

A STATEMENT IN BEHALF OF INCODEL

by
Ellwood J. Turner
1939

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A Statement

DELIVERED IN BEHALF OF THE

INTERSTATE COMMISSION ON THE DELAWARE RIVER BASIN

at a Public Hearing, called
by the War Department,
Corps of Engineers, in Court
Room 300, Custom House,
Second and Chestnut Streets,
Philadelphia, on Wednesday,
July 12, 1939

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HON. ELLWOOD J. TURNER

**Chairman of the Commission
and
Speaker, Pennsylvania House of Representatives**

THE INTERSTATE COMMISSION ON THE DELAWARE RIVER BASIN

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Foreword: Identification

This statement is being delivered in behalf of the Interstate Commission on the Delaware River Basin, a joint governmental agency of the States of New York, New Jersey, Pennsylvania, and Delaware.

The officers of the Commission are: Hon. Ellwood J. Turner, Chairman, and Speaker, Pennsylvania House of Representatives; Hon. Robert C. Hendrickson, Vice-Chairman, and President, New Jersey State Senate. The Executive Committee, in addition to the officers, includes: Hon. Emerson D. Fite, Assemblyman, New York; Mr. F. A. Pitkin, Director, State Planning Board, Pennsylvania; and Mr. Charles H. Gant, Manager, Marine Terminal, Wilmington, Delaware. A complete list of Commissioners appears on the facing page.

Subject of Hearing

In accordance with the Notice received under date of June 12, 1939, over the signature of Major Burlin, this hearing is called pursuant to a Resolution by the Congressional Committee on Rivers and Harbors, adopted January 24, 1939, instructing the Board of Engineers for Rivers and Harbors, created under Section 3 of the Rivers and Harbors Act, approved June 13, 1902, to review the Report on the Delaware River, New York, Pennsylvania, New Jersey and Delaware, usually referred to as the "308" Delaware River Report submitted by the Chief of Engineers on October 9, 1933.

The Resolution directing the review of "308" — Delaware River Report — has limited the scope of the investigation to a determination of the advisability of constructing dams in the vicinity of Tocks Island, Belvidere and Chestnut Hill for the development of:

- (a) Hydro-electric power.
- (b) For improving the existing navigation facilities on the river below.
- (c) For other beneficial effects, including possible sources of public water supplies that can be made available by said dams.

The notice further advises that in view of the questions set forth above, the improvement of navigation facilities for the Delaware River above Trenton is not considered within the purview of this hearing.

We may therefore assume from the foregoing that the sole questions involved here are as to the advisability of the erection of dams at Tocks Island, Belvidere and Chestnut Hill, for:

- (a) The development of hydro-electric power.
- (b) For public water supply.

Summary of Conclusions

Although some of the problems involved will be discussed later at length, it seems to me that we should say, in the light of present conditions and the information which is available, that we are opposed to the erection of dams by the federal government in the Delaware River for the development of hydro-electric power:

- (a) Because such an undertaking by the federal government would mean the surrender of jurisdiction and control over a vast area with its multiplicity of interests, which we believe can be efficiently and effectively handled by the co-operative effort of the states.
- (b) Because hydro-electric power developments, even if proved feasible, practicable, and financially sound, would be injurious to the hard pressed coal industries, which present a critical problem to the State of Pennsylvania.
- (c) Because anything that affects the markets of the coal industry affects the railroads, which likewise are having financial difficulties.
- (d) Because it would create competition with privately owned utilities which are already established in the Basin, and are adequately serving it.
- (e) Because the erection of such dams creates complicated problems in reference to the preservation of the Upper Delaware Basin as a great recreational area.
- (f) Because the Special Master appointed by the United States Supreme Court in the Delaware River Diversion case, found:

"Weighing all the mass of evidence, I am not convinced . . . that the development of water power in the Delaware River and its tributaries . . . though capable of being constructed from an engineering standpoint, would be financially remunerative."

We further believe that no finding should be made at this time in reference to the two problems set forth above for review, to wit, hydro-electric power and water supply:

- (a) Because the Interstate Commission on the Delaware River Basin is planning an extensive study of the water resources of the Basin, in association with the National Resources Planning Board; and
- (b) Because a proper determination of the questions of hydro-electric power and water supply cannot be properly evaluated without adequate information on a multiplicity of other subjects, which data is not available.

Discussion

THE "308" REPORT

The document under review, the "308" Delaware River Report, represents without doubt one of the most comprehensive studies made, up to this time, for the development of the water resources of the Delaware River Basin. The series of reports based upon this four-year study by the Corps of Engineers is a most important source of information for practical planning.

