 species.

346 In addition to work on the Duck River, measures will be
347 implemented on the Clinch and Powell Rivers, where the
348 endangered mussels are still found in small numbers. to
349 provide additional opportunities for their survival and
350 growth. No final action will be taken to impound the

351 reservoir until the success of the mitigation program is
352 assured.

353 Mr. Chairman, I am quite proud of the fact that our staff
354 was able to develop a plan that will result in improving the
355 habitat and the chances for life of the species in the Duck
356 River and which will perhaps, in the process, help clean up
357 the Powell River. This was a positive contribution that our
358 biologists and our staff people came up with.

359 Quite frankly, when I first encountered this issue, it
360 looked like an insurmountable conflict between the
361 endangered mussels and the project as planned. I remember
362 that we looked at the alternative of the lower pool, which
363 looked to me like a way we might handle it. Then, after
364 extensive study, our people said that that lower pool had
365 the eutrophication problem that just will not go away, so we
366 had to abandon that alternative.

367 The conservation plan that we were able to come up with,
368 in consultation with the Secretary of the Interior, makes it
369 clear that we will not gamble with the endangered species,
370 that we will have to show that the plan will work before we
371 will be permitted to fill the reservoir.

372 The present delays in obtaining a permit from the Corps of
373 Engineers have nothing to do with the endangered species
374 issue. That has been settled. They are associated with
375 questions about water quality, particularly eutrophication

376 of the reservoir. These concerns are not new. They were
377 addressed by TVA in its 1969 report

378 The level of scientific knowledge in this area is not
379 precise, but our staff, which has extensive experience with
380 these issues and which is made up of concerned biologists
381 and other people, believe that this problem can be handled
382 and that the water quality of the lake will be satisfactory.

383 There is obviously a difference of opinion among the
384 experts.

385 The State of Tennessee is conducting a hearing on the
386 issue. TVA does not claim to be the final judge on the Clean
387 Water Act.

388 If the Columbia Dam is found to be in conflict with the
389 Clean Water Act, we will face that problem. We do not
390 believe there is such a conflict, but TVA will obey all of
391 the laws of Congress.

392 The appropriations acts enacted by Congress require TVA to
393 build the Columbia Dam Project.

394 The House Appropriations Committee Report on H.R. 7590,
395 the Energy and Water Development Appropriations bill for FY
396 1981, leaves no doubt on that score. It says:

397 "After three years of unconscionable bureaucratic
398 indecision, contraction and delay, the committee has
399 concluded that despite the merits of the Endangered Species
400 Act and the Clean Water Act, the Congress never intended

401 that the agencies charged with the execution of these laws
402 would be able to frustrate the express will of the Congress
403 on specific Federal project activities financed by
404 subsequent appropriations laws, particularly when these
405 activities receive regular and detailed scrutiny by
406 individual Members, committees of the Congress and Congress
407 as a whole during the annual appropriations process.
408 Accordingly, the committee has provided \$17,000,000 and
409 appropriation language for the Columbia Dam and Reservoir
410 project which will require that the construction and other
411 necessary work on this important project resume and be
412 carried out in the future in an orderly, efficient and
413 expeditious manner leading toward completion by August of
414 1985. Necessary water quality assurance, mitigation and
415 species preservation work can and should continue to the
416 maximum extent feasible with the construction schedule
417 required by this legislation."

418 Until we get a 404 permit, the project is at a standstill.
419 We really do not believe that there is a conflict with the
420 Clean Water Act, but of course TVA does not have the
421 discretion to decide whether the dam should be completed or
422 some alternative substituted. That is a decision to be made
423 by the Congress.

424 What we do know is that both the Senate- and House-passed
425 versions of the fiscal year 1981 appropriations bill

426 covering this project--namely, H.R. 7590--require TVA to
427 complete the project. The committee report leaves no doubt
428 on that score.

429 When enacted, the bill will not permit the expenditure of
430 funds on any of the alternatives considered earlier, nor
431 does it permit the board to scrap the project altogether.

432 Mr. Chairman, our judgment is that TVA has no discretion
433 to decide whether the dam should be completed or some
434 alternative substituted. That decision has been made by the
435 Congress.

436 Under the circumstances, I feel that it is inappropriate
437 for TVA to spend the time and money necessary to
438 second-guess a decision that has already been made. As I
439 said earlier, if there is a conflict with other statutes,
440 like the Endangered Species Act or the Clean Water Act,
441 obviously we have demonstrated that we respect the law of
442 the Land, but in the absence of a conflict with other
443 statutes, we have been given our marching orders.

444 We are required to get the job done and will do so to the
445 best of our ability.

446 Thank you, sir.

447 Mr. *Moffett*. Thank you.

448 The gentleman from Indiana?

449 Mr. *Deckard*. I just need a moment or two, Mr. Chairman.

450 Mr. Freeman, you had not been on the job for very long

451 before you were asked to give your appraisal or opinion of
452 the project and your stand on the project. I believe that is
453 correct

454 Chairman *Freeman*. Well, to be quite candid, Mr. Deckard,
455 that issue has really never been before us. The issue that
456 was before us was whether the endangered mussels issue was
457 an insuperable problem or not, and our staff came up with
458 the conservation plan which we worked out with Secretary
459 Andrus, Assistant Secretary Herbst, and Mr. Greenwalt in
460 such a way that we feel it has a good chance of actually
461 improving the situation in the Duck River.

462 The basic issue of whether or not this project should be
463 built was decided long before we came on board and it has
464 never been one for the TVA board to consider.

465 Mr. *Deckard*. Of course, the congressional language does
466 seem to be very clear in that respect, but the reason I
467 asked the question is that in August of 1977 Mr. Bill
468 Chafin, executive director of the Maury County Chamber of
469 Commerce, which is in strong support of the project, wrote
470 to you urging you to consider all of the facts before you
471 made up your mind concerning the project. You responded on
472 September 20 assuring Mr. Chafin that you had not made up
473 your mind concerning the project.

474 You said: "The simple fact of the matter is that I have
475 not reached a decision for or against the project"

476 You obviously knew at that time that Congress had been
477 appropriating money for the project, yet you seem to be very
478 clearly promising Mr. Chafin that you would review the facts
479 and come out either for or against the project in spite of
480 the congressional language.

481 Chairman *Freeman*. I did write him and tell him that I had
482 no opinion. Perhaps he could have inferred from that that I
483 would form an opinion, but as I got on the job and realized
484 all of the important live issues that TVA had before it, I
485 have chosen basically not to get into this issue.

486 There is no necessity to form a judgment because there is
487 no occasion for it. The Congress continued to direct us to
488 build it, and we have 50,000 employees and a power program
489 with a \$3.5 billion cash flow, more paper, and more live
490 issues. I have chosen to spend my time putting together the
491 Nation's strongest energy conservation program, getting the
492 solar program off the ground, and numerous other things.

493 There just really is no--

494 Mr. *Deckard*. Mr. *Freeman*, what I am really trying to get
495 at here is that you are telling us in your testimony today
496 that it is not your place to make an assessment of the
497 project or to give an opinion of the project, yet we have
498 numerous examples of correspondence from you in which you
499 state that you have not yet had enough time to make an
500 assessment or to give a personal judgment as to the project.

501

502 There seems to be an inconsistency in that

503 Chairman *Freeman*. I do not think so. I think that at the

504 time when I wrote that letter, that certainly was an

505 accurate statement. I really was just on the board. I

506 certainly could not say today that I have not had the time.

507 What I am saying today is that it just does not seem to me

508 to be a live issue that I needed to get into.

509 Mr. *Deckard*. Now that you have had the time, what is your

510 personal assessment, disregarding the congressional

511 language?

512 Chairman *Deckard*. I do not think that it is appropriate

513 for me to second-guess the Congress. That is my opinion in

514 response to your question.

515 Mr. *Deckard*. Of course, we have to rely on people in your

516 position, people with the expertise that you possess.

517 This is a \$150-million project, and you do not have a

518 personal opinion?

519 Chairman *Freeman*. No. I have not taken the time personally

520 to review the cost-benefit studies. I certainly would not

521 take all of these numbers at face value.

522 If this were a live issue on which I had to make a

523 judgment, I would get into it fairly deeply--

524 Mr. *Deckard*. You would not take the cost-benefit figures

525 at face value?

526 Chairman *Freeman*. No, sir.

527 Mr. *Deckard*. Those are 1969 figures. Do you feel they
528 should be updated to take into consideration 1980
529 circumstances?

530 Chairman *Freeman*. There are a lot of factors. I think that
531 I have had enough experience with cost-benefit studies in
532 former positions and as a student of the energy issue not to
533 take any of them precisely at face value.

534 I would want to get into the--I would need to get into this
535 issue. You know, there are two things involved here. One is
536 to recreate the facts that were available in 1969 and
537 revisit that scene, which I think would be an utter and
538 complete waste of time.

539 The question that you are really asking is this. In 1980
540 should this project be completed? What are the remaining
541 costs versus the benefits?

542 That would require my getting into the subject in a very
543 deep day. Quite frankly, there are just so many hours in a
544 day and one of the things that you learn is that you spend
545 your time on live issues that you have to vote on and that
546 you have to decide. This one, the Congress has decided and
547 they have told us what to do.

