

appeals. The court ruled that the United States was without authority to condemn, without a clear expression of congressional intent, Indian lands acquired by treaty and held in trust by the United States.

This ruling brought to a halt the Corp's Candy Lake project last August and now threatens the future of the Skiatook Lake project, in which the dam is already completed but the lake cannot be impounded

until the mineral rights are subordinated to the surface rights. Two other proposed dams are also in jeopardy. The Corps is now awaiting passage of special legislation in Congress that would allow them to continue work.

The Corp contends that the loss of oil revenues would be minimal, and that the federal investment in the dams under construction is already so large that to stop now would be foolish. The Corps

estimates, for instance, that the oil production in the Skiatook Lake area amounts to only 1 percent of the total Osage daily production. This, they say, pales in comparison to the \$6.9 million in annual benefits expected from flood control, water supply, and recreation. Moreover, \$44 million has already been spent on the Skiatook project.

"You eventually come out with the logic that says you will complete the project," says Col. Robert G. Bening, the chief engineer at the Corps Tulsa District office. "I don't know if we're talking 12 months or 12 years. That's hard to say. The situation is similar to the snail darter and the Tellico dam. It boils down to there already being a huge federal investment, and no politician is about to ignore that." The bottom line, says Bening, is that the Corps, as it has in the past, will pay the tribe for projected loss of oil and gas income.

The Osage are not impressed. They note that eastern Oklahoma already has the world's greatest concentration of man-made reservoirs. They claim the so-called benefits of the proposed dams are the daydreams of idle bureaucrats. In the past, moreover, the payments for lost oil and gas revenue have not nearly matched the projected losses. And it is happening again, they insist. With Skiatook, 436 oil and gas wells would be affected, and the tribe would lose more than \$1 million a year in royalty payments. These payments would now be even greater, they say, but companies hoping to lease mineral rights have been scared off by the prospect of the dam and its reservoir. Their reluctance to explore the field will result in an underestimation of the field's capacity.

Shrewd politicians that they are, the Osage are not particularly worried by all this. When pressed, they even admit that the two dams already under construction will probably be finished, given the hefty federal investment. Their legislative and legal maneuvering is basically a stalling tactic so that they can pump as much oil as possible before flooding of the area, and so they can up the ante on the proven reserves of the covered oil fields. One way to do this is to let out oil leases near the dam sites to producers for free. The tribe still takes about one-sixth of the money made off any oil discovered by a driller as a royalty payment, and will eventually get a better idea of the proven reserves under the flooded area. This information is then used in court during settlement for mineral rights.

One Osage official, who asked not to be named, took this logic a step further. "We'll actually get paid for the oil

Carter Creates a Sinewy NRC

One year after the accident at Three Mile Island, President Carter is sending Congress his plan for streamlining authority at the Nuclear Regulatory Commission (NRC). The changes are meant to help the NRC identify and deal more rapidly with problems which are thought to present a danger to public safety.

According to White House aides who drafted the plan, this reorganization strengthens the NRC's muscle in several ways. (i) It establishes the NRC chairman as *primus inter pares* in making policy. This distinction, it is hoped, will eliminate the confusion inherent in the present law, which declares that "each member of the commission . . . shall have equal responsibility and authority in all decisions and actions of the commission." (ii) It makes the chairman the final authority for day-to-day operational decisions. The chief executive officer of the NRC will serve as the chairman's deputy, and he will have the unambiguous responsibility for directing the operational staff. Among offices which will continue to report to the full commission are the licensing board panel, the licensing appeals panel, the advisory committee on reactor safeguards, the office of inspection, and the general counsel. (iii) The reorganization plan gives the chairman power to screen all candidates for staff appointments and to hire and fire personnel for most staff jobs. Candidates for key positions, including nominees for the licensing and advisory committees, will require full commission approval. (iv) In the event of a nuclear accident, the chairman will be vested with emergency powers to act for the entire commission.

Officials in the White House said the reorganization plan will be sent to the government operations committees in the House and Senate; they will have 45 days to mull over the particulars. If no objections are raised, and if Congress does not block it, the plan should be in effect by June.

In a separate action, the President signed an executive order on 18 March, creating a five-member Nuclear Safety Oversight Committee. Its task will be to report to the President on the performance of the overhauled NRC. The members have not yet been chosen.

The President decided not to follow the advice he was given on nuclear export decisions. The Kemeny report on the accident at Three Mile Island recommended that the NRC be relieved of duties involving foreign trade, for these were thought to distract the NRC from its domestic chores. Plans were drawn up to move the export approval function to the State Department or to a special office under the President. But these ideas were dropped, a White House official said, because it seemed unwise to broach this controversial subject in the spring of 1980. The official said the President wanted to avoid a debate on nonproliferation policy in Congress. He suggested that the President may take the issue up again next year, if he is reelected.

Although President Carter has said that he intends to name a new NRC chairman in June, White House officials left open the possibility that the acting chairman—John Ahearne—will be named to the post. There is one great advantage in taking this course, it seems. As an installed member of the NRC, Ahearne would not have to face confirmation hearings in Congress. That may be important in an election year.—ELIOT MARSHALL