

RATIONALITY AND LEGITIMATION:
A STUDY OF THE NATIONAL FLOOD INSURANCE PROGRAM

by

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The dissertation consists in the study of the historical development and present workings of the National Flood Insurance Program. The National Flood Insurance Program is the result of the U.S. government's continued involvement in flood control. This involvement goes back to the early 1800s. The Program is a response to the inability of structural measures to prevent increases in flood damages.

The historical data were analyzed for themes and sensitizing concepts. The themes and sensitizing concepts were then used to guide the second stage of data gathering using field work based on interviews, observations of public and private meetings, and current periodicals. This primary data was analyzed using the themes, sensitizing concepts, and Jürgen Habermas's theoretical work on late capitalism. The case demonstrated problems of rational administration, economics, and legitimation as the federal government has implemented the National Flood Insurance Program.

DEDICATION

This dissertation is dedicated to Banafsheh P. Rucker. I would not have been able to complete this project without her love, support, and critical insights. She has waited for August to come and it finally came in March 1985.

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Chapter One

INTRODUCTION

The National Flood Insurance Program (NFIP) began in late 1968 and was the most recent in a long history of efforts by the U.S. government to deal with the economic problems of flooding. Floods do billions of dollars of damage each year. The amount of losses can be measured in dollars, which is the easiest way, but that does not take into account the costs which are less easily measured. These include the deaths of people, pets, and wildlife which many would argue cannot be quantified except in terms of rough descriptive measures.

One of the major goals of this dissertation is to bring together information to better understand the NFIP. To do this, a historical case study was made. The case begins in the eighteenth century and traces the Program's social history, its frequent administrative changes, and its impact upon the people in the United States until 1980. A further understanding of the NFIP was made possible by gathering primary data in 1979 and 1980. The primary data consisted of observations of public meetings and interviews with federal, state, and local government officials, businessmen, scientists, and private citizens, all of whom were connected with the Program.

The NFIP is not one of the better known federal programs. There have been and are numerous misunderstandings about how the NFIP works and how successful it has been. The NFIP has developed

into a part of the government directly or indirectly affecting almost everyone in the United States. There are over 25,000 flood-prone communities in this country, and these include almost all of our major cities.

A second goal of the dissertation is to link the NFIP to sociological theory. When I initially became aware of the NFIP, I was working on a research project conducted by Dr. Jack Weller and Dr. E. Jackson Baur. At the same time I was in a group of graduate students who were reading critical theory. Critical theory is concerned with understanding the workings of capitalist societies and is grounded in a neo-Marxist perspective. We read several works by Jurgen Habermas. Among these works was the Legitimation Crisis, a work that has been called a landmark in critical social analysis.

Habermas is probably the most prolific, best known, and most discussed writer in critical theory today. In 1978, Thomas A. McCarthy wrote that Habermas was the dominant figure on the intellectual scene in Germany, and he remains so today. McCarthy went on to write that there was scarcely any area of the humanities or social sciences that has not felt the influence of Habermas's work. It is unquestionable that Habermas is the source of many ideas and much discussion in social and critical theory today. His work on the problems and potential crises of advanced capitalism has become the center of attention for many theoretical works and exegeses of social theory.

From Habermas's complex, wide-ranging, and conceptually dense work, several central concepts and propositions have been applied to

guide the interpretation of the historical and primary data. In the Legitimation Crisis, Habermas focuses much of his attention on the present historical period which he called advanced capitalism (or, at times, late capitalism, organized capitalism, or state-regulated capitalism) (Habermas 1975). Advanced capitalism is characterized by the rise of national and international corporations. Also, the state becomes more active in economic affairs by filling gaps left by the market, such as the lack of flood insurance.

Habermas divided societies in late capitalism into three sectors: economic, administrative, and legitimative. The economic system was divided into a private part, which was oriented by the market competition, and the public sector, which has little concern for the market. The public sector has no competition from the market. Habermas believed that the state would become more active in the economic sphere, increasing its control and manipulating the market to cope with economic problems of capitalism.

In his discussion of the problems of late capitalism, Habermas noted that the state not only supplements the economy, but tries to do a number of things to keep the system running smoothly and avoid crises. The state sets up a system of civil laws that are needed to maintain the different parts of the system. It complements the market by adapting to market processes. In some cases it complements the market by replacing it. This is especially true when there is not sufficient economic incentive for parts of the market to fully develop. Habermas felt that the state must create a facade to hide

behind so that it does not have to compensate people who become the victims of the dysfunctions of the system. If the state does not successfully do this then these negative consequences would produce politically effective reactions on the part of different groups. The market replacing actions and the state compensation for dysfunctional consequences of the economic system are two types of government actions that are typical of late capitalism (Habermas 1975:53-4). In order for the state to cope with these economic problems Habermas wrote that it must finance its activities and do so in a rational manner.

These efforts necessitate government expansion. The government increases its complexity with more agencies, programs and more regulations. With these changes come the increased probability of conflict among the government agencies and their administrative rules. Problems of rational administration can be the result. Therefore, the administrative sector is the second subsystem (the economy being the first) to become a potential source of problems and crises.

Habermas suggested that, as the state expands its activities in late capitalism to cope with potential economic problems, it leads to attempts to control nature and social integration. The attempt to control nature is an effort to provide a situation where a capitalist system can function effectively. In other words, where production, consumption, and pursuit of profits are able to continue without interruption. Habermas believed the state was mostly successful in its efforts to control nature to provide stability for the workings of the capitalist system.

The results of the increase in administrative planning are not all positive. Habermas believed that any administrative planning would produce legitimation difficulties because the state or even regional or city governments were expanding into areas that had not previously been subject to control by the governments. He particularly mentions this in terms of city and regional planning which violate the belief in the right of individuals to control their private property.

State expansion thus leads to new demands for the state to legitimate itself and its activities (habermas 1975:36-7). People believe the state is moving beyond its legitimate role. The state confronts the people in different parts of their lives where it had not been previously active. State involvement may make contradictory demands upon the people because it has grown so large and complex that its different agencies have conflicting goals and regulations.

Thus, a set of legitimation problems can evolve out of the expanded state activities, problems that could lead to a legitimation crisis. If the crisis is severe enough, it may lead to motivational problems. The system is no longer believed to be an acceptable one that people should work within and support. In other words, the system is in a true crisis state where the existence of the system is in danger.

Habermas sees four consequences which summarize the basic problems of advanced capitalism: 1) the economic system does not produce

enough goods to be consumed; 2) the administrative system does not produce enough rational decisions; 3) the legitimation system does not provide enough motivation; or 4) the social system does not generate sufficient meaning to motivate action (Habermas 1975:49).

Habermas believed that there were a number of ways a system in late capitalism avoids crises. One of the most important of these is the use of civic privatism. Civic privatism is part of people's need for the administration and maintenance of the systems, but with little accompanying participation. This is combined with people's orientation to career, leisure, and consumption.

One of the important aspects of civic privatism is formal democracy. This provides people with the belief that they have some control in the governance of the system without being actively involved. The people remain loyal to the system without interfering with its administration. The system can thus try to administratively process crisis tendencies.

Habermas wrote that legitimation problems coming about from the administrative planning could be offset by turning the people's needs to goods and services, the second part of civic privatism. As long as there are sufficient goods, there would be no legitimation crisis. He said he believed this to be the case after World War II. The state has become a welfare state and this reduces pressure of legitimation problems.

He suggested several other reasons why administrative intervention does not produce a legitimation crisis. One of the reasons is

that the administrative system has been separated from the legitimated system by a number of different strategies. Issues are presented and perceived as being the problems of individuals and not the problems of a group or of the system. There is a symbolic use of hearings. The hearings may provide the forum for expert witnesses to testify about the problems. There is the use of the legal system which can serve as an alternative to other means of protests. He wrote about the use of advertising to confirm and exploit ideas. These techniques help push problems and arguments below the threshold of people's attention (Habermas 1975:70).

He went on to explain the lack of legitimation crises was also the result of class conflict remaining latent. It remained latent because of the extended business cycle, devaluation of capital which results in permanent inflation and milder business fluctuations. These, coupled with the state actions in coping with the economic problems, have made class oppositions less clear and more fragmented. The dysfunctional consequences are scattered among quasi-groups and other natural groups with little organization. In other words, the problems are not class-specific, but cut across classes.

Habermas pointed to another reason why the system may not face a legitimation crisis. He cited the use of science and technology. As time has passed, they not only have increased control over nature, but also have attained a near monopoly on the interpretation of the world. People's faith has become faith in science. People rely on

science and technology to deal with the uncertainties of the world and make them more bearable. Habermas wrote that this is true of natural catastrophes which are dealt with by large-scale administrative operations (Habermas 1975:119).