SCOPE

This report, however, is not without serious omissions by reason of the limitations placed upon its scope by the Congress. As required by law, the report analyzes the needs and possibilities for improvement of navigation; hydro-electric power development; control of floods; and irrigation. In addition, water supply and sanitary-salinity conditions in the tidal estuary were also discussed.

By no means does it furnish adequate information to substantiate the immense construction program which it suggests. Nor will this review of its findings, limited to a consideration of the three dams proposed in the vicinity of Tocks Island, Belvidere, and Chestnut Hill, constitute an intelligent approach to the broad problems involved.

RELATED PROBLEMS

The multiplicity of water needs and uses in this, or any other drainage basin, demands a correlated, cooperative investigation, with adequate study of all related water processes.

Under the limitations imposed upon the scope of the "308" Report, adequate study was not given to the pollution and salinity problems, to the water quality problems as directly related to industrial stability and expansion, to water supply projects for other than New York City, Philadelphia, and Northeastern New Jersey, to alternative sources of water supplies for these and other areas, to extremely important recreational interests, or to closely related practices and problems of land use.

Since the publication of this report some events have transpired which might very materially affect its findings — the structure of the Federal Power Commission has been considerably revamped; new Flood Control Acts have been adopted by the Congress; a four-state agreement on water pollution in the Delaware River Basin has been made operative; more adequate hydrologic data, basic to many of our water resources problems, is now available.

NO RECOMMENDATIONS

With no desire to deprecate the outstanding work done by the Army Engineers under the Authority granted to them by the Congress, it is nevertheless our considered opinion that no action and no recommendations for action should be made until an analysis of all factors involved has been made. Sound policy, to affect the lives and the happiness of millions of people, must rest upon the accumulation and digestion of all known facts.

INCODEL AND THE N. R. C.

The determination of a procedure which would result in a reasonable and comprehensive plan of development for the Delaware River Basin has, for some time, been of concern to the Interstate Commission on the Delaware River Basin. In January of this year, public announcement was made by the Commission that plans looking toward a joint investigation of this subject matter by Incodel and the National Resources Committee (now the National Resources Planning Board), were in the formative stage.

These plans have now crystallized to the point where, at the present time, representatives of the National Resources Planning Board and of Incodel are canvassing and collecting the great mass of information in the files of those federal and state agencies which have been operating, in any pertinent way, within the boundaries of this drainage basin, as a first step in our joint endeavor to find a satisfactory answer to the broad problems of water resources control and development by an assembly of essential factual data.

This analysis of water resources needs and possibilities will cover an investigation of population trends and estimates; available water supply resources; public water supplies; industrial water supplies; water quality, from the biological and pathological viewpoints; waste disposal, domestic and industrial; recreation; power; flood control; navigation; fisheries; stream flow regulation; water problems as affected by land conditions, such as forestation, soil erosion, mine wastes, etc., and urban-rural land use practices and problems.

The general program for the investigation of all of these items would be the same in each case. The first step will be to make an inventory of existing conditions. This would involve the collection and assembling of all available data showing the existing status for each of the items. The second step will consist of making an analysis of the existing facilities, uses, etc., to determine what additional information should be collected and to determine the nature of the problems involved. The third and final step will be the formulation of practical programs for the prosecution and solution of the problems uncovered.

The tremendous amount of work involved in this effort would

be parcelled among all state and federal agencies which have a stake in these watershed problems.

AN INTERSTATE PROBLEM

Basically, these water use and development problems which have been enumerated are *interstate not federal*. In this particular, we are in complete accord with the fifth conclusion of the "308" Report that federal participation in any present or prospective project above Trenton does not appear justifiable.

While the Report was prepared in 1932, prior to the greatly extended Federal Works policy and program, we are unable to envision any possible circumstances which might properly and reasonably lead to federal development of the resources of the Delaware River Basin. The planning and counsel of the National Government will help but — as the states have well learned — **federal participation, under federal interpretation, is federal control.**

During the past few years, more than ever before, there has been a one-way valve through which functions have constantly passed out of the states and into the federal government. They rarely return.

Under the joint investigation now in the process of development by the National Resources Planning Board and the Interstate Commission on the Delaware River Basin, the federal government is encouraging the states to integrate their activities. But the lines of authority are to be clearly drawn. The States of New York, New Jersey, Pennsylvania, and Delaware, along with the federal government, are endeavoring to cooperate with mutual courtesy and consideration.

