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Contributions of the Watershed Protection and Flood Prevention Act to Over-all Water Policies

By Gladwin E. Young

I think we would agree that at any given time public policy is reflected most clearly in the body of legislation, both state and federal, existing at that moment. But it is also reflected in the way the laws are administered by executive branches of governments.

It does not follow, however, that public policy is made by either the legislative branch or the executive branch of government. Neither is public policy made by research institutions or policy commissions or public policy conferences.

We have seen laws quickly repealed because they were rejected by the people they were intended to serve. Those particular laws did not reflect public attitude. Administrations of federal, state, and local governments are changed sometimes because of unacceptable administrative policy. Policy commission reports lie on the shelf if they fail to reflect what a significant segment of the public already believes or is willing to accept.

So it becomes obvious that public policy is made by a *process* that involves legislation, the administration of the laws, and a fairly high degree of acceptance and compliance by the affected public. Public policies on live issues cannot be static. The difficulty you and I have in knowing what the public policy is on any major problem may stem from uncertainties about the law or its administration, but most often it stems from uncertainties about public acceptance and compliance.

I wish to review with you the public policy issues concerning water and related land resources development that have been dealt with in the Watershed Protection and Flood Prevention Act (Public Law 566, 83rd Congress, 2nd Session, 1954) and the initial efforts to administer this act. I shall discuss the policies laid down in the act itself and the administrative policies prescribed by the President, the Secretary of Agriculture, and the Administrator of the Soil Conservation Service, and shall relate these to major public policy issues currently in the process of development. Whether these policies will be accepted by the participating public can be determined only by experience. The act has been in existence only a little more than a year.

THE FUNCTION OF THE FEDERAL GOVERNMENT IN WATER RESOURCES DEVELOPMENT

This whole question of national water policy is so important now because many water users throughout the nation are just beginning to experience serious competition for usable water supplies. The Geological Survey estimates the nation-wide daily use at 200 billion gallons a day. By 1957, this is expected to double. The economic consequences of either water shortages or floods take on constantly greater proportions as competition for water increases and as more intensive uses are made of flood plain lands. The fact that water will become a significant limiting factor to expanding agricultural production and to industrial growth in the years ahead, is reason enough for concern about national water policies.

The federal government first participated in interstate water development for purposes of navigation. From river and harbor development of the early days, the federal government has expanded its activities to include flood control, irrigation, drainage, power, recreation water, and related activities. The proper functions of the federal, state, and local governments in these and other phases of water resources development are continuing policy issues.

The enactment of the Watershed Protection and Flood Prevention Act in 1954 added a new chapter to the nation's policy concerning proper functions of the federal government in water resources development. President Eisenhower, on the occasion of signing this bill, said in part:

This act recognizes by law for the first time the great importance of upstream watershed protection in an over-all water resource policy. For the first time also, this act provides a broad program of federal technical and financial assistance to such local watershed groups as are willing to assume responsibility for initiating, carrying out, and sharing the costs of watershed protection which will help conserve water for agricultural use and supplement any needed downstream flood control measures.

The significance of what the President said is that the nation's investment in water resource conservation and development shall no longer be limited to engineering works on the main stem of the rivers. Prior to this act, the federal government's active participation in water resources development consisted almost entirely of works of improvement on the major rivers and harbors for navigation, flood control, irrigation, and power. Federal government participation in water resources development for these purposes was enormously expanded following the building of Hoover Dam in 1930. The concept of the use of multimillion dollar multipurpose dams since then has largely dominated the thinking and planning for water resources development for river basins.

It is very significant, therefore, that the Congress through the passage of the Watershed Protection and Flood Prevention Act and the President through his endorsement of it have contributed greatly to the crystallization of national policy on this issue.

WATER AND LAND RESOURCES AS RELATED TO PLANNING AND DEVELOPMENT

The Watershed Act provides for a sound program of soil conservation and water conservation on all the fields and forests in a watershed. In addition, it provides for the adoption of such additional measures as are necessary and economically justified to control and make the best use of water that falls on a watershed.

The watershed management concept is certainly not new. Legislation establishing national forests and authorizing forest and range conservation work and research in these fields dates back to the last century. Embodied in this legislation was the concept that good watershed management on forests, ranges, and farms has a beneficial effect on stream flow and will help prevent flood damage.