He suggested that science and technology have been used by the state to help achieve stability and, in fact, increase productive capabilities. The use of science and technology incorporates instrumental action to control nature and is based on technical rules that he said imply validity claims. He believed these validity claims can be subjected to discussion and criticism by people in the everyday world. If this happens it could reduce the support of the system.

There are some clear parallels between Habermas's ideas on advanced capitalism and the case of the National Flood Insurance Program. The NFIP is an example of the government expansion into the economic and social subsystems. The government has expanded the political sphere to cope with the flood-related problems the U.S. was (and is) experiencing. The structural measures of dams, dikes, and levees have cost billions of dollars and have not proven successful in reducing the damage as yearly costs continue to increase. The people and the federal government have continued to pay billions of dollars each year as a consequence of the development of the flood plains. Federal officials felt an increasing need to administratively solve this economic problem because the government was paying an increasingly heavy price for continued development on the flood plains.

Insurance companies would not provide affordable flood insurance for those in danger of flooding. The companies could not afford this because of the almost uncontrolled development of the flood plains. The federal government filled this void by providing subsidized flood insurance in exchange for communities and counties enacting regulations to control flood plain development. The goal of the Program was to stem the rising tide of flood damage by inducing communities to strictly regulate future development on flood plains. Once this was achieved (assuming that it ever is achieved) the federal government is supposed to remove itself from the flood insurance program and let it be completely controlled by private insurance companies. The government's actions are an obvious and open effort to fill gaps in late capitalism and create a situation where the insurance companies can make a profit, at the same time they have the population safer from the dangers of flooding.

There are several reasons why I chose to study the NFIP. The first reason can be related to the fact that it is not well-known, yet the danger from flooding is known (but not well understood by the people). There is a wide-spread danger from flooding. This is a danger to people in every state and most of the communities in the U.S. It affects rural, suburban, and urban populations. People know floods take place; it is no secret. They read about it in the newspapers and magazines. They see graphic pictures on television, yet they are rarely concerned about floods unless they personally experience one.

For decades the federal government has tried to cope with these problems by using structural measures such as dams and levees. Flood damage continued to increase at a rate faster than money spent on these structural measures. The NFIP holds the potential to significantly reduce many of the problems associated with flooding if people understand the Program and the means it uses to reach its goals. Billions of dollars can be saved, property would not be as extensively damaged, and fewer lives might be lost.

The preceding ideas are discussed in greater detail in the rest of the dissertation. Chapter Two presents the research methodology used to develop the historical case, gather the primary data, and analyze the data. Chapter Three is the historical case of the NFIP including a discussion of the themes found in the case. Chapter Four presents a summary and analysis of the primary data. Chapter Five consists of the evaluation of the case and the fit of the case to Habermas's framework. An appendix is provided which presents a detailed discussion of Habermas's ideas in the Legitimation Crisis.

Chapter Two

RESEARCH METHODOLOGY

I. Introduction to the Research Methodology, Data Collection, and Analysis.

The research performed in the present work can be divided into two parts. The first part of the research developed a social historical case study of the events that led to the National Flood Insurance Program as it presently existed in 1980. The case study was developed primarily from library research and secondary sources. The case was examined for themes that could be used to gain a greater understanding of these events that led to the present program. Several themes were found, and they showed clear parallels to the ideas presented in the work of Jürgen Habermas and his Legitimation Crisis in particular. The similarity of these themes found in the social historical case and those in Habermas's work led to a further examination of Habermas's ideas in an attempt to discover other ideas that might lead to a better understanding of the National Flood Insurance Program. Additional ideas and concepts were found in Habermas's work, but the facts gathered on the events in the social historical case did not readily permit an analysis of these related ideas. This gap suggested a second stage of data gathering where the themes found in the social historical case of the NFIP and in Habermas's work could be further examined and where the related themes found in Habermas's work, unexaminable in the secondary data could be further explored.

Habermas's theoretical position and his methodological position suggested the use of social historical research and analysis supplemented by personal contact with people to explore their ideas about the problems of late capitalism and to look for indications of class consciousness. Thus the second stage of data gathering was also a qualitative one that relied upon field work and depth interviews as well as secondary sources such as library materials, letters, newspapers, and magazines. The people to be interviewed were selected on the basis of the themes found in the historical case, themes shared by the historical case and Habermas's work, and related themes suggested by the ideas found in the Legitimation Crisis.

II. Research Techniques used in the Development of the Historical Case of the National Flood Insurance Program.

The development of the historical case of the National Flood Insurance Program (NFIP) followed a pattern of research employed by many historical sociologists and social historians. The events of the past were gathered and organized following Clark's (1969:10-13) guidelines to present an understanding of a subject believed to be important (in this instance, the NFIP), and that had not been previously presented. It was hoped that the development of this historical case would give the readers some useful insights into the NFIP, and how it functions.

It will not be argued that the materials used in the formulation of the historical case are newly discovered. Some of the events examined were already known prior to this study. However, as Barzun and Graff wrote, "It is the organization of the past that makes the

past valuable..." (1970:173). "It is only with organization that one can turn disconnected facts into a history and reach conclusions and explanations of the past" (Barzun and Graff, 1970:16). Barzun and Graff's position has been a popular one to justify conducting historical research. Marc Bloch made another important point when he wrote that historical phenomenon can never be understood apart from its moment in time. We need to understand the past in order to understand the present, yet we also need to understand the present to understand the past (1963:35-43).

It is obviously the opinion of a number of writers that history is important, but what is history and how does one do the research that leads to history? Leff (1969:3) wrote that history consists in the reconstruction of events, and that history is made intelligible by grouping the events. Bloch wrote that history is the science of men in time (1969:3). Barzun and Graff (1970:16) wrote that history is both science and art. As with most academic areas, the debate as to what a discipline really is has not been finally settled, and I shall not attempt to settle it here.

Just as the debate as to what history is has not been settled, neither has the debate as to what are the appropriate ways to do social historical research been finally determined. Rather than wade through this quadmire of sometimes interesting literature I have chosen to perform the historical research based upon some of the most frequently cited authorities and their suggestions as to some appropriate ways to do social historical research. Some of these are: Barzun and Graff, 1970; Clark, 1967, 1969; Bloch, 1963; Leff, 1969;

Gottschalk, 1969; Jones, 1976; Felt, 1976; Rock, 1976; and Tilly and Tilly, 1980.

Gottschalk has suggested four questions one must answer in order to do historical research: 1) Where were the events located? 2) Who participated in the events? 3) When did the events take place? 4) What functions did the events serve? (1969:62). The National Flood Insurance Program was to be the focal point from which a search was conducted to answer these questions. The answers to these questions required research into past events and facts that were related to the beginnings and subsequent formation of the NFIP as it existed in the early 1980s. Many of these events were previously recorded in historical studies, but were not related to the development of NFIP, and therefore, were handled differently than in the present dissertation. The dissertation therefore attempts to give at least partial answers to the questions that Charles Tilly raised, "How did the world we live in come into being and how did its coming into being affect the everyday lives of ordinary people?" (Tilly 1980:679).

To answer these questions one must perform historical research to build a knowledge of the past. This knowledge of the past gained through historical research can be used to successfully understand part of our social world (Clark 1969:13). It should be stated that the historical research has not yielded complete or final answers. As Bloch wrote, the past is data which nothing in the future will change, but the knowledge of the past is by definition, a set of data which can be progressive and is constantly changing (Bloch 1963:58).

Thus it should be clear that the position concerning the social research conducted for this dissertation is not perceived to be that advocated by Ranke, "...wie es eigentlich gewesen," (as it happened). The historical research conducted and presented in this work is more in accordance with Jones's (1976) perspective when he wrote that the social historian investigates the past, but does not reconstruct it. Only the residues of the past have survived into the present, and it is through an active intellectual exercise of examining these residues and assessing their historical significance that some form of history can be meaningful.

The social historical case of the National Flood Insurance Program is the first part of the research conducted for this dissertation. It was grounded on a combination of sociology and history called for by Jones (1976:304). This approach is used in the present dissertation to sift through facts of the past that are related to the development of the NFIP. However, the question of what is this social historical method that guides the search for related facts that will yield an understanding of part of our past and present lives remains to be answered.

Gottschalk wrote that there are four bare essentials to writing history. The first is to collect the surviving objects such as printed, written, and oral materials that may be relevant. Second, one must then exclude any of the materials that are unauthentic or parts of them that are unauthentic. Third, one must extract from the authentic material the parts that are credible. And fourth, one must

organize the reliable materials into a meaningful narrative or exposition (Gottschalk 1969:28).