548 Mr. *Deckard*. Of course, this is one segment of the
549 Congress. At this point, we are asking you for your opinion
550 as to the project.

551 It is \$150 million and we would like to have the benefit
552 of your expertise.

553 Chairman *Freeman*. I do not have an expert opinion to give,
554 because I have not looked into it. It is my judgment that it
555 would be inappropriate since the Congress as a whole has
556 expressed itself in the statutes that are enacted and in
557 this most recent statute which has just passed the House and
558 the Senate and is going to the President.

559 I do not have an opinion on this project.

560 Mr. *Moffett*. This is a continuing process for us. In a
561 sense, you are making it sound as if this was a
562 congressional action back a few years ago which is a fait
563 accompli.

564 I think what the gentleman from Indiana is saying is that
565 we are being asked to make decisions on this all of the
566 time. Sure, there is a bill headed for the President, but
567 this is a continuing process for us.

568 If we cannot get some guidance from the main institutions
569 down there, which is an institution that has great
570 capability in terms of making judgments on things like this,
571 even though you said that this era of water projects has
572 come to an economic conclusion and that you are moving away
573 from that.

574 Nevertheless, you still have the capability. It is
575 difficult for us--and I think this is what the gentleman from

576 Indiana is expressing--to try to analyze this if we cannot
577 get some guidance from TVA.

578 Secondly, you are a man of your word. I know that much
579 from my experience with you over the years. You made all of
580 these pledges here. You responded to Chafin on September 20,
581 as Mr. Deckard said, that you had not made up your mind:
582 "The simple fact of the matter is that I have not reached a
583 decision for or against the project"

584 You seem to be promising Chafin, as Mr. Deckard said, that
585 you would review the facts and come out either for or
586 against the project

587 On November 2, 1977 you wrote to Mr. and Mrs. McFarland
588 thanking them for their hospitality when you visited
589 Columbia. McFarland, of course, is the unofficial head, as I
590 understand it, of the effort to complete the project

591 In that letter you said: "Lon, I am spending time now
592 trying to separate the fact from opinion concerning Columbia
593 Dam, before reaching my personal assessment of the project
594 I would appreciate any information you can provide to help
595 me reach a judgment." Apparently, Mr. McFarland's name is
596 Lon.

597 Then, there is a similar letter on that very same day to
598 Frank Fly, I believe it is, a leading opponent of the dam,
599 although you did not ask Mr. Fly for any additional
600 information to help you make your decision.

601 Chairman *Freeman*. Fly supplied me with considerable
602 information.

603 Mr. *Moffett*. I am sure that he did, but you did not ask
604 for it

605 These are sort of pledges. You are a man who follows
606 through, because you are a man of your word. We are not
607 dealing with some ineffective, unimaginative leader here,
608 who is not thorough. That is the irony of the whole thing.

609 There is not one flaw or crack in your reputation with
610 regard to thoroughness and scholarly analysis of these kinds
611 of things.

612 Chairman *Freeman*. Mr. Chairman, your staff has obviously
613 done a thorough job of going through my files. I have not
614 taken the time to do that

615 Laughter.

616 Mr. *Moffett*. It was all done in daylight hours.

617 Laughter.

618 Chairman *Freeman*. I guess I am, in a sense, pleased with
619 the record you come up with. If I had to respond to those
620 people again today--It seems to me that that is entirely
621 appropriate for a new director on the scene to say when he
622 is intensely pressured by two sides, namely, that I would
623 look at this thing.

624 I have looked at it. As the situation has developed, I
625 have decided that this is not an issue that I need to get

626 into.

627 Mr. *Deckard*. Mr. Freeman, may I take one more stab at it?

628 Chairman *Freeman*. Surely. I understand this committee's

629 dilemma also. I am not unaware of your interests and what

630 you are driving at. Please proceed.

631 Mr. *Deckard*. Let us assume that the Maury County Chamber

632 of Commerce wrote you today asking you to give a judgment of

633 the project. How would you respond to them, given that you

634 will not respond to the Congress?

635 Chairman *Freeman*. I would say: "Enclosed is the copy of

636 the testimony that I just gave before Chairman Moffett and

637 Congressman Deckard."

638 Mr. *Deckard*. That is a perfectly circuitous route. Thank

639 you.

640 Mr. *Moffett*. We really do not have to suppose. Here is a

641 letter of January 4, 1979. This is not a letter to the

642 chairman of the Maury County Chamber of Commerce in August

643 of 1977, which is the first one we referred to. This is a

644 letter of January of 1979. You were no longer new at this

645 point.

646 Chairman *Freeman*. I was not old either.

647 Mr. *Moffett*. No, not old, but you certainly had not just

648 walked in the door at this point. You say, and this is to

649 the same man, Bill Chafin: "A copy of the requested

650 Columbia Dam Alternatives Study will be forwarded to you

651 when it is completed, hopefully in the near future."

652 "Your comments on the study, like those of others deeply
653 interested in the project, will be welcomed and will receive
654 serious consideration by the board before it makes its final
655 decision. Frankly, comments from citizens of the area,
656 including community leaders like yourself, are useful and
657 enlightening to us as we try to find acceptable solutions to
658 the problems now surrounding the project."

659 Chairman *Freeman*. It seems to me that, again, that is an
660 appropriate response. I do not see anything that I would
661 apologize for in that.

662 We put the thing out for comment, and we write letters
663 soliciting those comments. I do not really see any--

664 Mr. *Moffett*. Has the gentleman concluded for now?

665 Mr. *Deckard*. Yes.

666 Mr. *Moffett*. Let me ask the other Mr. Freeman a question,
667 Mr. Richard Freeman. Representatives of this subcommittee--

668 Chairman *Freeman*. For the record, we are not related.

669 Mr. *Moffett*. Representatives of our subcommittee met with
670 you, Mr. Freeman, in your office on September 11. At that
671 meeting, it has been reported to me that you made the
672 following points:

673 One was that you did not have an opinion as to whether or
674 not the project is in the public interest. Two was that you
675 have not studied the project with a view to determining

676 whether or not it is in the public interest. Three was that
677 you had more important things to concern yourself with even
678 though, I might add, as Mr. Deckard has rightly pointed out,
679 that this is a project that will cost well in excess of \$150
680 million and destroy a major portion of a river.

681 Is that a fair summation of what--

682 Director *Freeman*. Yes, although maybe I did not say it
683 quite that cryptically.

684 I would add to the last comment, that I do not think I
685 said it in quite that tone. I had more things that I could
686 control that I thought were more important. I thought this
687 was an issue on which the only contribution I could make
688 would be to see if I could help through the staff's efforts
689 at reconciling two statutes of Congress which seemed to be
690 in conflict--one that says to do it and the other that says
691 not to do it unless you solve the problem. I felt that was
692 the only contribution I could make.

693 Mr. *Deckard*. Would the chairman yield?

694 Mr. *Moffett*. Certainly.

695 Mr. *Deckard*. I have just one question. Have either of you
696 gentlemen appeared before any of the appropriations
697 subcommittees with respect to this project?

698 Chairman *Freeman*. It is interesting. I think the record
699 will show that the TVA budget since we have been on the
700 board has not included funds for Columbia Dam.

701 : Director *Freeman*. I think that is true.

702 Chairman *Freeman*. We may have had questions during the
703 appropriations hearings as to the status.

704 Mr. *Deckard*. Have you had questions during appropriations
705 hearings regarding the status?

706 Chairman *Freeman*. I am speaking from memory. We certainly
707 can check that and supply the information.

708 Director *Freeman*. I think it was probably not asked in
709 open hearing. I think, as you know, the committee always
710 sends you inquiries, some of which the board members do not
711 even see, but it may have been in one of those.

712 Chairman *Freeman*. I think, in response to your question,
713 that it is relevant, that since I have been on the board, I
714 have not been in a position where we went to the Congress
715 justifying appropriations for the Columbia Dam. It is the
716 Congress that has added the money to the budget and this
717 year added language which I quoted.

718 Mr. *Deckard*. I simply wondered how any representatives of
719 the TVA might have responded to any appropriations
720 subcommittee which uses such terms as you have quoted in
721 your statement, namely: "After three years of
722 unconscionable bureaucratic indecision, contradiction and
723 delay, the committee has concluded that despite the merits
724 of the Endangered Species Act and the Clean Water Act, the
725 Congress never intended that the agencies charged with the

726 execution of these laws would be able to frustrate the
727 express will of the Congress on specific Federal project
728 activities financed by subsequent appropriations laws...."

729 I simply wondered how you justified these unconscionable
730 bureaucratic delays to the appropriations committees.

731 Chairman *Freeman*. To the best of my recollection --I hate
732 to use that phrase--I do not think the committees ever
733 interrogated me along those lines at the appropriations
734 hearings. Staff people have asked our staff questions like:
735 Why are we stopping work at Columbia Dam? The answer we give
736 is: Because we have run out of anything we can do without
737 the 404 permit.

738 Mr. *Moffett*. I might point out this, which is rhetorical.
739 This is why the subcommittee is getting so interested in
740 this issue. I say this without any personal animosity toward
741 any of my colleagues on other committees, but the history of
742 the Congress relating to the Army Corps and water projects
743 policy in general is sweetheart history if there ever was
744 any.