During the twenty years that the Soil Conservation Service has been responsible for a nation-wide program of soil and water conservation carried out with farmers through their organized Soil Conservation Districts, a growing appreciation of the relationship of land management to water management has developed. Farmers have seen the effects their soil conservation measures have had on runoff and stream flow. They have seen their terraces, diversions, and small dams, together with good rotations and forest management cut down damage from flood producing storms. They have seen these same measures conserve moisture to help in periods of drought.

A lopsided policy of federal investment of billions of dollars in tremendously large dams and other major structural work on major rivers failed to take into account that if we wait until water reaches the main rivers before we begin to use it or control it, much of its value has already been lost and much of its damage has already been done. Such a policy failed to recognize the interdependence of land and water—water falls first on the watershed lands and at that point is the first opportunity to use it productively and to begin to influence how it runs off the land into the river.

Those who still look at water resources development as strictly an engineering construction job continue to ignore this land-water interrelationship and, therefore, contend that all the water resource functions should be transferred to strictly engineering agencies. The recent Hoover Commission, in its report on water resources and

power, took this point of view. I predict that this particular recommendation of that Commission will be rejected as unsound.

The 1936 Flood Control Act gave expression to a national policy that the federal government has responsibilities in preventing flood damages. It recognized also that watershed management should be an integral part of the nation's flood control program. For various reasons, however, it was never possible for the Department of Agriculture to make much headway under this authority. The passage of the Watershed Protection and Flood Prevention Act, therefore, was a positive step taken to put the watershed management part of the nation's water resources and flood control program on a workable basis.

WATER RESOURCES DEVELOPMENT — A PARTNERSHIP UNDERTAKING BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENTS

In the process of enacting the Watershed law and making provisions for its administration, a new policy position was crystallized by the Congress and the Eisenhower administration relative to the participation of the federal government with state and local governments in water resources development. It places major responsibility on local organizations for the initiation of watershed projects by making these organizations responsible for constructing, operating, and maintaining the projects. It also places responsibility on the state government for reviewing all projects proposed by local organizations and planned with the aid of the Department of Agriculture.

The enormous expansion of flood control, irrigation, and hydroelectric power developments in recent years has been accomplished by means of federal projects with little or no participation in planning or financing by state and local governments, and with only limited opportunities for state and local interests to review plans before authorization.

This fact had been pointed out in reports of study commissions and by many interests critical of the domination of the federal government in this field. Efforts to correct the situation had been made by establishing interagency committees in several of the major river basins. In the case of the Missouri and Columbia river basins, for example, plans for development had already been made and construction was under way on projects authorized by the Congress before the interagency committees were established. The state governors participated on these committees along with representatives of federal agencies. The committees have been effective, within the limits of their advisory capacity, in contributing to coordination

between federal agencies and between states. The multibillion dollar developments, however, continue to be strictly federal projects.

In the Arkansas-White-Red and the New York-New England rivers basins, extensive cooperative studies with full opportunity for participation of the state governments have been carried out to provide a basis for coordinated plans. The reports on these two river basin planning efforts have been completed and are now being reviewed. Whether or not the actual development as a result of these studies will be carried out as strictly federal projects or in partnership with state and local governments is still to be determined.

The policy on this point, however, is quite clear in the Watershed Act. It provides that the watershed projects shall be local projects with federal participation, rather than federal public works projects with local participation. Local organizations must take the initiative in sponsoring the projects, and must take responsibility for constructing, operating, and maintaining the projects. The state government has authority to disapprove applications for watershed projects and to review plans for works of improvement.

When the President prescribed the rules and regulations for administration of the act, he said, "Local initiative and responsibility, and close cooperation with state agencies are key ingredients in carrying out the works of improvement made possible by this law." It has been made clear that it is the intent that the federal government shall have a junior partnership position in the program to be carried out under the authorization of this act. A similar policy position with respect to federal participation in all water resources development appears to be developing.

BENEFICIARIES SHOULD PAY AN APPROPRIATE SHARE OF PROJECT COSTS

It is sound national policy for state and local interests to participate in planning for development of water and land resources, and it is also sound policy to provide for equitable sharing of costs among beneficiaries.

This is the general policy position expressed on cost sharing in the Watershed Act, which provides that local organizations shall "assume such proportionate share of the cost of installing any works of improvement as may be determined by the Secretary to be equitable in consideration of anticipated benefits from such improvements."