One of the most significant actions taken to accomplish the first requirement that Gottschalk made, and perhaps the most important one is library research (Barzun and Graff 1970:64). I could have conceivably gone to any library, but the logical starting point to research the history of a government program would be in the government documents section of a library. This part of the library can provide facts that can be traced back to the early years of the United States and linked to the developing policies of the U.S. concerning flood control. Documents were found relating to the various activities of the numerous agencies and branches of the government that have at one time or another been active in the area of flood control. Some examples of the agencies and parts of the government that had information recorded in government documents were: the U.S. Army Corps of Engineers, U.S. Geological Survey, the Bureau of Reclamation, the Department of Agriculture, the Soil Conservation Service, Congress, Presidents, and the National Resources Planning Boards.¹

The use of government documents was invaluable in developing a social history of the National Flood Insurance Program, but as Felt (1976:18-9) suggested, one must also employ other library sources to guard against the possibility that errors were present in the materials. One can prevent the acceptance of some errors by cross-checking the information of one government report with another, but one must be aware that all of these documents come from the federal government,

thus it is necessary that other sources be examined to help verify the information gained in government documents. (This practice of verification applies not only to government documents, but to all of the materials used in this dissertation.)

One excellent alternative source of information was the local historical collections which contain documents produced by the state governments and other professionals. These collections are usually found in special research libraries (such as Spencer Research Library at the University of Kansas). The materials in local historical collections provide information about the states and regions written by people who did not necessarily work for the federal or local governments. Consequently they were not presenting materials from the same perspective as found in the federal government documents. They were therefore a good source for cross-checking information and also a source for more information, particularly from the regional or local perspective.

There were a number of other library resources that were helpful in gathering information for the social historical case of the NFIP. The special libraries that Gottschalk (1969) discusses such as the law and engineering libraries were useful in gathering information from legal documents, reports, and theses by specialists in particular aspects of flood control and insurance legislation. Finally, the main library was a valuable source for gathering data. Felt (1976: 20) noted the many different types of materials that can be found there, from newspapers to magazines to journals, all containing information that was pertinent to the writing of the social historical

case. It was interesting to note that none of the libraries carried any books that dealt with the NFIP as a main theme. This lack of material on the NFIP in book form gives some perspective as to the lack of an overview of the history and workings of the NFIP. The information from all of these sources were compared to one another to achieve the most accurate representation of the history of the NFIP that was reasonably possible. It will not be argued here that the social history of the case is a completely accurate one.

No historian can hope to unravel every mystery and contradiction or uncover every untruth, half-truth, or downright deception that lurks in the raw materials with which we must deal. But his unceasing demand for accuracy must make him put to test all the material he uses. There is no substitute for well-placed skepticism (Barzun and Graff 1970:128).

The libraries were highly valuable in developing the social historical case, but they alone were not able to provide sufficient information to develop an adequate picture of the social history of the NFIP. A second significant source of information was special publications. These are periodicals normally available only by subscription and aimed at a limited readership interested in a particular subject area. In the case of this dissertation, they proved to be an invaluable source for documenting the recent history of the NFIP. Special publications were often not available even in the vast resources of the numerous libraries at universities nor at the public libraries. One of the most important ones used in this work was the Natural Hazards Observer (NHO). This is a quarterly publication by professionals at the University of Colorado, and is

directed by Gilbert F. White. White has written numerous articles and books on flood-related issues such as flood control and alternatives to structural approaches. His publication provided regular updates on the NFIP. Articles frequently appeared dealing with the NFIP's changes, the challenges to the Program, legislative alterations, and many other items that were related to the NFIP. The National Hazards Observer also provided information on books, articles, and reports that were not commonly cited in the usual indexes at the libraries. This was especially helpful because the publication of indexes takes time and the NHO provided citations to these materials months before an index might. The reports cited were often available weeks or even months before they could be found in a library (although libraries did not usually carry these items) by writing directly to the authors or to the publishing agency. Thus the NHO was an invaluable source, and led to many other sources of information.

In addition to the Natural Hazards Observer, there were several special publications that were useful. These publications were produced by insurance companies, the National Flood Insurers Association, and real estate companies to list only a few of the ones that were used.

Special mention should be made of newspapers. Newspapers present special difficulties that other library sources do not. The vast majority of newspapers are not indexed, and this necessitated an examination of each issue for information that might be relevant. Five local newspapers were searched for items that were related to the NFIP. It was a good practice to use libraries as a source of

examining newspapers, however one must face the problem that articles need to be copied which costs money and are not as easy to read as the original article. Therefore, when it was practical, the newspaper that contained the original article was purchased. This was usually less expensive than having a copy made at the library, and this was particularly true if the article was on more than one page, or if there were more than one article needed in the paper. To help lower the financial burden of obtaining these articles three (3) newspaper subscriptions were purchased. The subscriptions also insured that each issue of the paper could be regularly examined which was a tremendous aid in data collection and the development of the social historical case and the subsequent analysis of themes.

The article was dated, labeled as to what newspaper it came from and what page(s) it was found on, following procedures recommended by Felt (1976) and Gottschalk (1969). The use of newspapers provided a great deal of information about the NFIP. It gave historical information on the actual workings of the Program, placing them in a particular location and at a given time in the development of the Program. The newspaper clippings were important sources of verifying the information gathered from other sources concerning the development and workings of the NFIP. In several of the cases where discrepancies were discovered, it was determined that the newspaper articles were incorrect. These errors ranged from relatively minor things such as dates, to the cost of the insurance, and who could purchase the insurance, which were much more important to the people reading the papers. Such inaccuracies suggest the necessity of cross-checking information

to verify it. It also indicates the difficulty people can have if they are trying to understand how the NFIP works and what its consequences might be.

The fact that a person could not easily obtain accurate information about the NFIP led to the establishment of one of the goals of the present study being the development of a social historical case. This case would have a high degree of accurate information on the events that led to the present working of the NFIP. To try and insure the accuracy of the information one has to be orderly, which involved a tremendous amount of note-taking. The notes needed to be constantly checked for accuracy with the original sources (Clark 1969). After the notes were taken, they were indexed in several ways. A file was established to keep track of people, places, organizations, and documents, and was like what Babbie called a "mundane file" (Babbie 1975:214). A second set of files was also made, and these were called "analytic files." The analytic files were unlike the mundane files, and "wild" with the analytic files. The idea of handling the files in these different ways is to avoid the problems that Gottschalk pointed to by having only one file (1969:68). The mundane file permitted an easy handling of the data in a purely historical way, reading nothing into the data. The data was grouped together chronologically, thus the idea of "tamely" handling the data. On the other hand, one could be "wild" with the second set of files. Being "wild" means one can take the data and place it in a number of different patterns until a logically consistent set of themes emerges from the data. Themes may immediately come out, or

they may take hours, days, or even weeks before they come together.

The logic behind this "wild" handling of the second set of files is the attempt to discover themes in the social historical case. The logic is grounded in the type of research that is being conducted. The dissertation tried to answer the problem of how the National Flood Insurance Program evolved into its present state. I was not trying to test a theory in the positivist sense of developing hypotheses to be accepted or rejected. This would be inappropriate as Clark corrected noted (1969:13). The discovery of themes in the social historical case was not deductive, but neither was it purely inductive. One must observe, interpret, and think about the subject matter and the data being gathered. This was a difficult process since the empirical orientation did not immediately lead to definitions and concepts that were as clear-cut as the traditional image of science (Babbie 1975:13).

The present research could be called exploratory according to Blumer's distinctions (1970:32). This type of research was characterized by the researcher's attempt to gain a close, comprehensive acquaintance with a sphere of social life unfamiliar to him. The inductive orientation allowed the development and sharpening of the themes. The NFIP was studied by letting empirical life guide the directions of the inquiry, the analytical relations, and the interpretations. It was particularly useful to use exploration with the inductive method of coding data since it provided a flexibility that gave me room to shift from one line of inquiry to another as the study progressed, moving in new directions that were previously

unthought of, and changing the recognition of what was relevant data as more information was acquired and better understanding was gained (Blumer 1970:33). Yet it was not a purely inductive process. I did have a predisposition which may have limited my viewing and interpretation of the data. The people who provided the written documentation of events also limited what is seen and what can be derived from the information. Rock (1976:362) wrote that the social historian has no true grounding upon which s/he can defend the interpretation of the research and the codings.

The empirical orientation of the research had the advantage of letting me learn what the appropriate data were as the research progressed. It permitted the development of ideas about what were significant relationships and the development of concepts in light of what had been learned about the social historical case. This was a case of exploratory research. "Because of its flexible nature, exploratory inquiry is not pinned down to any particular set of techniques. Its guiding maxim is to use any ethically allowable procedure that offers a likely possibility of getting a clearer picture of what is going on in the area of social life" (Blumer 1970:33).