745 I think that is part of why we are so interested in this
746 whole issue.

747 I do not want to belabor this too much. I am Just a little
748 puzzled by the failure to date to bite the bullet in
749 addressing the issues that surround this project.

750 At this time, the Chair would ask unanimous consent--Or,

751 without objection, will introduce into the record a January
752 31, 1978 letter from James McIntyre, the head of the Office
753 of Management and Budget

754 Material follows:

755

756 ***** INSERT #1 *****

757 Mr. *Moffett*. This letter from the head of OMB requests of
758 the former chairman, your predecessor, Mr. Wagner, that he
759 "investigate and report on modifications of the Columbia
760 Dam project that should satisfy the essential water supply
761 and flood control needs of the area in a more cost-effective
762 manner and not violate the Endangered Species Act..."

763 You have that letter before you, I believe.

764 Chairman *Freeman*. Yes.

765 Mr. *Moffett*. I assume that OMB was primarily concerned
766 about cost overruns on the project, which had already
767 doubled the costs, since budget control is the role of that
768 office.

769 When Mr. McIntyre asked for more cost-effective
770 modifications, it seems logical to assume that he meant
771 compared to the project as planned. Is that not fair to say?

772

773 Chairman *Freeman*. I do not believe so.

774 Mr. *Moffett*. What could he possibly have meant then and
775 what was the frame of reference?

776 Chairman *Freeman*. The first thing that the record needs to
777 show is that OMB incorrectly addressed this to the wrong
778 person. I do not think that on this date--Perhaps he was
779 still chairman.

780 In any event, they were concerned I think, as the language
781 states, about the Endangered Species Act. The language--

782 : Mr. *Moffett*. No, only partly. They are more concerned, if
783 you look at the tone of this letter, it is talking about
784 cost not mussels or things like that.

785 Chairman *Freeman*. The language says in a cost-effective
786 manner and do not violate the Endangered Species Act.

787 Mr. *Moffett*. Yes.

788 Chairman *Freeman*. In any event, we proceeded with the
789 report. I guess the reason that I stress the legal aspect of
790 it is because I remember having discussions personally with
791 OMB staff about an idea that we came up with, this half pool
792 project.

793 I believe that we had some of these discussions prior to
794 the time when we got this letter. In any event, the interest
795 of OMB, of course, is always related to money.

796 The problem at the time--that is, when I had my first
797 contact, and I have a clear recollection of that --was that
798 we were building this project and it looked as if it were
799 crashing head-on into the Endangered Species Act. I got my
800 initiation into that conflict with the controversy about
801 Tellico.

802 I remember Secretary Andrus, when we discussed Tellico
803 with him, very pointedly said to me that if TVA used the
804 Endangered Species Act, and if rather than suing us, they
805 would work with us, we would make a good faith effort on the
806 Columbia Dam project and not have another Tellico, which

807 just exhibited a complete failure of the Federal agencies to
808 work together.

809 It was my purpose to try to initiate those kinds of
810 discussions. It is my recollection that the OMB letter came
811 after the discussions we had with the staff of OMB about
812 alternatives to beat that problem. That was the problem that
813 we had all of the disoussions about.

814 Mr. *Moffett*. Alright, but that does not in any way change
815 the fact that this letter is mainly concerned cost overruns,
816 which had already doubled the cost. They were obviously
817 concerned, since their primary mission at OMB is budget
818 control.

819 All I am saying is to listen to what they said in the
820 letter. You were asked to investiga*e project modifications
821 that would meet essential project needs in a more
822 cost-effective manner in that third paragraph on page 2,
823 concerning essential flood control and water supply--

824 Chairman *Freeman*. We provided a response to this letter
825 and we looked at how one chould meet--

826 Mr. *Moffett*. You looked at the alternatives, but you never
827 looked at the original project. You never reanalyzed the
828 original project as planned. All you did was to analyze the
829 alternatives to the project. Let us face it.

830 Chairman *Freeman*. We did what we were asked.

831 Mr. *Moffett*. No, you did not, not really. I cannot believe

832 that one could read this letter and in any way conclude that
833 OMB wanted you to analyze alternatives but not reanalyze the
834 original project.

835 Chairman *Freeman*. Mr. Chairman, I hesitate to differ. The
836 sentence does speak for itself. It, in plain language, says
837 that you are requested "to investigate and report on
838 modifications" "...that should satisfy the essential water
839 supply and flood control needs" "...in a more
840 cost-effective manner".

841 That, to my mind, means what it says.

842 Mr. *Moffett*. Was one of the modifications abandoning the
843 dam and developing the river?

844 Chairman *Freeman*. No, because that would not meet the
845 essential flood control and water supply needs.

846 I think the sentence, Mr. Chairman, is very carefully
847 drafted to give us precise instructions as to what we should
848 study.

849 Mr. *Moffett*. The TVA staff submitted its first draft to
850 the board members in February of 1979, as I recall, with
851 regard to alternatives. Is that right?

852 Chairman *Freeman*. Yes, sir.

853 Mr. *Moffett*. Prior to that, did you have an open mind?

854 Chairman *Freeman*. My mind is perhaps more empty than open,
855 but it is still in that status. We reviewed the draft with
856 the staff and what they had come up with. Individually,

857 Director Richard Freeman and I made some suggestions.

858 I never went over that report with the idea that it was a
859 decisionmaking document that I personally or the board as a
860 group would take responsibility for in that sense, but as a
861 person with some background and interest and since it was
862 going out as a TVA document, we did comment on it and we
863 made a number of suggestions. I have forgotten what they
864 were.

865 Mr. *Moffett*. You were making promises. You wrote to Judge
866 Rayburn and you said: "Now that the TVA board has a quorum,
867 I am hopeful we will soon reach a firm decision on a course
868 of action at Columbia", but the TVA board never met to
869 consider the project or this report.

870 It seems to me that that is contrary to your pledges. Here
871 is a letter to Judge Rayburn.

872 What we are really trying to find out here is: Did you
873 have an open mind concerning possible alternatives to this
874 project at the same time that the staff was working on its
875 analysis and completing its analysis?

876 My own gut reaction to it is that, here you are two months
877 before the staff submitted its first draft in February, of
878 1979 writing to Senator Magnuson, chairman of the
879 Appropriations Committee in the other body, and you are
880 saying that construction would go forward if the Corps would
881 issue a 404 permit and the Endangered Species problem could

882 .be resolved.

883 Chairman *Freeman*. I had no choice but to say that. The
884 Congress directed me to.

885 Let me say it very bluntly. The choice that we had was to
886 decide that the Endangered Species Act was an absolute block
887 to this project and, in a sense, to throw in the towel, or
888 let the courts decide, or in one way or another assume--just
889 as in *Tellico*--that the Endangered Species Act was going to
890 kill this project.

891 I looked at that issue very carefully. It was not my idea,
892 but our biologist came up with this conservation program
893 much, frankly, to my surprise because I thought that there
894 was a complete block.

895 With that conservation program we had a basis for
896 proceeding with the consultation and it was successful. It
897 was that decision that I made personally to carry out those
898 consultations.

899 At the time that I wrote those letters, I did know that
900 there was a way to resolve that conflict. I remember making
901 a speech to those people over at Columbia Dam wherein I told
902 them that I was going to go ahead and carry out those
903 consultations and I thought that I could carry them out
904 successfully. We did.

905 That was the issue that I personally had to decide. It was
906 not necessarily a board issue. It was a personal commitment

907 that I made publicly, namely, that I was going to carry out
908 those consultations.

909 I will be very frank with you, Mr. Chairman. The
910 Endangered Species Act itself was an endangered species at
911 that time. I believe that that act is an important piece of
912 legislation. I was concerned about the tendency of some
913 people among my colleagues in the environmental movement to,
914 in a sense, block a project--although there may be questions
915 on other issues--on the basis of an issue that really was not
916 a basis for blocking it.

917 Therefore, I looked into the endangered species issue very
918 thoroughly and came to the judgment that the species were
919 dying anyhow, that we were not going to save that mussel by
920 doing anything, and that we had a plan for saving the mussel
921 and improving the water quality not only in the Duck but
922 hopefully in the Powell River also.

923 I am very proud of the fact that we came up with that. We
924 worked it out with Interior.

925 The lesson of Tellico, if I might say so, is that the
926 stress on the endangered species issue did not provide the
927 public with, I think, the most relevant issues about that
928 project. I testified on Tellico before the Merchant Marine
929 Committee and raised the issues of prime farm land, the
930 Cherokees, and the others, but no one was listening.

931 Mr. *Moffett*. The gentleman from Indiana.

932 : Mr. *Deckard*. Thank you, Mr. Chairman.

933 I would like to leave OMB for just a minute and return to
934 the Congress. Mr. Freeman, have you or any of your
935 colleagues appeared before an appropriations subcommittee to
936 provide testimony with respect to the Columbia Dam since you
937 have been a member of the board?

