

WITHDRAWAL SHEET

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JGR/ RAILROAD RETIREMENT BOARD

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| DOC NO | Doc Type | Document Description | No of Pages | Doc Date | Restrictions | |
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| 1 | MEMO | JOHN ROBERTS TO FRED FIELDING RE APPOINTMENT TO RRB (SAME AS ITEM #1) (PARTIAL) | 1 | 11/7/1983 | B6 | 822 |
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Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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C. Closed in accordance with restrictions contained in donor's deed of gift.

new file

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John

THE WHITE HOUSE
WASHINGTON

November 7, 1983

[Handwritten signature]

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Railroad Retirement Board

Becky Norton Dunlop called on Friday to alert us to a potential problem in connection with an appointment to the Railroad Retirement Board. Under 45 U.S.C. § 228j(a), the President appoints the three members of the Board, by and with the advice and consent of the Senate. One member is appointed from recommendations by representatives of employees and one from recommendations by representatives of carriers. The carriers have recommended [redacted] [redacted] however, recently testified in opposition to Administration proposals concerning the Board, and Presidential Personnel has put processing of his prospective nomination on hold. Dunlop has asked for our advice concerning the President's authority to nominate someone other than [redacted] whether Personnel should solicit new recommendations from the carriers, etc.

b6

It seems clear that the President is not bound to nominate [redacted] and that he should simply ask the carriers for new recommendations. I have begun researching the question to confirm this view, but wanted to advise you of the inquiry so that it might be appropriately staffed.

b6
✓

THE WHITE HOUSE
WASHINGTON

November 7, 1983

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It seems clear that the President is not bound to nominate [REDACTED] and that he should simply ask the carriers for new recommendations. I have begun researching the question to confirm this view, but wanted to advise you of the inquiry so that it might be appropriately staffed. *b6*

THE WHITE HOUSE
WASHINGTON

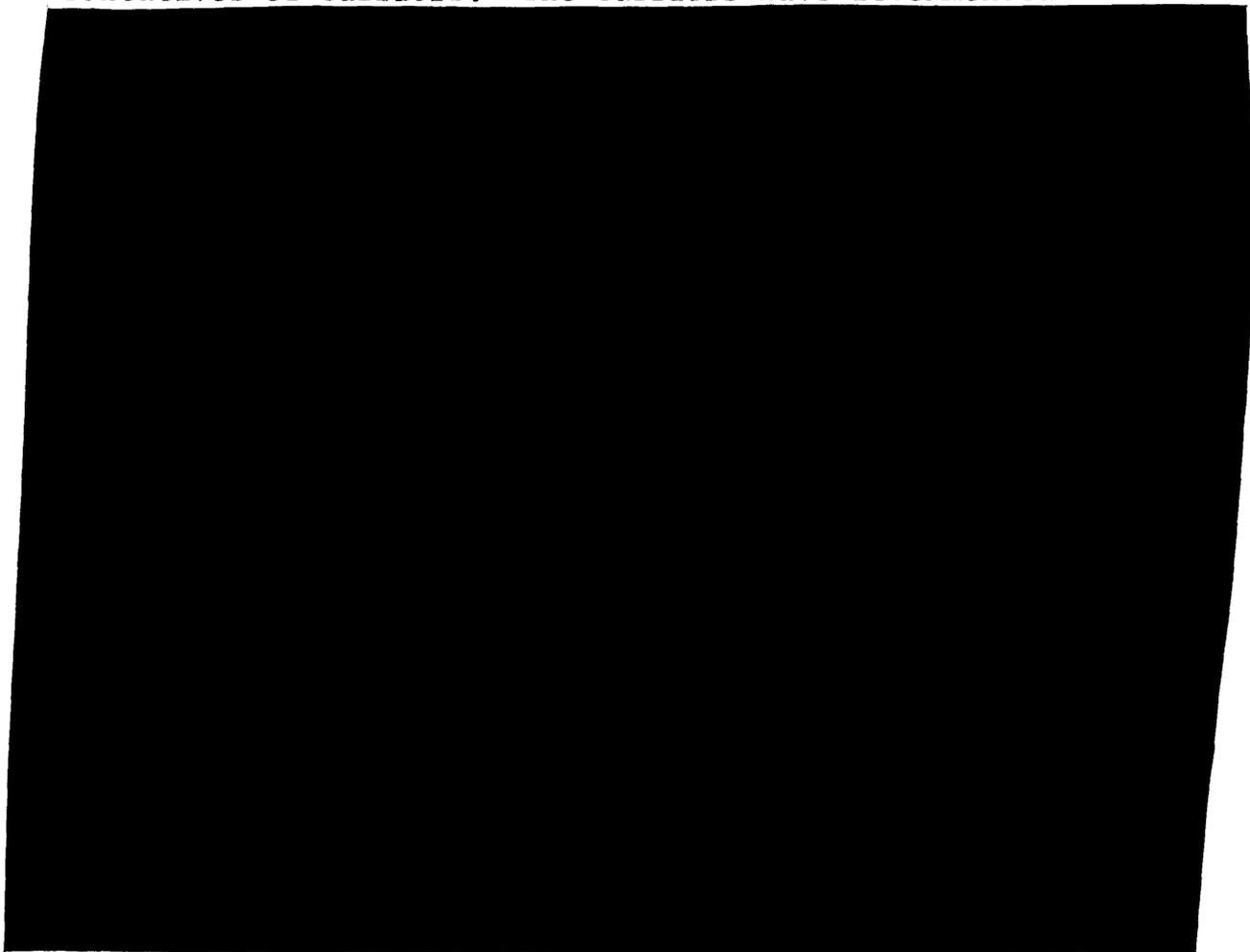
December 6, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