The exploratory orientation of the development of the social historical case was somewhat similar to content analysis, although not identical with it. To perform this type of analysis I went through the data. The categories into which the contents were coded varied with the nature of the data. The recording unit used for a code consisted of five major types: words or terms, themes,

characters, paragraphs, and items. The word was the smallest unit generally used.

For many research purposes, the theme is a useful recording unit. In its simplest form a theme is a simple sentence, that is, subject and predicate. Since in most texts themes can be found in clauses, paragraphs and illustrations, it becomes necessary to specify which of these places will be searched when using the theme as a recording unit (Nachmias 1976: 136).

In the present dissertation themes were searched for as the major recording unit. The themes were searched for in clauses, paragraphs, or illustrations in the materials. This position was taken since it followed Blumer's advice of not using any particular set of techniques when all may be useful (1970:33).

The decision was made that themes should be the focus of the recording units. They were classified and coded into categories to determine if they were prevalent throughout the case. This process pointed to the importance of data collection. I had to be brutally honest when gathering the data and putting down the true results of the research. This honesty required a self-awareness of my own biases and trying not to disguise them, but to make them known in a straightforward manner so the reader can have a clearer idea of the orientation that contributed to the development of the social historical case study. This was more important than it might seem at first glance, for an important ingredient in the writing of the social historical case was the use of imagination. This was used to help me seek out the sources needed to find the data to work into the social historical case, and it was used in developing the coding

which was used to draw the themes out of the material for the case (Barzun and Graff 1970:58-62).

Themes were found in the historical case, but the social historical case was based on facts and pure facts in historical reporting were only those statements expressing a conventional relation in conventional terms such as dates (Barzun and Graff 1970:129). When I went beyond these conventional statements I was dealing with ideas. These ideas were grouped together by their underlying commonalities and resulted in the themes in the case. I had to be careful when working with the ideas and themes I was finding because they may be perfectly understandable, but not make sense in the historical period under consideration (Clark 1969:129-160). This re-emphasizes the importance of having data gathered from numerous sources so events and ideas can be cross-checked and verified.

The discussion of the techniques employed to develop the social historical case study has relied upon a presentation which conformed closely with the normal techniques of the historical sociologist and the social historian. However, the present historical case does have its differences with traditional historical research and historiography. Barzun wrote that one must deal with the evidence and secondly make an objective judgment by testing all possible subjective impressions in order to arrive at an accurate knowledge of the past. This would seem to imply a value freedom or value neutral approach to social historical research. Many historians maintain this is not possible nor desirable. I agree with this latter position.

Leff (1969:103-117) wrote that there can be no history without a point of view. He saw historical facts as societal. These facts presume conventions, roles, and values not given in the facts themselves. Bloch (1963:139) took a slightly different position when he wrote that one can be impartial, but there is more than one way to be impartial.

A different position was taken by some people who have called themselves social historians. Tilly (1980:669) has taken the position that social history cannot be value free. Values and judgments are seen as being inherent in all historical research and writing. And there are some social historians such as Fox-Genovese (1976:208) who have suggested the social historian should not be concerned with facts, structural facts, or if what they write is fiction for what they are looking for is a revolutionary tradition.

The position I have taken in writing the present work has to try and present the historical facts as accurately as possible employing as many validity checks as reasonable to determine the accuracy of the facts. I will not argue the presentation is based on value neutrality for I remain unconvinced that value neutrality is a real possibility. Even denying this possibility, I have attempted to approximate it.

A second way the present dissertation differs from more conventional historical research is that there has been no attempt to determine causation. I have chosen to follow the path of more recent historians such as Leff (1969:54), Gottschalk (1969:217), and Barzun and Graff (1970:169) and not look for causation. "...(W)e infer that what history reveals to mankind about its past does not

uncover the cause (one or more indispensable antecedents) of any event, large or small, but only the conditions (some of the prerequisites) attending its emergence" (Barzun and Graff 1970:169). Any attempt at showing causation would imply a measurement that cannot be made. The present social historical case of the NFIP did not seek to present any causal model.

While the methodology was largely historical, it has a sociological orientation similar to that suggested by Merton (1949:9): "One must admit that a large part of what is called sociological theory consists of general orientations toward data, suggesting types of variables which need somehow to be taken into account, rather than clear, verifiable statements of a relationship between specified variables." This dissertation has tried to follow this sociological orientation with a combination of the historian's methodology, sociological methodology, and sociological insights. The lack of specificity concerning the methodology is intended, for as Gottschalk wrote, historical methods cannot be made subject to rules and regulations (1969:51). The facts of the history are derived from the testimony of oral statements, written statements, and other documents. They are only facts of meaning. These facts have no objective reality of their own. They exist only in the historian and the reader's mind (Gottschalk 1969:51).

What the social historian does is search for patterns which are discovered in the data. The search for patterns followed two rules: first, the patterns must correspond to the evidence, and second, they

must provide an understandable design to the researcher (Barzun and Graff 1970:179). Thus the social historical researcher formulates his/her ideas as the data is worked with, and these ideas change with increasing knowledge through more work with the data.

While this sounds fairly traditional, I should point out that the dissertation also employed a somewhat different orientation than traditionally used by some qualitatively oriented sociologists and social historians. Such notable examples as the English historian Collingwood (1956) and the German Dilthey (1978) arrived at the conviction that writing history was nothing more or less than a rethinking of the past, a recapturing in consciousness of bygone events and thoughts. The social historical case study of the NFIP was not an attempt to recapture the thoughts of the people involved in the Program, but an effort to examine the events that led up to and developed into the NFIP as it presently exists in the early 1980s. This included many political activities, economic actions, and the forces of nature to name but a few.

III. The Second Stage of the Research: Gathering the Primary Data

The completion of the historical study of the National Flood Insurance Program was followed by the discovery and analysis of several themes. These themes were found congruent with some of the major ideas in Jürgen Habermas's work, Legitimation Crisis. Habermas's work contains some other interesting ideas. These ideas raised questions which could not be answered by the material in the historical case. This suggested the need for a second set of data

which might further my understanding of the historical development and present functioning of the NFIP.

This two stage approach to research was similar to one which Karl Weick had suggested, "...in the ideal sequence, the observer would start with the empirical approach, obtain extensive records of natural events, induce some concepts from the records, and then collect a second set of records which are more specific and pointed more directly at the induced concepts" (Weick 1968:402).

The dissertation employed a combination approach to develop the case study of the NFIP. The first part developed the historical study. This was examined for the presence of themes, and some were discovered. These themes were similar to the ideas Habermas has written about. The correspondence of the themes in the historical case and some of Habermas's ideas led to a further examination of Habermas's work. Other ideas were found in his work that appeared to be logically connected to the historical case. These relationships could not be thoroughly examined with the historical materials because it had relied on secondary sources. An important part of Habermas's framework concerned people's perceptions and understanding of the social world. He asked the question of how the people view the changes in the structure of their social system. In other words, many of the themes found in the historical case corresponded to Habermas's analysis of the structural processes of the U.S., but his work raised questions about people's perceptions as well. These

questions cannot be adequately answered from the historical case. There was a need to gather primary data from the people directly affected by the NFIP in order to better explore the relationship between the NFIP and Habermas's ideas.

The second stage of the research was concerned with both Habermas's framework, and the themes found in the historical case. It was also concerned with his ideas that were not originally found in the case, but suggested by the logic of his theoretical work. The themes from the historical case and Habermas's ideas were used in a way similar to Blumer's sensitizing concepts. The sensitizing concept, "...gives the user a general sense of reference and guidance in approaching empirical instances. Whereas the definitive concepts provide descriptions of what to see, sensitizing concepts merely suggest directions along which to look" (Blumer 1970:91). "A definitive concept refers precisely to what is common to a class of objects by the aid of a clear definition in terms of attributes or bench marks" (Blumer 1970:91).

Blumer took the position that sociology uses and should use sensitizing, not definitive concepts. He reasoned that we study the empirical world, and we should not confine ourselves to a strictly abstract reference to a concept. He pointed out that we need to recognize that any given concept appears in a different way in each empirical instance. We must then look for what is common in the "pot pourri."

Blumer was aware this position was not a fashionable one in sociology, even though he felt it was the most appropriate one. He wrote some would even dismiss this approach as nonsense. They would argue that this is condemning sociology to forever being vague and ill-defined. However, he stands by his position and maintains this is what sociology is about, and how it should be done. He wrote that sensitizing concepts can be examined, improved, tested and re-defined. One can determine their validity through careful study of the empirical facts they are supposed to cover (Blumer 1970:93). The sensitizing concepts are grounded on sensory data instead of explicit objective traits. One does not use formal definitions when employing sensitizing concepts. The research one conducts, "...is accomplished instead by exposition which yields a meaningful picture, abetted by apt illustrations which enables one to grasp the reference in terms of one's own experience. This is how we come to see meaning and sense in our concepts" (Blumer 1970:95).