938 Chairman *Freeman*. No, sir. I have appeared before the
939 Congress regularly at appropriations hearings and, as I
940 testified earlier, I may have been asked a question about
941 the status of the project

942 We did not have money for Columbia Dam in our budget and
943 we did not testify on the merits of Columbia Dam.

944 Mr. *Deckard*. I see. Have you or any of the other board
945 members received a subcommittee of Congress at the site
946 since you have been a member of the board?

947 Chairman *Freeman*. No, sir. I have not.

948 Director *Freeman*. No.

949 Mr. *Deckard*. Therefore, you have neither given testimony
950 on Capitol Hill, nor have you provided inspection tours to
951 any appropriations subcommittee while you have been a member
952 of the board.

953 Chairman *Freeman*. I have personally been to the Columbia
954 Dam site. I remember that I spent half a day with Frank Fly
955 and the other half of the day with proponents of the
956 project

957 Mr. *Deckard*. Would you agree with the congressional
958 language then, that the Columbia Dam has received regular
959 and detailed scrutiny by committees of the Congress?

960 Chairman *Freeman*. I think it would be inappropriate for me
961 to answer that question, Mr. *Deckard*.

962 Mr. *Deckard*. I think that you already have.

963 Thank you, Mr. Chairman.

964 Mr. *Moffett*. On March 12, 1979 TVA released draft copies
965 of the alternatives report inviting public comments for
966 consideration by TVA prior to release of the final report.
967 On that very same day, you spoke before the Maury County
968 Chamber of Commerce in Columbia and announced that you were
969 going to do all you could to see that the Columbia Dam was
970 completed.

971 How, in the course of a single day, can you elicit public
972 comment on a report that dealt with alternatives and at the
973 same time announce that you were committed to completing the
974 project? Are we just misreading this, or is that an unfair
975 characterization?

976 Chairman *Freeman*. I do not remember all of the sequences
977 of events, but quite frankly I believe that, by the time we
978 put out the draft report, very candidly, I was persuaded by
979 my staff that we had an excellent conservation program--

980 Mr. *Moffett*. Therefore, any member of the public or any
981 group that took this whole process of public comment

982 seriously--

983 Chairman *Freeman*. No. If subsequent facts come to your
984 attention--Any time you put out a proposed rule, you believe
985 what you are saying at the time. I certainly do not believe
986 that my mind is ever closed on anything, but I believe that
987 a public official is entitled to say what is in his head at
988 the time.

989 I was persuaded at that time that we had a conservation
990 program that was worth pursuing.

991 There were a number of comments on the report that we got
992 which dealt with numerous other issues. Quite frankly, I do
993 not know that we got any comments on that conservation
994 program at all.

995 In any event, my speech is a public document and the
996 document that you cite was also a public document.

997 Mr. *Moffett*. This is sort of like the myth of objective
998 neutrality that we are witnessing. You keep saying that you
999 really did not have a position and that Congress was telling
1000 you to do this, but the fact is that there is a momentum
1001 that this project gained, a fairly substantial momentum.

1002 While it was obviously pushed along by the Congress, it
1003 has also been helped by the TVA, it seems to me.

1004 Chairman *Freeman*. I believe that the people in the area--

1005 Mr. *Moffett*. Is that how you view your job?

1006 Chairman *Freeman*. No, sir. I think that it could be fairly

1007 said that the momentum is a snail's pace. What has happened
1008 is that very little activity is--

1009 Mr. *Moffett*. Well, somehow we got a project 35 percent
1010 complete.

1011 Director *Freeman*. That was along with the history that you
1012 were talking about.

1013 Chairman *Freeman*. I must say that I have very little to
1014 brag about, if what I have to brag about is the progress on
1015 construction of Columbia Dam.

1016 I do not claim either the blame or the credit for what has
1017 happened. The fact of the matter is that the Columbia Dam
1018 Project has been at a virtual standstill for quite some
1019 time. The Congress--

1020 Mr. *Moffett*. Why is that? Is that because the Corps is
1021 trying to determine whether or not this is in the public
1022 interest?

1023 Chairman *Freeman*. That is a fact, and I am not complaining
1024 about that. I am just stating a fact.

1025 You were suggesting that we were contributing to the
1026 momentum, and I am just gently suggesting that there has
1027 been very little momentum.

1028 Mr. *Moffett*. Therefore, the Corps has to bite the bullet,
1029 and you will not, will you? The Corps has to come up with
1030 that judgment without getting any real assistance from you
1031 in terms of making that determination.

1032 Chairman *Freeman*. They have received responses to every
1033 question that they have asked us. We have supplied all of
1034 the information that the Corps has requested from us.

1035 Certainly, we are not responsible for the Corps'
1036 decisionmaking process.

1037 Mr. *Moffett*. Did they ever ask you if it was in the public
1038 interest? Did the Corps ever ask you that?

1039 We have determined that the Congress has not asked you
1040 that before. Has the Corps ever asked you that?

1041 Chairman *Freeman*. I do not believe so. They have asked a
1042 lot of specific questions about the engineering and
1043 environmental facts.

1044 Mr. *Moffett*. If you received a letter from the Corps
1045 tomorrow asking you: Mr. *Freeman*, is this in the public
1046 interest? What will your response be?

1047 Chairman *Freeman*. I would like to think about it a little
1048 bit more, but my offhand reaction would be that I would
1049 write them a letter enclosing a copy of my testimony this
1050 morning.

1051 Mr. *Moffett*. Is that like the Johnny Mathis song, "It's
1052 Not for Me to Say"?

1053 Let us talk about endangered species. In a staff draft of
1054 the alternatives report, which was dated February 2, 1979,
1055 there was no mention of a conservation plan to transplant
1056 and otherwise preserve the endangered mussels.

1057 Is that right? That was the staff draft of February 2,
1058 1979. I am not throwing these things out at you. I will give
1059 you a chance to look them up.

1060 Does Mr. Furgurson know that?

1061 Chairman *Freeman*. Yes, that is correct.

1062 Mr. *Moffett*. However, in a published draft report dated
1063 February 21, 1979 the conservation plan had seemingly become
1064 the savior of the project as planned.

1065 What I am getting at here is this. In the February 2 staff
1066 draft there was no mention of the conservation plan. Then 19
1067 days later, on February 21, 1979, suddenly here is the
1068 conservation plan.

1069 Chairman *Freeman*. Yes, sir. Mr. Galloway and I discussed
1070 that when he came down to visit me. I gave him my
1071 recollection of the time.

1072 Since then, I have talked with Dr. Ripley and he confirms
1073 that my recollection is correct, although I do not know the
1074 precise date. This was an initiative the staff came up with
1075 and I, frankly, was surprised that they had a solution of
1076 this kind, but they did.

1077 Mr. *Moffett*. I know. You have testified to that. Was this
1078 a 19-day wonder, or what? Why was there no mention of it in
1079 the staff draft and then suddenly on February 21 it popped
1080 up as the great savior of the whole thing?

1081 Chairman *Freeman*. I do not know the evolution of this idea

1082 in the staff, quite frankly. I would have to assume that
1083 during that time period they became confident enough of it
1084 to go forward with it. We would certainly be willing to
1085 supply you with that history. .

1086 Mr. *Moffett*. Let me say, if I have not said it, that you
1087 and your staff have really been terrific with respect to
1088 giving us full access to the files, as you implied earlier.
1089 We would like that.

1090 Material to be supplied follows:

1091

1092 ***** INSERT *****

1093 The subcommittee staff went very carefully through the
1094 files of Mr. Ripley, who is head of the natural resources
1095 division, I believe.

1096 Chairman *Freeman*. Yes. Dr. Ripley is with us today if you
1097 have any questions of him.

1098 Mr. *Moffett*. He is the boss of Mr. Jenkinson, who is your
1099 biologist and who appeared yesterday.

1100 The first mention of using the transplantation came in a
1101 memo from Mr. Ripley to you, dated August 23, 1978. This was
1102 concerning a meeting he had with Lon McFarland.

1103 Let me just point out that at that time Mr. Jenkinson was
1104 still in graduate school.

1105 At this time, without objection, the Chair would introduce
1106 that memo into the record.

1107 Material follows:

1108

1109 ***** INSERT #2 *****

1110 Mr. *Moffett*. Just for the record, can we again identify
1111 who Mr. McFarland is, Mr. Chairman?

1112 Chairman *Freeman*. He is an attorney in Columbia who, I
1113 think, can fairly be described as a leader, or the attorney
1114 that is the leader of the citizens group that has been
1115 supporting the Columbia project. I do not know whether or
1116 not he is counsel for this Upper Duck River--

1117 Mr. *Moffett*. Apparently, he is the counsel to the Upper
1118 Duck River Development Association.

1119 Mr. Ripley writes in this memo to you, concerning the
1120 meeting with Mr. McFarland: "We outlined plans for
1121 evaluation of several attempted transplants of this species,
1122 but I offered no particular encouragement regarding these
1123 efforts."

1124 However, Mr. Ripley did promise to evaluate transplants
1125 attempted in 1974 and 1975 in the Duck and in Cypress Creek
1126 in Alabama.

1127 On November 15, 1978 Ripley wrote to McFarland about the
1128 survey results. I would like to read his conclusion.

1129 Without objection, the Chair would introduce that into the
1130 record. This is November 15, 1978's letter from Ripley to
1131 McFarland.