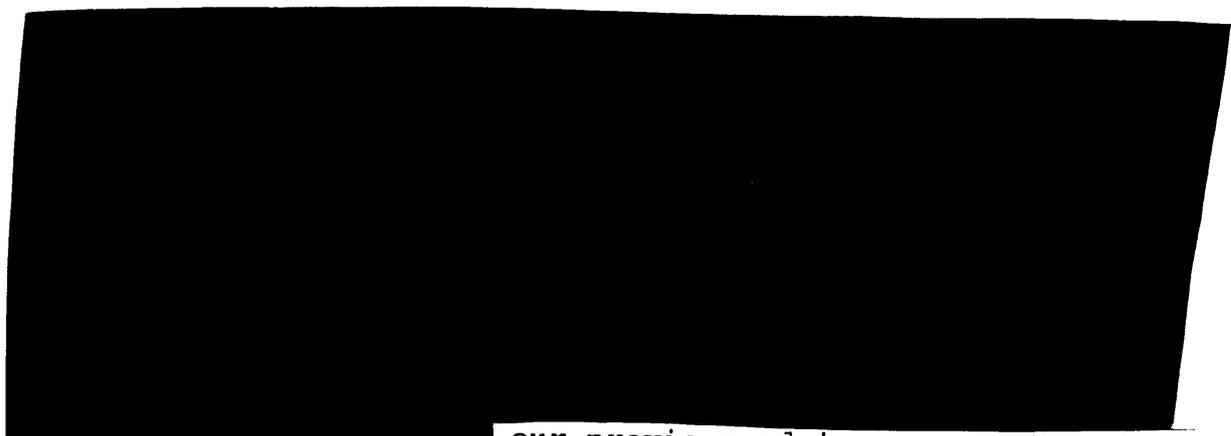
SUBJECT: Railroad Retirement Board

On November 4, 1983 Becky Norton Dunlop alerted us to a potential problem with an appointment to the Railroad Retirement Board. As I explained in my memorandum to you of November 7, the President appoints the three members of the Board, by and with the advice and consent of the Senate. One member is appointed from recommendations by representatives of employees and one from recommendations by representatives of carriers. The carriers have recommended



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COPY - Reagan Presidential Record



b6

our previous advice concerning the President's authority.