The sensitizing concepts used in the second stage of the research were derived from the themes discovered in the first stage of the research. Some of the sensitizing concepts were based on ideas found in Habermas's work that were paralleling the themes in the historical case. A third set of sensitizing concepts also comes from Habermas's work. Strictly speaking, these latter sensitizing concepts are not true sensitizing concepts in the strict sense Blumer used the term because they were not really generated from empirical research. However, it is argued that many of the themes found in the development of the historical case of the NFIP parallel those in Habermas's work.

It would appear to be logically consistent to use these themes as sensitizing concepts in conjunction with the sensitizing concepts generated from the social historical case.

It should be remembered that the sensitizing concepts were not given precise definitions which would have made them definitive concepts according to Blumer. I tried to allow the empirical world to fill in the contents of the sensitizing concepts. It should also be kept in mind that the dissertation was not an attempt to prove any theory was correct or incorrect (including Habermas's). Many writers have pointed out that the researcher can never prove a theory is correct, all we can fail to do is to disprove it (Popper 1968, Willer 1973, Babbie 1975).

Babbie has written that few research projects in the social sciences seek to test substantial portions of general theories. Most empirical research is aimed at testing only portions, limited hypotheses or in the case of exploratory studies to satisfy one's curiosity and to achieve a better understanding (Babbie 1975:67). The present dissertation was not an attempt to prove or disprove Habermas's ideas. It did have a goal of describing situations and events (that led to the development and present workings of the NFIP) which Babbie has noted was a major purpose of many social scientific studies.

The sensitizing concepts developed from the historical case and from Habermas's work were used to guide the data collection for the second stage of the research. The data collection followed a pattern similar, although not identical, to that advocated by Glaser and

Strauss. The specific area of concern was the NFIP and the general sociological perspective was provided by the sensitizing concepts, not a preconceived theoretical framework. One can see the similarity to their theoretical sampling which involved "the collection of data on the basis of a general sociological perspective and on a general subject or problem area" (Glaser and Strauss 1969:45). Their goal was to eventually move toward developing a theory. This is a worthy objective, but the limitations of time and relying on one case prohibit the present work from attempting such a grandiose goal.

The main research technique employed in the second stage was a qualitative one that has been called fieldwork (Wiseman and Aron 1970:73, Becker 1970:212, Zelditch 1970:248, and Wax 1971:42). When one is doing field work much of the analysis can go on simultaneously with the actual observation and interviewing (Becker 1970:206). This is significant because the analysis can further guide the gathering of data before one has completed the fieldwork. The final analysis of the data will not be completed until the completion of the research, but at least one had the advantage of gathering data and seeking out new data that were relevant to the research while this was still a practical possibility.

Becker divided field work into three stages: 1) the selection of the problem; 2) the check on the frequency and distribution of the phenomena; and 3) the incorporation of individual findings into a model (1970:206-211). In terms of the research conducted for this work, the NFIP was the selected case and the problem was to understand its development and functioning.

With the selection of the development and functioning of the NFIP as the problem to be examined, the stage was set for the second step of the fieldwork that Becker had written about, the check on the frequency and distribution of the phenomena. To accomplish this the researcher must actually do the fieldwork. The fieldwork was done by taking on the role of the observer-as-participant, one of the four roles Gold has delineated (Gold 1970:370-380). (The other three roles are the complete participant, participant-as-observer, and the complete observer.) The role of observer-as-participant normally consists of only one or just a few interviews. This demands a more structured approach with specific questions for the person being interviewed, which can then lead to other, previously undetermined questions. The structure of this approach has the advantage of lessening the risk of going "native," which can happen in the more widely known participant observation approach. This is prevented due to the short exposure one has to any one group or individual, yet it still provides time to gain a good understanding of the situations. I deviated somewhat from Gold's description by doing over 200 interviews which helped provide even more detailed information.

The use of fieldwork and interviews have been major parts of the research strategies used by sociologists for decades. Benney and Hughes wrote that, "Sociology has become the science of the interview" (1970:190). This is less true today than it was in the 1950s and 1960s because of the widespread use of computers and quantitative techniques. However, the research techniques of field work and inter-

viewing are still valuable aids to the sociologist who wants a greater immersion into the social world s/he is attempting to understand.

A major data gathering technique employed in this second stage of the research was depth interviews. This is a common technique used to learn more about the people in particular settings or a particular subject matter. In the present case depth interviews were used to gain a better understanding of the themes found in the NFIP and those related themes found in Habermas's work. A depth interview would begin with me asking the interviewee questions about the topic of the NFIP in light of the person's connection to the Program. I followed the answers with increasingly specific questions that focused on certain points that were of special interest as previously determined by the themes found in the historical case and those found in Habermas's work, in other words, the sensitizing concepts. I had to also be especially aware of new themes which evolved as the interviews took place and were not found in the sensitizing concepts.

In most cases notes were taken as I proceeded with the interviews. The notetaking procedure was crucial. I had to continually take mental notes of what was happening during the interview while at the same time transcribing as much detail as possible using the sensitizing concepts as guides. The notes were usually little phrases, quotes, key words, and the like. I used these as keys to my memory of the different pieces of information exchanged during the depth interview. Occasionally there would be a full quotation written down when the information was felt to be of sufficient importance.

While the interview proceeded, I tried to remain open to the possibility that other material may come to light that was relevant to the subject matter, yet not directly related to the sensitizing concepts. These other important materials were also recorded in the note-taking.

After the interview I normally tried to find a quiet place where I could go over my notes and fill in the gaps. I would make further notes about the interview, the person interviewed, and if important, the setting and how it might have affected the interview.

Wiseman has written that the use of depth interviews is a way to get detailed descriptions and explanations of events and social behavior.

The depth interview enables the researcher to probe the intensity of an individual's feeling about the given social phenomenon, the intricacies of his definition of it, and how he relates it to other areas of his social life (Wiseman 1970:27).

The depth interview can be used to "obtain more detail than a formal questionnaire normally makes available. The depth interview is a major tool in the social sciences" (Wiseman 1970:28).

The use of the depth interview can result in a gold mine of information, but I had to be careful in using it. As Gottschalk (1969) wrote, there are certain questions the researcher must ask about the person being interviewed. Was the ultimate source of the information able to tell the truth? Was the primary witness willing to tell the truth? Was s/he giving accurate information in detail? Is there any possibility that the person being interviewed anticipated what I

wanted to hear, or what they thought I wanted to hear rather than telling what really happened, or how they really felt.

To conduct the depth interviews I used some of the basic tools of the field researcher. There are a number of tools to choose from, and in the present research the simplest ones were decided upon, the pencil and paper. These were used to take notes in order to create a field journal. One common alternative to note-taking would be the use of a tape recorder. The tape recorder has the distinct advantage of keeping an exact record of the information vocally transmitted, but has several disadvantages. The tape recording of the interview is just as long as the original interview, which takes time to listen to and transcribe. It will often contain much material that is extraneous to the subject matter under study. The recording does not provide a complete account of the interview, particularly concerning non-verbal communications, the setting, and the interviewer's observations about the interview. Tape recorders may also intimidate the interviewee, and thus prevent a feeling to communicate, and consequently constrain the flow of information (Wax and Wax 1973). For these reasons it was decided to use only the paper and pencil technique of recording the interview.

It was important to record the interview as completely as possible and to follow any new lines of thought that spontaneously arose during the interview shedding new light on the NFIP and/or Habermas's ideas. While I was attuned to the sensitizing concepts, other related and important ideas did come forth as the interviews

were conducted. This re-emphasized the importance that the interview not be too narrowly focused or there was the danger that significant paths toward an understanding of the development and workings of the NFIP would remain unexplored. This would have had the unfortunate consequence of making the historical case less complete and therefore the understanding of the NFIP less successful.

During the interview I focused my attention on the interview I was conducting, but it did happen while I was in the field doing the research that my memory was triggered by something that was said during the present interview. This could have been something about a previous interview or a previous meeting I attended and I had thought unimportant at the time. I recorded this in the field notes and then went over my other notes after the interview filling in the previously forgotten or ignored information.

The triggering of the memory of a past interview or event is a relatively common phenomenon. One example of this happening to me was when I attended a city council meeting. During the proceedings a comment was made about the developers' actions in this community. I immediately recalled a similar type of action that was described to me in an earlier interview in another community. I jotted this down in the field notes and when I returned home I went through my notes of the earlier interview. I did have some notes about the developers, but had not written down enough detail to recall the point. I did not see the significance of the point that had been raised in the meeting that night.