The Congress considered the possibility of a specific formula on

cost sharing but discarded it in favor of the above wording. They directed the President to establish rules and regulations for administration of the act. In turn, the President in his executive order gave the Secretary of Agriculture responsibility for establishing criteria for the sharing of costs in conformance with cost sharing policies for all federal government projects relating to water resources development.

The net effect of this is that the Bureau of the Budget has the responsibility of establishing and maintaining an over-all policy on cost sharing to which all agencies of the federal government shall adjust their procedures. While there is no over-all formula and there is general agreement that an equitable share of project costs chargeable to the federal government may vary between projects, there is, nevertheless, a general guide that an equal division of federal and nonfederal costs on an over-all basis may be reasonable.

BENEFITS FROM WATERSHED PROJECTS SHOULD EXCEED PROJECT COSTS

The Watershed Act provides that prior to assisting local organizations in the actual installation of works of improvement, the Secretary is to make determinations as to whether benefits exceed costs. Both the executive order prescribing rules and regulations and the Secretary's policies for administration of the act are also specific on this point. The Bureau of the Budget in its general rules concerning water resource projects¹ requires a concise and complete estimate of benefits and economic costs.

The benefit-cost provisions provide a guide for the formulation and selection of sound projects, aid in selecting best alternatives, and provide information on equitable sharing of costs.

COMPLIANCE WITH STATE WATER RIGHT LAWS

The Watershed Act requires that as a condition for providing federal assistance the Secretary of Agriculture shall require the local sponsoring organization to "acquire, or provide assurance that land owners have acquired such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement."

This policy is further amplified in the Secretary's policy statement, as follows: "Water laws of the various States and all the rights of any land owner, appropriator, or user of water from any source shall be fully honored in all respects as they may be affected by activities conducted under this act."

¹Budget Bureau Circular A-47.

This policy laid down by the Congress in this act and fully subscribed to by the Department of Agriculture has not yet had government-wide acceptance.

COORDINATION BETWEEN FEDERAL AGENCIES

The Watershed Act, in recognition of the need for coordination of water resources development, provided for coordination through review of project plans by the Secretary of the Interior and the Secretary of the Army. The Congress also provided that the President should issue rules and regulations to "assure the coordination of the work authorized under this act and related work of other agencies. . . ." The President's executive order, therefore, makes provision for exchange of information and reports and for assurance from the Secretary of Agriculture that watershed plans submitted "constitute needed and harmonious elements in the comprehensive development of the river sub-basin or river basin involved."

Special attention is given to coordinating the collection of basic data by the Geological Survey and Weather Bureau for use in the planning, design, construction, operation, and evaluation of works of improvement. The Soil Conservation Service has formal agreements with the Geological Survey, Weather Bureau, and the Agricultural Research Service to provide basic data for guiding the program and measuring its results.

CONCLUSION

In conclusion, I would like to emphasize again that the enactment of the Watershed Protection and Flood Prevention Act of 1954 (P.L. 566) added a new and significant chapter to the nation's policy on water and related land resources.

In the process of enactment of the law, certain policy positions were taken that help to crystallize public policy on certain major issues.

The testing period of these expressed policies lies in the acceptance and participation of the affected public. There is evidence of wide acceptance of the policy of participation by the federal government with local organizations in an attempt to deal soundly and constructively with water problems in small watersheds. The Soil Conservation Service, whose responsibility it is to administer this act, has received nearly 400 applications from local sponsoring organizations in 41 states. Each of these applications has been approved by a state agency designated by the governor of the state for that purpose as prescribed by the Watershed Act. Furthermore, 20 states have enacted 37 pieces of legislation during the past legislative season

for the explicit purpose of putting local organizations in a position to carry out their obligations under this new law and for water resources development generally.

The intense interest of watershed groups throughout the country that gave impetus to the passage of the act is continuing through the organizational and planning stages of this program. Actual construction is not expected to get under way until sometime late next spring or early summer.

We in the Soil Conservation Service look at the Watershed Protection and Flood Prevention Act as a most important addition to the soil and water conservation program of the nation. It provides for a very logical next step for those watershed communities in which soil and water conservation measures have been most soundly applied on individual farms. It is a means of accelerating and implementing the soil and water conservation program that has gained so much momentum over the past two decades. It provides an opportunity for the farmers in a watershed community to join hands with their farm neighbors, with their neighbors in town, and with their state and federal governments in dealing with water resources problems that they cannot solve by themselves.