1132 Material to be supplied follows:

1133

1134 ***** INSERT *****

1135 : Mr. *Moffett*. This is Mr. Ripley writing to Mr. McFarland:
1136 "Our conclusion is that these particular transplants appear
1137 to be unsuccessful. We are sorry that our surveys do not
1138 warrant a more favorable report"

1139 Then, on February 9, 1979, Mr. Ripley gave you an overview
1140 of the outlook for transplants and it was not much more
1141 favorable. This was on February 9, 1979.

1142 Let me read it: "Establishment of additional *C. caelata*
1143 populations through transplantation has some (limited)
1144 potential as a method for recovering the species. To achieve
1145 transplantation in rivers where it does not now occur with
1146 any measure of optimism, however, would take several years
1147 of habitat analysis and life history study of the species
1148 beginning with a search for its host fish species.
1149 Additionally, transplants elsewhere in the Duck River do not
1150 seem appropriate because past transplants have not proved
1151 successful, probably due to degraded water quality..."

1152 "We feel the Powell and/or Clinch have the greatest
1153 potential for transplantation; however, as suggested,
1154 several years would be needed to evaluate success, and I
1155 emphasize years..."

1156 Without objection, the Chair introduces that memorandum
1157 into the record.

1158 Material follows

1159

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1160 ***** INSERT #3 *****

1186 Before we recessed--and I apologize for the delay--we
1187 established that your chief biologist recommended that you
1188 go to the Endangered Species Committee to seek an exemption
1189 for the project.

1190 On February 14 Mr. Jenkinson, who met with us yesterday
1191 and who was hired directly out of graduate school as I
1192 recall, circulated a memo which at this time, without
1193 objection, will be introduced into the record.

1194 Material follows:

1195

1196 ***** INSERT #4 *****

1197 Mr. *Moffett*. I quote from that Jenkinson memo: "The known
1198 populations of *C. caelata* in all three rivers are limited to
1199 very short reaches..." "Very localized, pollution, flood
1200 scour of the shoals, gravel dredging, or many other
1201 relatively insignificant impacts to the rivers as a whole
1202 should destroy each of these remnant populations of *C.*
1203 *caelata*" *Conradilla caelata*.

1204 In the next sentence--and this is important because it is
1205 contrary to what Mr. Jenkinson remembered yesterday--he says:
1206 "More importantly, the Powell River is beginning to receive
1207 increased amounts of strip mine runoff and coal washing
1208 which, if not stopped, can be expected to degrade water
1209 quality enough to kill mollusks..."

1210 It does not seem that you are getting much support from
1211 your technical staff here. Ripley is saying that the best
1212 chance is to transplant into the Powell and the Clinch, not
1213 the Duck. Jenkinson says the pollution in the Powell is
1214 going to kill the mussels.

1215 Twelve days later, in the draft alternatives report, the
1216 viability of the transplant program is embraced. A month
1217 later, according to a memo that I will refer to in a minute,
1218 you are distressed by the fact that Fish and Wildlife does
1219 not have the same response.

1220 The thing that puzzles me is to see an attitude toward the
1221 Endangered Species Act that is less than what I would expect

1222 from a person with your environmental commitment

1223 The memo to which I referred was written on March 13, 1979

1224 and, without objection, the Chair will place it in the

1225 record at this point

1226 Material follows:

1227

1228 ***** INSERT #5 *****

1229 : In December of 1978 you requested that the consultation on
1230 the endangered species issue be reinstated. I think you
1231 probably recall that.

1232 Chairman *Freeman*. Yes.

1233 Mr. *Moffett*. The TVA and Fish and Wildlife consultation
1234 teams then met on March 7 and 8 of 1979 and, according to
1235 this memo, you were personally briefed on that session on
1236 March 9. At that point, the Fish and Wildlife people--and
1237 this is not really surprising--wanted an assurance of
1238 successful mitigation efforts before they would sign off on
1239 TVA's plan.

1240 Is it fair to say that that was unfair? If you look at
1241 that memo--

1242 Chairman *Freeman*. If I may have the privilege of
1243 responding to your comments.

1244 Mr. *Moffett*. Of course.

1245 Chairman *Freeman*. I am certainly no biologist. I relied on
1246 the advice that I got. I think the record should show what
1247 was in my head and why I went forward.

1248 I have a very sincere devotion to upholding the spirit as
1249 well as the letter of the Endangered Species Act. I feel
1250 that we played a constructive role in the survival of that
1251 act.

1252 I was persuaded by our biologist, first of all, that those
1253 endangered mussels were dying.

1254 : Mr. *Moffett*. That does not square with the documents we
1255 just talked about.

1256 Chairman *Freeman*. Yes, it does.

1257 Mr. *Moffett*. There is a luke warm kind of attitude on the
1258 part of the biologists--

1259 Chairman *Freeman*. We can supply you with the documents
1260 that make that case. I remember that that was the basis of
1261 my judgment, that if you were to let nature take its course
1262 and let Lillard Dam stay where it is and if you did not
1263 complete the Columbia Dam Project at all, that the long term
1264 trend was a deterioration of the mussel population and that
1265 they were dying out.

1266 Mr. *Moffett*. They are declining in the Duck.

1267 Chairman *Freeman*. That is right. That is what we are
1268 talking about. the Duck River.

1269 If I may proceed to give you my understanding, which may
1270 not be correct, but I think it is relevant. We start off
1271 with the idea that if we just punt the species is going to
1272 die.

1273 Our biologists felt that they had learned enough about the
1274 habitat where they were surviving, at Lillard Dam, so that
1275 there was a reasonable chance that it could be duplicated in
1276 the upper Duck, in the Powell, and in other rivers. This is
1277 not a sure thing but it was something that they felt that
1278 they could do.

1279 The third thing is that there is pollution in the Powell
1280 that we would be obligated to reduce. That is a plus, Mr.
1281 Chairman. I make no apology for the fact that as a result of
1282 this mitigation plan we may clean up some of the pollution
1283 from strip mining in the Powell River. That is one of the
1284 aspects of this that motivated me to go ahead with it.

1285 Here is a chance to take a project and turn it into an
1286 environmental cleanup of these rivers.

1287 Mr. *Moffett*. What does Virginia say about that?

1288 Chairman *Freeman*. If Virginia does not cooperate and it
1289 does not succeed, then the conservation plan will not
1290 succeed, but biologists--

1291 Mr. *Moffett*. Have you talked--

1292 Chairman *Freeman*. The biologists that made the decision in
1293 the Fish and Wildlife organization, who testified before
1294 you, reached the judgment that the combination of the upper
1295 Duck, the chances in the Powell, what we have learned about
1296 the habitat, the fact that they were dying anyhow, all made
1297 this a plan worth going ahead with.

1298 At first, I took the position that, if we are going to go
1299 ahead with it, they ought to share the risk. I felt that
1300 that was a reasonable position, but they prevailed. They are
1301 the doctor. That was part of the consultation process and
1302 the final decision was that we would take the risk--

1303 Mr. *Moffett*. Neither you nor I are biologists. That is

1304 correct. We are policy people, so to speak, and we know that
1305 biologists do not clean up rivers.

1306 The State of Virginia can play a part in cleaning up a
1307 river, but the biologists are not the people to--

1308 Chairman *Freeman*. TVA does not clean up rivers.

1309 Mr. *Moffett*. The biologists do not come to grips with the
1310 reality of whether or not--

1311 Chairman *Freeman*. This is the interesting point. TVA does
1312 not have regulatory authority over rivers, but we have
1313 leverage here.

1314 I remember distinctly some names of the proponents of the
1315 Duck River project. You are going to have to have the
1316 strictest water quality regulations known to mankind to make
1317 this thing work. It gave us an opportunity to get some
1318 incentives for cleanup that would not otherwise be there.

1319 Mr. *Moffett*. Alright. How are are your coal contracts? Do
1320 you have coal contracts with Virginia operators?

1321 Chairman *Freeman*. We have some.

1322 Mr. *Moffett*. Were those gone over and amended in any way?

1323 Chairman *Freeman*. Let me tell you what we have done since
1324 I have been there.

1325 Mr. *Moffett*. Please stay on this issue, on the Powell.

1326 Chairman *Freeman*. It is on this issue. It certainly is. We
1327 make it a breach of contract with TVA if anyone violates the
1328 strip mining law in terms of coal that they mine for us. We

1329 have gone into the courthouse to support the Departments of
1330 Justice and the Interior in the attack on strip mining.

1331 I have written letters to Chairman Udall opposing the
1332 attempts to gut the strip mine law. The TVA has stood up and
1333 taken a position with our technical knowledge, which I have
1334 been led to believe has been very helpful in this effort.

1335 We check with the Office of Surface Mining before we award
1336 coal contracts. Our policy is that if there is someone who
1337 has been a repeated violator of the act, they do not get a
1338 contract with us.

1339 If anyone has any other suggestions as to what we can do
1340 to support that effort, we will be glad to entertain them.

1341 Mr. *Moffett*. Alright. I want to get back--That is good, by
1342 the way. You should get credit for that.

1343 I do want to get back to the point, the question of the
1344 success of the mitigation efforts and whether or not you
1345 felt it was unfair that the Fish and Wildlife people wanted
1346 an assurance of successful mitigation efforts before they
1347 would sign off on your plan.