It was important when doing the fieldwork or depth interviewing to take time as soon as I could during the day to completely go over the field notes. The general rule I followed was to write the full notes as promptly as possible; immediately after the interview is best in order to maximize the recall of the events. This also enabled me to return to the interviewee and try to obtain further information or clarification of any questions that arose during the completion of the notes for the field journal. This pattern followed Babbie's suggestion (1975:205-7).

When writing up the full field notes, filling in the gaps, and expanding on what was taking place during the interview, a number of things needed careful attention. I needed to recall distinctions between the verbatim accounts that were strikingly unusual and therefore remembered exactly, and material that was accurate, but not an exact quotation (Babbie 1975:209). In addition, as Becker pointed out, it was important to designate that some statements were voluntarily made, that is, without a direct question from me, or if it was in response to a question. The information should be treated somewhat differently when it followed a direct question. Becker suggested that the evidential value of statements following direct questions was different from that which was voluntarily given (1970:218-9). The use of direct questions may yield information from the interviewee that would never have occurred if the questions had not been asked. Questions may be the cause of reflections that would never have been made. My presence and questioning may more accurately reveal the

interviewee's true perspective which would not necessarily have come out voluntarily due to inhibitions.

This distinction may be considered a subtle one, but the consequences are potentially significant. One goal of the interviews was to accurately gain information about the development and workings of the NFIP as the person being interviewed understood it. The information voluntarily given was probably the least biased. Information given in response to a question may be the true feelings of the respondent, particularly if s/he had already considered the topic under question. But the questions may cause the person to look at the topic in a different way than they have in the past. The comment was made more than once, "I had never thought of that before." This may indicate that correct information was being attained. On the other hand, I had to be careful that the person being interviewed was not responding by trying to tell me what s/he thought I wanted to hear.

One can see the importance of the detailed note-taking of the interviews and observations and the necessity of validity checks when it is realized that in the beginning of the fieldwork I was on the "outside" of the life-worlds of the people directly affected by the Program (Habermas 1975:39). Becker wrote that one can expect to hear statements, often complex statements of the type that things were necessary or sufficient conditions for the existence of some of the phenomena, or statements that some of the phenomena were "important" or "basic" elements of the Program. I had to be cautious about these statements, and verify them with statements from others, as well as relying upon documents for confirmation of the true meaning involved

in the information (Becker 1970:212).

Much of the information that had been gathered in the interviews and observations focused on what Zelditch called incidents and histories. Incidents and histories are one of three broad classes of information. (The other two are: 1) distribution and frequencies, where people and observations are numbered; 2) and generally known rules and statuses, which apply to social settings) (Zelditch 1971: 248). Incidents and histories provide a log of events during a given period, a record of conversations, and descriptions of actions. The actions observed were reported, but the "meaning," the explanations and feelings reported by the participants were also part of the "incidents" and are data that have been incorporated into the research findings. When I was not actually present for the incident or event, which was often the case, I interviewed informants. The informant was treated as the observer's observer and this information was considered as a representative response, particularly if this could be confirmed by another observer(s) (Zelditch 1971:249-253). The goal of these interviews was to achieve what Zelditch called information adequacy, where the meaning could be accurate, precise, and reasonably complete.

The depth interviews made up the majority of the fieldwork conducted during the second stage of the research, but there were other important sources of information: 1) Interviews with government officials who were members of the National Flood Insurance Program, some of whom were in Washington, D.C., and others in the regional

office. There were members of the Federal Insurance Administration (FIA), the Federal Emergency Management Agency (FEMA), the Army Corps of Engineers, the United States Geological Survey, state Geological Surveys, the Soil Conservation Service, and members of the League of Municipalities. There were also local officials for the communities, counties, and states. 2) People from the business sector were interviewed: insurance agents, at the local level, company level, and those holding contracts with the federal government; realtors, store owners, people working in financial institutions, and people working in various businesses. 3) Private contractors, developers, engineers, and architects made up a third category. 4) Newspaper people were contacted and interviewed. 5) Printed materials, such as letters written to newspapers, city councils, county planning boards, the NFIP, the Corps, and others were often the recipients of information expressing people's ideas and opinions about the NFIP. These letters were in the form of comments, questions, criticisms, and occasionally plaudits. Access to these written materials was often provided by the various agencies and by the people I interviewed. 6) An important part of the functioning of the NFIP was to hold public meetings at the city and county level. I attended as many of these meetings as I could (over fifty). The meetings provided the opportunity for people to openly express their opinions about the Program. The opportunities were also present before and after the meetings for me to interview some of the people who came. This could include officials from the NFIP, FEMA, FIA, the Corps, and the USGS, as well as city officials and private citizens. During these meetings questions were raised,

criticisms were voiced, and support was given to the NFIP. The public meetings gave me the chance to hear people's opinions as they publicly presented them and led me to the people who could be interviewed at a later time. The contacts formed at the meetings led to other people and organizations that opposed or supported the NFIP. The public meetings were an invaluable source of information.

The interviewing, observations, examination of documents, and examination of correspondence made up the second stage of the data gathering. All of this fieldwork may be characterized as the examination of the frequency and distribution of the problem, if one uses Becker's criteria. However, it should not be understood that this constituted any numerical manipulation of the data. There was no statistical analysis. Use of statistics was not planned and would likely contain many unknown biases. The data collected was purposely not a random sample, and this was important. Zelditch suggested only data the research had originally planned to treat quantitatively and gathered in a manner amenable to quantification should be treated quantitatively (Zelditch 1971:257). No statistical analysis was performed because there were no plans for quantification, and much of the data already existed.

The use of fieldwork in the present study was a technique for gathering the data and did not yield data for statistical manipulation, but it did have several advantages. I became intimately involved with the research problem. This involvement allowed me to gain insights into the functioning of the Program as seen from the

perspective of state and city officials, the members of other government offices, the Corps of Engineers, the USGS, the SCS, and of course, private citizens who were affected by the Program in numerous ways.

The field work research approach lacked the rigidity of the structured mailed questionnaires often used to gather data concerning people's attitudes and remembrances. Wax has noted the disadvantages of using long and highly structured questionnaires (Wax 1971:8-9). The highly structured questionnaire often results in the respondents making up answers to fit categories that may have little meaning to them or which may not accurately reflect their opinions. Fieldwork allows the researcher to learn to speak the people's "language," to understand the world in a way similar to the respondents (Wiseman 1971:76, Becker 1970:206). This preserved the integrity of the Program, and the people's attitudes about the Program. It made people's opinions about the changes in the Program more easily understood.

One major advantage of using fieldwork was its flexibility, but this is not seen as an advantage by some researchers. Some are insensitive to the ability of the fieldworker to use sensitizing concepts to guide the initial questions, to use them to give some structure to the topics to be covered and then gradually become more specific with the questioning. It is true that fieldwork is not as restrictive as the questionnaire where the questions have been predetermined, and the fixed-choice categories give the interviewees or the respondents only a limited range in which to answer. This range may not be close to the respondents' true thoughts. The use of fieldwork and depth

interviews allowed new material to come out as the research progressed; thus, new questions could be raised in response to unforeseen information. This would be almost impossible with the fixed-choice questionnaire (Wiseman 1971:30).

I decided that the depth interview offered the distinct advantages of gaining a better understanding of the ways in which the NFIP had come to function and affect people than could be obtained by other research techniques, especially since the study was an exploratory one.

This did not mean fieldwork is without problems. The technique of depth interviewing was one that had certain problems that accompany its use. Most notable among the problems of doing interviews is creating and maintaining a social situation where the interviewee is at ease with the interviewer. This is important so that s/he can express in detail their true thoughts and feelings. I tried to help create a relaxed environment by guaranteeing the interviewee's identity would be kept confidential and assuring him/her that their information would be used as part of a legitimate research project. In addition to this, it was crucial that I try to remain as neutral as possible while I conducted the interviews. I tried to continually encourage the interviewees to keep talking on the subject at hand, but I did not moralize or indicate how I felt about the information being received. I nodded my head to show I understood or asked for a re-statement of the information if I was unsure of the interviewee's meaning. Another technique for verifying the information was to ask the same question later, although wording it slightly differently.

This provided a check on the reliability of the interviewees' answers and my understanding.

Depth interviews have some definite disadvantages. They require a great deal of time, particularly when many interviews are conducted. Unlike the questionnaire which can be mailed out and returned in a few days, the depth interview technique can be performed by interviewing only one or a few people at a time. The large amount of time needed to do the fieldwork was considerable longer than I would have needed to administer a mailed questionnaire.

Another potential disadvantage of depth interviews is known as the "guinea pig effect," which means the people feel they are tested or must make a good impression during the interview. The danger is the people would tell me something untrue, perhaps what they think I really wanted to hear (Selltiz 1959:97).