WHAT IS INCODEL?

The Interstate Commission on the Delaware River Basin (Incode) is an agency of coordination and cooperation for the state governments which have mutual interest in the Delaware River Basin. It is a unique experiment to bridge the gap in our federal constitution that failed to set up machinery for the solving of interstate problems in any way other than to vest further power in the central government with a consequent surrender of rights by the states.

The Commission provides a clearing house for the mutual problems of the state agencies operating within the Basin, and is a coordinator to bring the states together and to provide leadership for them.

To appraise, fairly, the results of this experiment in interstate cooperation; to estimate, soundly, its possibilities for the future,

we should not lose sight of the basic concept which brought Incodel into existence. A clear realization of the issues, and a clear understanding of the principles involved, is important to some remarks which I choose to make later.

Briefly put, we all recognize that in a democratic form of government, change is slow but never-ceasing, for the democratic government can continue to survive only as long as it expands to meet each new problem emerging from social, economic, and physical changes in the nation. We all know that a continuous perfecting of government, and its adaptation to changing circumstances is particularly imperative to our federated system of sovereign states. For such a federation is exceedingly complex, and with governmental activities increasing, the problem of administration has grown to awkward proportions. In answer to this problem there has appeared the very natural expedient known as "regionalism," to fill the gaps between federal, state, and local administrations.

Regional government techniques, more closely defined, perhaps, as inter-governmental relationships, have enormously increased in number and importance during the past few years. These techniques are being demonstrated in scattered sections of the nation, among different sets of governmental units, and in widely varying forms and methods of application.

In the field of unified water resources control, primarily on interstate streams, three major regional approaches have been made. The first of these is the method of administering interstate streams which, in some degree, has tended to be adopted by the present national administration. The conspicuous examples of this tendency, in the Tennessee Valley and in the Columbia Valley of the Pacific Northwest, evidence this attitude under which the control of interstate river systems is looked upon as a function of the federal government, to be directed by federal appointees, and to be paid for with federal funds.

This method of river control—imposed on the states from above—has some benefits and, in my opinion, very grave disadvantages.

A second type of regional control over interstate waters attempts to secure general interstate action through a decentralized structure rather than a centralized or national one. I am speaking now of joint action by two or more states under which sovereign state powers are projected upward or vertically to a new governmental level. The distinction between this type of joint state action and the cooperative, voluntary regionalism, represented by Incodel, is not generally recognized nor appreciated. It is nonetheless real. When, under the terms of an interstate compact, two or more states project certain of their powers upward so that they focus at some point above the state level but below the federal level,

the regional technique creating such a super-state authority does not differ greatly from the federal administration and control system.

The third type of regional organization which I should like particularly to stress, since it represents the contribution which we, through the Interstate Commission on the Delaware River Basin, are making to this essential period of experimentation, is—*voluntary regionalism*.

Voluntary regionalism may be distinguished from the two types mentioned in the preceding paragraphs by the fact that it attempts to project certain sovereign state powers laterally at the same governmental level. The four states of the Delaware River Basin have agreed to act in unison toward a common end. This extension of state powers does not involve the creation of a superimposed governmental structure; it has not entailed the addition of a new set of governmental officials; new governmental machinery, established by marked increases in legislation has not been necessary; no new fields of activity have been created.

The impetus, the ground-work of organization, financial and legislative support, technical and advisory services—every feature of the organization and operation of Incodel has been under the joint control of the cooperating states.

Incodel neither holds nor seeks administrative powers; it attempts to supplement, rather than to supplant, the work of existing agencies of the four state governments.

Its membership—four from each state—is made up entirely of state officials representative of the executive and legislative branches.

The weakness of voluntary regionalism, of course, lies in the weakness of the states' wills. Each of the state governments participating in this enterprise acts through individuals to which it gives authority. All that the Commission can do is to make its position clear, and to exercise such influence as it may have to induce the responsible officials of the respective states to comply with the practices which it establishes. If any state, or any authorized representative of a state, is not willing to bear a share of the Commission's work or to agree to the programs which have been cooperatively formulated, the work of all is to that extent crippled.

Speaking in behalf of the Commission, we believe in the future and the practicability of this experiment: we believe that, together, we can carry forward to a successful conclusion this interstate project for the benefit of the five million residents of the Delaware River Basin. And in so doing, we believe that we may better serve the interests of those people by cooperative state action than by surrendering to the federal government, control over this valuable property.

THE INTERSTATE COMMISSION ON THE DELAWARE RIVER BASIN

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