1348 Chairman *Freeman*. We finally agreed to that.

1349 Mr. *Moffett*. You did agree with it?

1350 Chairman *Freeman*. Yes, sir.

1351 Mr. *Moffett*. You originally thought it was unfair, did you
1352 not?

1353 Chairman *Freeman*. Our initial bargaining position was,

1354 that if they thought our plan was so good, then they ought
1355 to take the risk. They did not buy that, so we acquiesced to
1356 their judgment. They were the doctors. That was part of the
1357 consultation process.

1358 Mr. *Moffett*. When you say risk, what do you mean by that?

1359 Chairman *Freeman*. I mean the risk that the plan may not
1360 work.

1361 Mr. *Moffett*. It is really \$150 million, in a sense. Those
1362 are big stakes.

1363 Chairman *Freeman*. I do not know what the precise amount
1364 will finally be or what the project--

1365 Mr. *Moffett*. I mean the value of the project.

1366 Chairman *Freeman*. The interesting thing is that the
1367 biologists in both agencies believe that the plan has a
1368 likelihood of succeeding, so we are going ahead with it.

1369 Mr. *Moffett*. Let us get down to--

1370 Chairman *Freeman*. I think that the circumstances that I
1371 was under were that I was under a directive from Congress to
1372 build the project. I was duty bound to proceed with the
1373 consultations in good faith, which I did.

1374 Mr. *Moffett*. Let us talk about the future for a minute. We
1375 heard yesterday from Mr. Greenwalt who is, as you know, the
1376 Fish and Wildlife director, that TVA has agreed that if
1377 there is no proven success in 1986, TVA will not close that
1378 dam.

1379 : Chairman *Freeman*. That is correct.

1380 Mr. *Moffett*. Is it not quite conceivable that there might
1381 not be any proven success in 1986 or even in 1990? If the
1382 first transplants are determined unsuccessful in 1986, then
1383 what?

1384 Chairman *Freeman*. The work thus far has been successful.

1385 Mr. *Moffett*. I know that, but even the TVA's biologists
1386 agree that proven success requires a number of years.

1387 Chairman *Freeman*. There is nothing sure in this field. I
1388 think the words that were used were that "the plan is
1389 likely to succeed." Obviously, if something is likely to
1390 succeed, there is a chance that it will not.

1391 Mr. *Moffett*. Are you willing to hold the Columbia Dam in
1392 third stage-diversion for seven years or up to seven years,
1393 if that is what is necessary?

1394 Chairman *Freeman*. The Tennessee Valley Authority will obey
1395 the law. According to the Endangered Species Act, as
1396 administered by the Department of the Interior, as a result
1397 of our consultations we have specific undertakings and
1398 agreements and we will just not be permitted to fill that
1399 dam if, in their judgment, the plan is not successful.

1400 Mr. *Moffett*. Would you come to the Congress and seek an
1401 exemption from the Endangered Species Act?

1402 Chairman *Freeman*. I certainly would not want to cross that
1403 bridge at this time. I have never advocated exemptions from

1404 the Endangered Species Act.

1405 I think that this board's actions have been instrumental
1406 in the preservation of that act, but I certainly do not
1407 think that I would try to answer a question like that.

1408 Mr. *Moffett*. Why not begin to think about what you are
1409 going to do if you get into this bind?

1410 Chairman *Freeman*. I guess, Mr. Chairman, for the most
1411 part, I think that my term will expire on May 18, 1984.

1412 However, in all seriousness, that is a very remote
1413 possibility. We are exerting our efforts to try to make this
1414 conservation plan work.

1415 Of course, as you point out, there is a large Federal
1416 investment. We are going ahead with this on the basis--

1417 Mr. *Moffett*. That is really what is pushing this, is it
1418 not? I mean, the large Federal investment. Even if it is
1419 wrong, we have this push for the thing, not by you
1420 necessarily.

1421 Chairman *Freeman*. The directions that we have from the
1422 Congress are to build it consistent with the law, and we
1423 have worked out, I think, a very good plan for complying
1424 with the Endangered Species Act, one that meets with the
1425 approval of, if I may put it this way, hard nosed biologists
1426 in both agencies. It is not a sure thing, but it is likely
1427 to succeed.

1428 We are going to exert our efforts to try to make it

1429 succeed and to clean up these rivers in the process.

1430 Mr. *Moffett*. What about the biologists on the coordinating
1431 committee, whom we discussed with Mr. Jenkinson and others
1432 yesterday? They did not exactly--They were not jumping up and
1433 down with excitement about what they regarded as the likely
1434 success of this preservation program.

1435 Chairman *Freeman*. The judgment of the biologists that
1436 rendered the biological opinion is what I am talking about.
1437 I do not believe that you get unanimous opinions on subjects
1438 of this kind in the profession of economics, the profession
1439 of biology, or in many others. Various different people's
1440 opinions speak for themselves.

1441 Mr. *Moffett*. That was rather striking, namely, the memos
1442 that we read and the minutes we read of the meeting of the
1443 coordinating committee with regard to "likely success".

1444 Chairman *Freeman*. I do not find them striking. I sat in on
1445 a lot of briefings and I believe that there was a thoughtful
1446 evaluation of our proposal by the Interior Department
1447 people, and they came to a judgment. They imposed strict
1448 conditions. We are protecting the species.

1449 Quite frankly, I am rather proud of the fact that we are
1450 making the Endangered Species Act work and lending support
1451 for its continued existence in the Congress.

1452 Mr. *Moffett*. The fact is that in 1986 you might be gone.
1453 There may be no proven success of this program of yours. We

1454 might have a real turkey on our hands and it will be too far
1455 down the road to consider any alternatives.

1456 Chairman *Freeman*. The more likely outcome is that as the
1457 result of our initiative, we will have a cleaner Powell
1458 River, a cleaner Duck River, and a project that will enable
1459 the endangered mussels to survive.

1460 Mr. *Moffett*. Did you use the word "might"?

1461 Chairman *Freeman*. I think I said "more likely".

1462 Mr. *Moffett*. Does the gentleman from Minnesota wish to be
1463 recognized?

1464 Mr. *Stangeland*. I have no questions.

1465 Mr. *Deckard*. I would like to quickly review the
1466 discussions that we have had this morning. You have made it
1467 quite clear that you feel it inappropriate today to give
1468 your own personal judgment as to this project.

1469 At the same time, you have indicated that no subcommittee
1470 of the Appropriations Committee has met with you
1471 specifically regarding Columbia Dam, nor has any committee
1472 or subcommittee actually visited the Columbia Dam site, in
1473 spite of the budget language which says that this project
1474 has received regular and detailed scrutiny by committees of
1475 the Congress.

1476 Of course, I know that you are not responsible for the
1477 language in the appropriations act and I do not hold you
1478 responsible for it.

1479 : You have also said that you feel it would be useful to
1480 have a new cost-benefit ratio study in view of the changed
1481 economics since the original study was issued. The project
1482 has after all increased from a proposed \$50 million to a
1483 \$150-million project. That alone would warrant a new study.

1484 I would like to approach the benefits portion of that
1485 study--

1486 Mr. *Moffett*. There seems to be some difference of opinion.

1487

1488 Chairman *Freeman*. If I might comment, I believe the record
1489 will show that you have not precisely paraphrased what I
1490 said. First of all, I have not testified that we need a new
1491 study. On the contrary, I have said this issue is decided
1492 and there is no occasion for it.

1493 I also did not say that no members of the Appropriations
1494 Committee have ever visited the site. I said that I had not
1495 accompanied any members of the Appropriations Committee. I
1496 do not know whether they visited the site or not.

1497 Mr. *Deckard*. If we could refer back to the record, I think
1498 you will find that I did specifically say "subcommittee or
1499 committees," not individual members of Congress.

1500 Chairman *Freeman*. I do not mean to nit pick. You asked me
1501 if they had come to the site with me. They have not.

1502 Mr. *Deokard*. The record will also show that I included the
1503 board as well.

1504 Director *Freeman*. Let us just clear the record. I have no
1505 knowledge and I do not think the chairman has any knowledge
1506 as to whether the subcommittee has been on the site or not.
1507 We said that we had not been with them.

1508 Mr. *Deckard*. Who would be, if not--Who would be aware, if
1509 not members of the board?

1510 Director *Freeman*. I have only been on the board for a
1511 little over a year, and the other Mr. *Freeman* has only been
1512 on for two or three years. I have no way of knowing what has
1513 happened before that.

1514 Chairman *Freeman*. I think the point I am trying to make,
1515 so that the record is clear, is that this project has been
1516 under way since 1969. There has been precious little change
1517 in its physical aspects since we have been there. For all I
1518 know, members may have visited the project a number of times
1519 before I came on the board.

1520 They may even have visited while I was on the board
1521 without my having been there. I think that--

1522 Mr. *Deckard*. And, without your being aware of it.

1523 Chairman *Freeman*. That is possible.

1524 Aside from that, I also testified only that I had not had
1525 discussions at the appropriations hearings on Columbia Dam.
1526 I did testify that the staff of the Appropriations Committee
1527 have continually asked us about questions of status, why it
1528 is not moving, and things of that kind, as well as money

1529 questions, why we are not spending the money.