IV. Data Analysis

Once the data for the second stage of the research had been gathered I turned to the analysis. This involved the transformation of the observations and interview materials, the analysis of the documents and other written materials into a system of categories, and the translation of these categories into codes amenable to further analysis. This whole process was guided by the sensitizing concepts (which were based on themes found in the historical case, parallel themes found in Habermas's work, and related themes in Habermas's work). The field notes were taken from the interviews, newspaper clippings, correspondence, documents, observations at public meetings

(as well as some meetings not open to the general public). These notes were typed, or re-written by hand on paper with margins large enough so additional comments and codings could be used to help organize the notes. A coding scheme was devised based on the sensitizing concepts. The data was evaluated and then I wrote a code in the margin, which indicated the content. At the same time as the coding of the re-written field notes occurred, sheets of paper with headings that corresponded to the codes were used to record where the information could be found in the re-written field notes. On the coding sheets I also wrote comments concerning whether the material should be paraphrased, quoted, or deleted.

The coding and organization of the materials was not done in a completely fixed manner. The sensitizing concepts from the historical case and/or Habermas's work were used, but were not the only categories in the coding process. I had to be careful to prevent this bias in analyzing the primary data as I was careful in gathering and analyzing the data used in the development of the historical case (Blumer 1970:94-5). Some materials gathered in the interviews were clearly unrelated to the historical case and the sensitizing concepts that were employed. During the course of the interviews the people would wander from the immediate subject onto such topics as how poor or well their particular business was doing when the main point may have been that they had a house on the flood plain and finding another house would be a financial hardship. On the other hand, data from the interviews and documents contained important points not subsumable under the sensitizing concepts of the historical case and

Habermas's work. This information received a temporary code and was listed on other sheets of paper in a manner somewhat similar to that done with the data that could be coded according to the regular codes based on the sensitizing concepts. The data was further annotated so that it could be examined for additional themes not previously known from the historical case or Habermas. This material received considerable attention to determine if the temporary codings they received were an accurate description of the material and if they were an indication of previously undiscovered themes. New themes were examined for consistency of presence in the numerous sources of information (although a theme could be significant and be present in the data only one or two times) and how they fit the themes already identified.

The new themes were found in what Hatt and Goode (1952:88) have called deviant cases. They have demonstrated the importance of looking for such deviant cases and the danger of not looking for their existence. While much of their work was concerned with the use of statistical analysis, they were sensitive to the dangers of using statistical techniques and the concomitant possibilities of overlooking deviant cases. A researcher may have used statistical techniques to analyze data and not have found any statistically significant differences. One reason for this lack of significant findings is that cases may differ in a relatively equal number of changes and in opposite directions. Some statistics would not have shown any significant difference in these cases. Hatt and Goode therefore suggested one has to be sensitive to the possibility of deviant

cases and to look specifically for them in any kind of data analysis. The particular research methodologies employed in the present research actually made the discovery and examination of deviant cases easier than many statistical manipulations because these cases were not hidden in an array of statistical manipulations. In fact, just the opposite occurred, they were much easier to find since they were obviously different from other information gathered.

Many researchers would consider the discovery of deviant cases problematic; however, this does not have to be the case. "Analysis of these deviant cases may actually add further data to the hypothesis, by showing that there is an underlying principle for both the deviant and the nondeviant" (Hatt and Goode 1952:89). Thus one should not consider the deviant cases as awkward or useless, but data that can be utilized to learn more about the matter under study. One needs to understand why these cases are deviant and to incorporate this understanding into the total analysis of the topic under consideration.

The incorporation of the findings based on the deviant cases often required considerable thought for the occurrence of deviant cases was usually not found until after the data had been analyzed. Hatt and Goode suggested this occurred after a preliminary set of indicators is first used and the researcher had begun to fit the data into the developing framework. The present research had the advantage of Hatt and Goode's advice, and the development of the historical case to already have sensitizing concepts before the primary data was gathered. These (along with the sensitizing concepts from Habermas)

allowed the deviant cases to be easily spotted as the primary data was being gathered.

In spite of this and no matter how clearly I worked out the details of the coding of the data, some responses did not seem to fit. Sometimes they seemed to be fuzzy or vague and in other cases they were quite clear. Hatt and Goode suggested that these cases should be studied in detail for they may require a new set of indicators or new concepts. This is one of the reasons why I used temporary codes when coding the data that did not fit the original sensitizing concepts. If the deviant cases were found throughout the coding process this was an indication that they were important and had to be considered in terms of the scope and explanatory power of the themes (Hatt and Goode 1952:323-338).

What Hatt and Goode have suggested is that the analysis of deviant cases can lead to considerable clarification of the research and of theory. This examination of deviant cases was particularly important in the exploratory stage of research because the researcher is likely to see things selectively that is, to see those things that seem to support the sensitizing concepts, while neglecting other data that may be equally important. Only by recording these deviant cases and then analyzing them can one feel more secure that most of the pertinent data have been incorporated in the research process (Hatt and Goode 1952:338). This position fits in well with the perspective that Blumer provided when he wrote, "It is particularly important in exploratory research for the scholar to be constantly alert to the

need for testing and revising his images, beliefs and conceptions of the area of life he is studying" (Blumer 1970:33).

Thus the primary data were analyzed with the use of sensitizing concepts, while remaining alert for deviant cases. The results of the data analysis can be grouped into several categories: 1) data congruent with the historical case and with Habermas's work; 2) data supporting the themes in Habermas not present in the historical case; 3) data indicating new themes not found in the historical case or in Habermas; 4) data contradicting the themes suggested by Habermas; and 5) the data contradicting the themes found in the historical case and Habermas.

All of these outcomes have significant consequences for the understanding of the social historical case of the National Food Insurance Program. They can show that the themes do indeed seem to be valid conceptual statements of the development and functioning of the NFIP. The analysis may show the themes were not continued in the present state of the NFIP due to the changing nature of the Program. The analysis of the data can also lend support to Habermas's ideas, or it may point to possible errors in his thinking. Habermas recognized the need for empirical analysis to explore the connection of his ideas to what was happening in the real world (Habermas 1975: 52). The possible errors he could have made can be grouped into two types: 1) those where he was clearly, or at least apparently mistaken; and 2) those where he had "gaps" in his conceptual framework.

Thus the development of a historical case study of the National Flood Insurance Program can be valuable for several reasons. First, to provide a clearer understanding of the development and functioning of one part of the federal government, its interaction with other governmental bodies and with the public. Second, the historical case can provide an opportunity to empirically examine some of the ideas and concepts in Habermas's work, and the Legitimation Crisis in particular. The analysis took place using the qualitative methodology of sociology and history, which is the combination of methodologies that has been advocated by Habermas, and many sociologists that have produced some of the classics in past sociological work such as Lynd's Middletown, and Vidich and Bensman's Small Town in Mass Society.

The success or failure of the present work will not rest on proving or disproving Habermas's ideas (because I am not trying to do this). Nor do I aspire that the sensitizing concepts from the historical case and Habermas lead to a more general theory. For me the success or failure will depend upon whether or not I have been able to make the past and the present more intelligible (Leff 1969: 123).

Chapter Three

THE HISTORICAL DEVELOPMENT OF THE NATIONAL FLOOD INSURANCE PROGRAM

I. The Genesis of the United States Government's Involvement in Flood Control

To achieve an understanding of the National Flood Insurance Program one needs to have some feeling for the flood control policies and water resources throughout our nation's history. The federal government was given the power to become involved in water resources by the Constitution. This power was derived from the Commerce Clause of the Constitution, which indirectly led to the development of flood control policies by way of navigation. The United States Constitution, 28: Article I, Section 8, stated that the federal government had the power, "To regulate commerce with foreign nations, and among the several states..." Commerce was found to include navigation with the Supreme Court Ruling of 1824, when Chief Justice Marshall ruled in the case of Gibbon versus Ogden (U.S. Supreme Court 1824).

The 1824 Supreme Court ruling helped to clear up many problems revolving around early action on waterways by the individual states. These problems had come about, in part, due to the Gallatin Report of 1808, which had proposed a nationwide system of canals and river improvements. The justifications for this system were the economic development of the West, political unity, and national defense needs. There was a lack of action due to "strict constructionist" presidents James Madison and James Monroe, both of whom opposed the nationalist

proponents of the Gallatin Report. Gibbon versus Ogden found that providing for navigation was within Congress's power to regulate interstate commerce.

Following the 1824 ruling, legislation was enacted to allow work for improving navigation on the Ohio and Mississippi Rivers. The legislation was based in part on the work done by West Point military engineers, who had begun to survey the Ohio and Mississippi Rivers in 1820. This work was the beginning of civil works programs of the United States Corps of Engineers (Moreell 1956:24).