Attachment

THE WHITE HOUSE
WASHINGTON

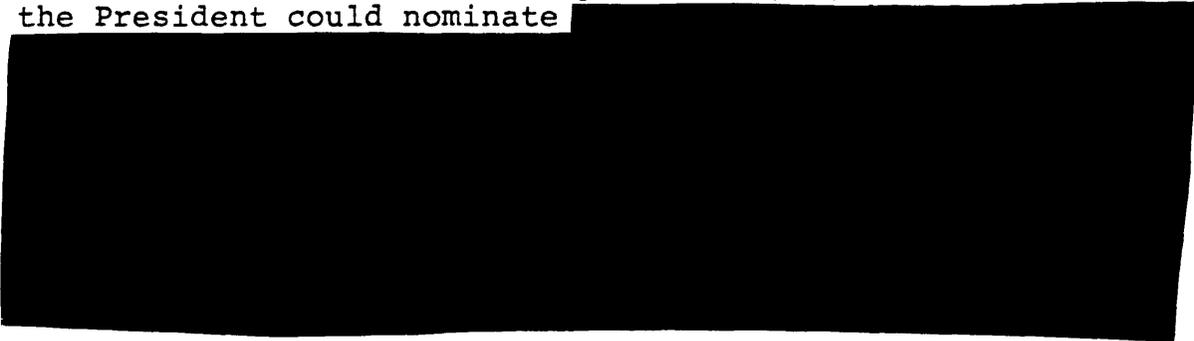
December 6, 1983

MEMORANDUM FOR BECKY NORTON DUNLOP
DEPUTY ASSISTANT TO THE PRESIDENT
PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING. Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Railroad Retirement Board

On November 4, 1983, you asked our advice concerning the authority of the President to nominate members of the Railroad Retirement Board. Specifically, you asked whether the President could nominate

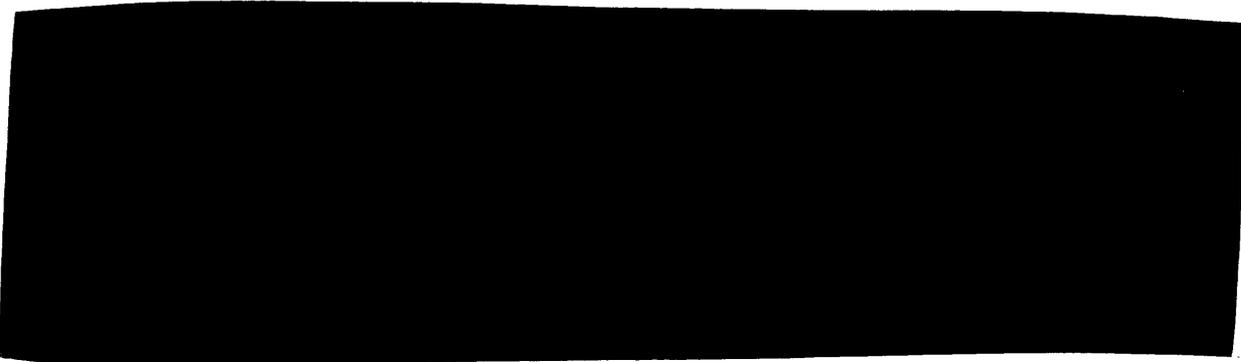


John Roberts of this office advised you on November 9 that the President need not proceed with [redacted] nomination, and that if your office wanted to nominate someone else you should solicit new recommendations from representatives of employers, as provided in 45 U.S.C. § 231f(a). That statute specifies that the President shall appoint the three members of the Board, by and with the advice and consent of the Senate, and that:

One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (i) of section 231(a)(1) of this title, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and employers concerned.

b6

b6



We reiterate our advice that the President is not required to nominate [REDACTED] and that you should solicit new recommendations from representatives of employers if the decision is made not to nominate [REDACTED].

FFF:JGR:aea 12/6/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

February 3, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Power of the President to Remove
Members of the Railroad Retirement
Board

Presidential Personnel has asked for an opinion from our office concerning the authority of the President to remove members of the Railroad Retirement Board ("the Board") from office, particularly those in a holdover status. I have worked on questions concerning the Board in the past -- you may recall the dispute concerning whether the President was required to [REDACTED] to the Board as the choice of carrier representatives -- and have begun to research this question. I send it over at this point only to alert you to the inquiry, and for formal staffing. *b6*

I would point out, however, that my preliminary view is that the President may not remove members of the Board, even those in a holdover status. The Board is an "independent agency" and appears to have quasi-judicial functions, see 45 U.S.C. § 231f. The members serve fixed five-year terms, and there is a statutory holdover provision. I will advise further when I have completed some additional research.

THE WHITE HOUSE
WASHINGTON

February 3, 1984

202854 *cu*

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