1530 There has been an almost continuous dialogue between the
1531 staff of the Appropriations Committee and our staff on the
1532 project. I think that it is useful to clarify the record
1533 along the lines that I did.

1534 Mr. *Deckard*. The precise nature of the questions and of
1535 the answers, of course, is on the record and will be
1536 reflected accurately. Future readers of the transcript will
1537 be able to make their own judgments.

1538 I would like to approach some of the benefits for just a
1539 moment. The first has to do with water supply.

1540 You are probably aware that Colonel Tener of the Army
1541 Corps of Engineers appeared before this subcommittee
1542 recently. In his statement he quoted the TVA with respect to
1543 future water supplies for the two counties involved.

1544 Colonel Tener said: "TVA reported in 1979 that the future
1545 water supply demands for these two counties, Marshall and
1546 Maury Counties, could be met through controlled releases
1547 from Normandy Reservoir without full impoundment of the
1548 Columbia Reservoir as planned."

1549 Is that an accurate quote by Colonel Tener of a TVA
1550 report?

1551 Chairman *Freeman*. Someone in TVA may very well have said
1552 that. That is not testimony that I have reviewed and taken
1553 responsibility for.

1554 Mr. *Deckard*. It is difficult for me to disassociate you
1555 from responsibility for whatever is issued as an official
1556 TVA position. I do not understand that

1557 Chairman *Freeman*. I do not know in what sense this is an
1558 official TVA position. We have a democracy at TVA. As the
1559 subcommittee well knows, they have been free to speak with
1560 anyone and everyone speaks their own mind.

1561 I am simply answering your question in a way that gives
1562 you my perspective on it. I have not looked into this water
1563 supply issue with sufficient care or in any detail, so that
1564 I do not have any opinion. The board as presently
1565 constituted has not done so.

1566 I am certain that over the years staff people have
1567 responded to questions about water supply. It is one of the
1568 central issues, but I have not looked into it

1569 Mr. *Deckard*. Mr. *Freeman*, it is inconceivable to me that
1570 in your position you would not, to use your word, care about
1571 a \$150-million project

1572 I would also like to talk about the flood control benefits
1573 of the cost-benefit ratio.

1574 Chairman *Freeman*. Certainly, Mr. *Deckard*. However, I do
1575 think the question of care is not at issue. It is not an
1576 issue that I think is open for decision. I think the
1577 Congress has decided it

1578 Mr. *Deckard*. Colonel *Tener*, during his testimony, was

1579 questioned by me as to the number of acres that would be
1580 flooded through impoundment of the Columbia Reservoir.
1581 Apparently, somewhere in the neighborhood of prime farmland
1582 will be flooded by the impoundment.

1583 In response to my question as to the number of acres of
1584 prime farmland that would be protected by the impoundment,
1585 the response was 3,700.

1586 I would have two questions to you. First, do you agree
1587 with those figures, and, second, if you do agree, what kind
1588 of flood control project is that that floods over 9,000
1589 acres of prime farmland in order to protect 3,700 acres?

1590 Chairman *Freeman*. Mr. Deckard, I have not personally gone
1591 into the facts to either confirm or deny what Colonel Tener
1592 has testified.

1593 In terms of the benefits of the project, as I said, one
1594 would have to look at all of the benefits and all of the
1595 costs to form some judgment, and I have not made any such
1596 judgments. I have no judgment on the project as a whole. I
1597 also have no judgment on the various ingredients of it.

1598 Mr. *Deckard*. With respect to the recreational aspect of
1599 the cost-benefit ratio, can you tell me how many reservoirs
1600 or lakes there are within 50 miles of the Columbia Dam?

1601 Chairman *Freeman*. I do not know that personally, but I
1602 believe there are a number of them.

1603 Mr. *Deckard*. Would the recreation provided by these other

1604 reservoirs provide the same type of recreation as would be
1605 available at the proposed Columbia Reservoir?

1606 Chairman *Freeman*. In the sense that there are other lakes
1607 and that this would be a lake, I think the the answer would
1608 be based on distinguishing between flat water lakes and the
1609 canoeing rapids type of recreation. I think this would be in
1610 the category of flat water lakes, but each lake has its
1611 unique attraction in terms of its location and perhaps some
1612 other things.

1613 I do not choose to get into the issue of what the value of
1614 the recreational benefits are, because I do not know.

1615 Mr. *Deckard*. Mr. Chairman, I suppose it would not be of
1616 any use to continue this line of questioning. It is obvious
1617 that Mr. *Freeman*, as much as I have enjoyed his circuitous
1618 testimony this morning, is determined not to give an opinion
1619 with respect to the project and has indicated that he has
1620 very little knowledge of the project and that he cares very
1621 little about the project. That seems to be the sum of his
1622 testimony.

1623 I have no further questions. Thank you.

1624 Chairman *Freeman*. If I might be permitted to add this.
1625 Certainly, I do not think it is my testimony that I do not
1626 care.

1627 Mr. *Moffett*. Does the gentleman from Minnesota have any
1628 questions?

1629 Mr. *Stangeland*. I am sorry that I was unable to attend
1630 this hearing earlier, because I have been following this
1631 issue quite closely. I was asked to handle a couple of
1632 pieces of unanimous consent legislation on the floor of the
1633 House of Representatives .

1634 I would just like to say this. I am not judging this
1635 project or TVA, but I would like to give the committee what
1636 I think are some parallels.

1637 In my district, in the Roseau River--I do not recall who
1638 started the project. I think it was either Congressman
1639 Langon or Secretary Bergland. Mr. Herbsts, who is now, I
1640 believe, Director of Fish and Wildlife or whatever, was the
1641 commissioner of the Department of Natural Resources in
1642 Minnesota. The project was approved, but it was sort of
1643 languishing because some of that water dumped up into Canada
1644 and we had a problem mitigating the problems with Canada.

1645 However, it had been approved by the DNR Department of
1646 Natural Resources and it had been pushed locally for years.
1647 It was a straining project, but that was a fisheries river.
1648 It was felt that for the time of the work, fisheries would
1649 be destroyed. However, after the work had been done and the
1650 river reverted back to normal, the fisheries would still be
1651 there.

1652 We are still fighting about that project to try to prevent
1653 flooding in Roseau, the town. As a result, the flood

1654 insurance premiums have gone up drastically. It is really an
1655 impossibility. However, it is a good project and we are
1656 still pushing it.

1657 We had a Twin Valley Lake and Dam. Twin Valley Lake and
1658 Dam were begun by Senator Mondale when he was Senator. That
1659 kind of languished until I came along. I have been working
1660 on that and fighting. It is a good project and it is needed.
1661 It provides flood control and helps the Wild Rice River,
1662 which is the river.

1663 Mr. Moffett, who I think worked for Senator Mondale at one
1664 time, may even be familiar with these terms.

1665 The Wild Rice River contributes about 17 percent of the
1666 water to the Red, that is, the Red River of the North. The
1667 Red River floods every year. If we could slow down that
1668 flow, we could save a lot of damage, yet we are still
1669 struggling and fighting with that one.

1670 There are two sides to every water project. I guess you
1671 can find arguments against projects just as you can find
1672 arguments for them.

1673 As I said, this is not intended to judge this project. I
1674 do not understand it that well. I think it says here that
1675 the community wanted this project. It is said that these are
1676 pork barrels and that some big agency, such as the Corps of
1677 Engineers, is foisting the project on them. It just does not
1678 happen that way. The community asks for them.

1679 The assessment procedure, Mr. Chairman, to determine
1680 cost-benefit may not be correct. I am not going to debate
1681 that, but I do think we have need of some projects. I think
1682 we have to be careful as we assess and begin them. Sometimes
1683 we have to look at the overall benefits and solutions. I am
1684 hopeful that these problems can be settled and that that
1685 mussel problem can be settled so that we do not fight
1686 another Tellico Dam situation.

1687 I just want to put these remarks into the record. I sit
1688 through some of these hearings and think about some of the
1689 problems I have in my district and I kind of relate to the
1690 problems.

1691 Thank you, Mr. Chairman.

1692 Mr. *Moffett*. The Chair thanks the gentleman.

1693 I want to go back to the assertion that there is no
1694 opinion about the dam from the TVA, and that really what you
1695 have been doing is following the will of Congress in seeing
1696 to it that the project is built. I also want to go into the
1697 recent responses to Mr. Deckard's questions about water
1698 supply.

1699 There was a 1979 report to OMB by TVA. On page 15 of that
1700 report, which has previously been introduced into the
1701 record, there is a rather striking admission that the
1702 Normandy Dam can meet TVA's projected water supply needs for
1703 Columbia.

1704 : That statement is followed on that same page by some
1705 additional statements which seem to lessen the significance
1706 of the fact. For example, we are told that "The Board of
1707 Public Utilities for the City of Columbia believes that the
1708 water grid system which they developed for Maury County will
1709 require more than three times the water that TVA has
1710 projected."

1711 Second: "In addition, Williamson County officials have
1712 shown an interest in receiving water from the Duck River."
1713 The report goes on to say, that under those circumstances,
1714 the Normandy Dam would not be able to meet the water supply
1715 needs for Columbia.

1716 Am I on track so far, as far as being accurate is
1717 concerned?

1718 Chairman *Freeman*. Yes.

1719 Mr. *Moffett*. If you take those issues one at a time,
1720 beginning with the TVA statement that the Columbia Municipal
1721 Water Company claims that TVA's water use projections are
1722 too low--Let me ask Mr. Furgurson this. Did you have occasion
1723 to evaluate the Columbia Water Company's water use
1724 projections?

1725 Mr. *Furgurson*. Yes, I did at one time.

1726 Mr. *Moffett*. At this time the chair would introduce into
1727 the record the February 15, 1979 memo from Mr. Furgurson to
1728 Mr. Richard Freeman, the TVA director.

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1729 Material to be supplied follows:

1730

1731 ***** INSERT #6 *****

1732 Mr. *Moffett*. Do you recall the memo I am talking about?

1733 Mr. *Furgurson*. Yes.

1734 Mr. *Moffett*. This memo refers to a study by Mr. J. P.

1735 Woodruff, who is the director of the city's water supply

1736 company. From that study, you stated that the city's water

1737 projections were "misleading because of Mr. Woodruff's

1738 failure to consider the obvious fact that much of the water

1739 taken from the Duck River upstream from Columbia is returned

1740 to the river for use at Columbia."

1741 Do you remember writing that?

1742 Mr. *Furgurson*. Yes, I do.

1743 Mr. *Moffett*. Mr. Richard Freeman requested Mr. Furgurson

1744 to analyze the city of Columbia's water use study, if I am

1745 not mistaken, and Mr. Furgurson informed you in no uncertain

1746 terms that the town's study was misleading.

1747 That being the case, why in the world was that study cited

1748 in the report to OMB? Can somebody tell me that?

1749 Mr. *Furgurson*. It was not necessarily cited in the OMB

1750 report. It was included because the letter came to us

1751 commenting on the report.

1752 Mr. *Moffett*. On page 15 of the report to OMB it says:

1753 "These projections are considered by many who oppose the

1754 project as being too high and by the local people as being

1755 too low. However, the Board of Public Utilities for the City

1756 of Columbia believe that the water grid system which they

1757 developed for Maury County will require more than three
1758 times the water that TVA has projected."

1759 *Mr. Furgurson.* That did not come from that letter. We had
1760 another letter several years before, that pointed out
1761 projections for the city of Columbia that were three times
1762 what we had anticipated.

1763 *Mr. Moffett.* You had reported to the board that that study
1764 was misleading.

1765 *Mr. Furgurson.* This was not the same study. This
1766 particular letter was misleading, but the other letter that
1767 I am talking about was an earlier letter from Mr. Woodruff
1768 and stated flatly that they expected the needs in the area
1769 to be--They gave a figure which was three times what we had
1770 estimated. It was not this letter.

1771 *Mr. Moffett.* Let me yield to Mr. Galloway.

1772 *Mr. Galloway.* The request that you had from Director
1773 Freeman asked you to analyze the March 1979 water report.

1774 *Mr. Furgurson.* Yes.

1775 *Mr. Galloway.* Was that not the report that you found to be
1776 misleading?

1777 *Mr. Furgurson.* Yes, but that was not the basis for the
1778 statement in the report.

1779 *Mr. Galloway.* Let me see if I understand this. You
1780 analyzed the latest study from Mr. Woodruff and found it was
1781 misleading.

1782 Mr. *Furgurson*. Yes.

1783 Mr. *Galloway*. You ignored that fact and then told the
1784 reader that earlier he had sent another report. Is that
1785 correct?

1786 Mr. *Furgurson*. I did not put the two together. This was
1787 not in connection with the letter that we received on the
1788 report. This statement in the body of the report was
1789 concerning a separate and earlier letter on information that
1790 I had from the local people, in which they had predicted
1791 water supply needs of three times what we had.

1792 Mr. *Galloway*. The bottom line is that TVA's original water
1793 projections for the area now, according to TVA, can be met
1794 by modifying Normandy Dam. Is that correct?

1795 Mr. *Furgurson*. You have to go back and take the context--

1796 Mr. *Galloway*. Can we not get a yes or no answer to the
1797 question? Have you not concluded and do you not so state on
1798 page 15 of your report to OMB, that the Normandy Dam can be
1799 modified to meet TVA's projected water needs for the area.

1800 Mr. *Furgurson*. That would not be without problems. It will
1801 effect the reservoir levels at Normandy and it might also
1802 effect the downstream trout fisheries if we tried to take
1803 that much water out of Normandy to supply the Columbia area,
1804 but it can be done.

1805 Mr. *Galloway*. However, you can supply this water. Thank
1806 you.

1807 Mr. *Furgurson*. Not without problems.

1808 Chairman *Freeman*. Perhaps I can illuminate the record
1809 somewhat, because I have a rather clear recollection of my
1810 own views about this issue. I think it was at my suggestion
1811 that the comments about the local people's opinion were put
1812 in there.

1813 I had not looked into this water issue and I was
1814 uncomfortable with the report simply dismissing it out-of-
1815 hand. I recall that I said: "Well, you know, this is our
1816 conjecture about how many industries they will get and
1817 whether the water supply will be used for other counties or
1818 not. These people are making a claim. I do not know if they
1819 are right or not and I do not know about these other staff
1820 studies, so let us just in effect state the contentions."

1821 It was my suggestion that we write this up this way,
1822 because I really did not know. Obviously, if you have a
1823 rosier view of the number of industries that you are going
1824 to get and if you have a wider area to which you are going
1825 to distribute water, you need more water. Under certain
1826 projections the Normandy water would do it. Under others it
1827 would not.

1828 This is one of the issues that I would have to get into in
1829 some depth before I could render a judgment. It was at my
1830 suggestion, if I remember, that this language was put in
1831 leaving the reader in doubt as to who was right.

1832 Mr. *Moffett*. We have a vote to get to and I think we have
1833 gone on long enough.

1834 Let me just say in conclusion that that is the point.
1835 There are a whole lot of issues that ought to be looked at
1836 by someone. This subcommittee is trying to do its share, but
1837 there are so many people who are wrestling with whether or
1838 not this whole project is in the public interest. The Army
1839 Corps is. The State is to some extent.

1840 I still read those OMB concerns as cost concerns. I do not
1841 think that it is appropriate to simply categorize this
1842 project as one that will succeed or will fail on the basis
1843 of the endangered species, which tends to be what comes
1844 forth from TVA testimony as it did yesterday and somewhat
1845 today.

1846 You really have not addressed yourself to the costs of
1847 this project and whether or not it is a good deal.

1848 In fact, I think what you seem to be saying to us is,
1849 although you would not admit to this but between the lines I
1850 read in your preface that you are getting out of the dam
1851 business and so on, that you came in and found this turkey
1852 sitting there on the table and that there is no way to take
1853 the turkey off the table--

1854 Chairman *Freeman*. No, sir. That is not what I have
1855 testified.

1856 Mr. *Moffett*. However, you promise not to give us any more

1857 turkeys. That is the good news.

1858 There is a great deal of political power behind this
1859 project and I think the calculations being made by a lot of
1860 people who could help to give us a really objective analysis
1861 tell us that it is not worth fighting. It is not worth
1862 trying to get the turkey off the table.

1863 Is that really off base?

1864 Chairman *Freeman*. Yes, sir. It is not fair for you to take
1865 your views about the project and merge them with my
1866 testimony.

1867 Mr. *Moffett*. I have not done that. I am trying to get
1868 information about whether or not this thing is as much of a
1869 turkey as it appears to be on the basis of all of these
1870 different factors that were supposedly analyzed but now we
1871 find out were not analyzed.

1872 I am having trouble getting information and deciding who
1873 is determining whether or not it is in the public interest,
1874 other than the political forces in this institution which
1875 like water projects. That is all.

1876 I do not have any particular parochial interests myself in
1877 the Tennessee project. This subcommittee is trying to take a
1878 look at what has been the situation in this institution of
1879 ours where we decide how to spend the public's money and
1880 whether something is worthwhile. That is all I think you
1881 have respect for that.

1882 : Chairman *Freeman*. I certainly do.

1883 Mr. *Moffett*. Obviously, you are in a different position.

1884 Chairman *Freeman*. We have cooperated fully with the
1885 committee.

1886 Mr. *Moffett*. Absolutely. No one suggested that you have
1887 not. You have given exemplary cooperation.

1888 Chairman *Freeman*. Thank you, sir.

1889 Mr. *Moffett*. As I said earlier today, when we started

1890 these hearings, there is an exemplary record on your part

1891 and one that I admire very very much, but the bottom line of

1892 this hearing is that, if we are looking for some hard core

1893 info. on whether or not this thing is in the public

1894 interest--

1895 Chairman *Freeman*. Leave that up to the Corps.

1896 Mr. *Moffett*. Yes. We have to go back to the Army Corps.

1897 That is right.

1898 Thank you very much. Not surprisingly, you are an

1899 excellent witness. We appreciate your being here.

1900 The subcommittee stands adjourned.

1901 Whereupon, at 11:59 am, the subcommittee was

1902 adjourned.

1903