The Gibbons versus Ogden ruling did not end the controversy of federal internal improvements. There was a great deal of debate throughout the entire pre-civil war period between the nationalist Whigs and the Westerners versus the Democrats and the Southerners (Holmes 1972:3). The main trend was one of more federal participation as Congress made land grants to the states to promote river improvements. The Swamp Acts of 1849 and 1850 gave swamp lands that were owned by the federal government to the states. The states then sold the land, and the money from the sales was used to build flood protection. This was the beginning of federal participation in flood control (Soice 1972:5). The federal lands involved were in Arkansas, Louisiana, Mississippi, and Missouri. The following two decades saw Congress direct the Corps of Engineers to survey the flood problems of the Mississippi River. Their reports suggested the necessity of an extensive levee construction project. This was beyond the financial capabilities of the individual states, and the

proposed appropriations were defeated. The defeat was partially the result of post-civil war hostilities (Holmes 1972:4).

In 1874 the U.S. experienced the first in a series of natural disasters that was to influence and stimulate the federal government to action. Rain along the Mississippi River produced a disastrous flood that year and Congress appointed a commission of engineers to report on a permanent plan for the reclamation of part of the Mississippi River valley that was subject to periodic flooding. The main conclusion of the report was an over-riding criticism of the lack of coordination among those who built the levees. The lack of coordination resulted in poor flood protection (Holmes 1972:4).

There were two important outcomes of the 1874 studies by the engineers. First, the United States Geological Survey (USGS) was created to collect hydrologic and geologic information. The second was the formation of the 1879 Mississippi River Commission which was composed of three U.S. Corps of Engineers people, one person from the USGS, and three civilians. The purpose of the commission was to survey the Mississippi River and prepare plans to improve navigation and to prevent floods. Even at this early point in the history of the U.S. there appeared to be conflict between the Corps of Engineers and the USGS over their assigned duties, since both were concerned with navigation and flood control.

In 1874 the (William) Windom Select Committee issued a report which marked a change in the federal government's position concerning water resources. The report suggested a comprehensive program of

waterways improvement. This recommendation was used as a political pork barrel by reform President Chester A. Arthur (1881-1885).

In 1884 Congress passed general navigation legislation. Part of this legislation provided that the district engineer (Corps of Engineers) must decide if the river was worth improving before any survey is to be made (Holmes 1972:4). The Corps was further empowered by this legislation to build bridges, channels, wharves, and other structures related to water. Thus the Corps gained a great deal of influence with this legislation over the construction of projects along and over U.S. waterways. While Congress gave this power to the Corps in 1884, the money was not appropriated for navigational improvements until 1890, and it was expressly prohibited from using any federal funds for the construction of levees.

Control of flooding was also becoming linked to other actions by the federal government as can be seen in 1891 when the president established forest reserves in the public domain. This was done primarily for timber conservation, but part of the justification for the forest reserves was to prevent flooding.

The concern with controlling floods was not just at the federal level. One can also see this with the formation of a regional group in 1893, the California Debris Commission. This group made plans for the Sacramento and San Joaquin river systems to prevent flooding, to protect navigability and to protect the people from mining pollution.

II. The Progressive Period

In 1901, one can see the beginning of a new era in the United States, one that Holmes has suggested be called the progressive period.

This period lasted until the 1920's. It began in 1901 with President Theodore Roosevelt, a self-proclaimed conservationist, taking office. In this time the government exhibited a concern for the conservation of natural resources for the use of the people and for future generations. The government was opposed to control of the economy by monopolies and the "subsequent exploitation" that was common to these forms of business. Pork barrelling was no longer considered the appropriate way to run a government. Roosevelt attempted to "clean up" the government, with no "giveaways" of the public domain to special interest groups. There were positive efforts by the federal government to encourage small, family-sized farms and independent enterprises. There was the "Abandonment of Laissez faire in favor of a Hamiltonian strong federal government, intervening in economic life, but for the Jeffersonian purpose of protecting equality of opportunity and promoting the well-being of the people" (Holmes 1972:6).

President Roosevelt had a great deal of legislation passed under his tenure, as well as appointing commissions and rearranging the federal government. The Reclamation Act of 1902 established the Reclamation Service, as a part of the USGS. The purpose of this legislation was to increase the economic development of the Western United States. The money allocated was used to build water resources projects, with the most common use being irrigation. The money for the Act came from the sale of land in sixteen (16) Western states (including Kansas and Oklahoma).

In 1907, the Bureau of Reclamation was formed as a separate agency, no longer directly connected with the USGS. Its duties were

largely in the areas of irrigation, power, and water supply. The Bureau of Reclamation became the third federal agency (along with the Corps of Engineers and the United States Geological Survey) to be concerned with the prevention of water related problems in the U.S. As time passed, the Bureau of Reclamation was to play an increasingly important role in the history of flood control in the U.S.

The following year, 1908, saw President T. Roosevelt appoint the Inland Waterways Commission to survey the U.S. waterways and water resources. The survey included navigation potential, flood control possibilities, water power, irrigation, and pollution control possibilities. One of its recommendations was to form the National Waterways Commission, which was created in 1909 by the Rivers and Harbors Act. The National Waterways Commission reported to the President in 1912 and prophetically advocated a system of federal reservoirs for flood control. They also included the concept of multi-purpose benefits derived from these reservoirs. This would be used to justify such reservoirs in the future.

While the federal government was doing studies and forming commissions, Mother Nature was continuing to make her presence felt. The years of 1915 and 1916 saw major flooding. This was the stimulus needed for the passage of the first major piece of legislation that was directly concerned with flooding, The Flood Control Act of 1917. This Act provided for the examination of floods and surveys to determine the likelihood of reoccurrences of floods.

During this same time, a second Waterways Commission was created by the President, and it existed for three (3) years, from 1917-1920.

Its tasks included preparing a nation-wide plan and coordination of work for all federal agencies involved with waterways. In other words, the development of multi-purpose plans.

The U.S. Corps of Engineers was opposed to the idea of multi-purpose planning. They only supported the planning and construction of single-purpose structures. A major emphasis for the Corps during this period was the construction of levees for flood control. One half of the costs of the levees was paid by the state which contained the community that was to directly benefit from the construction of the levees.

The position of the Corps of Engineers was indirectly supported by both Presidents T. Roosevelt and Taft when they vetoed bills granting private power development privileges on navigable waters. Of the federal government programs that were constructed during this period, most of them benefitted the West (which were build by the Bureau of Reclamation), the Midwest, and the South. The main rivers that were studied and the object of this construction were the Ohio, Missouri, and the Mississippi. The majority of flood control measures were justified by the proposed saving of lives and property. Those were built in (chiefly) the Mississippi River valley cities. There were some efforts to introduce water power developments (mainly hydroelectric dams) in this period which were "...frequently met by local opposition" (Holmes 1972:8).

In 1920 Congress authorized the formation of the Federal Power Commission. The purpose of this Commission was to collect data on

water resources for the potential use as hydroelectric power to be used by commerce and industry (House Document 308).

III. The Expansion of the Federal Government and Increasing Conflict

In 1921 there was a re-organization of the government, and the Bureau of the Budget was created. The Bureau of the Budget was empowered to fund all water resources projects. The B. of B. was located in the Department of the Treasury. During the 1920's, one can see much duplication and the beginning of some conflict within the government and between its agencies. IN 1922 the Bureau of Reclamation began regional multi-purpose planning by diverting the waters of the lower Colorado River to the Imperial Valley in California. In 1925 the U.S. Corps of Engineers and the Federal Power Commission were jointly listing streams for consideration of constructing facilities to generate power. However, in 1927 only the Corps was empowered by the Rivers and Harbors Act to do surveys considering the comprehensive use of hydroelectric power, navigation, flood control, and irrigation. Until this time irrigation had been the responsibility of the Bureau of Reclamation, not the Corps.

The Bureau of Reclamation was not to be outdone so easily. It extended its horizons in 1928 by receiving authorization to build the Boulder Canyon Project, which included flood control, a function of the U.S. Corps of Engineers until that time (Moreell 1956:68). "It was becoming apparent that the two agencies were fast coming into conflict and competition in the water resources field. The situation would worsen..." (Soice 1972:7).

In 1928, once again a natural disaster was to pressure the federal government into taking action. The worst flood on the Mississippi River since the founding of the country occurred. Congress adopted an ambitious project to control the floods on the Mississippi River and its alluvial valley. Unlike past projects, the federal government paid 100% of the costs. Provisions were made for levees and diversion of floodways. Congress also required reports on the possible effect of flood control by a system of reservoirs on the lower Mississippi River and its tributaries. The Corps of Engineers conducted the studies and concluded with the recommendation that the reservoirs should be constructed. Their recommendations were conditioned on two points: 1) that there be local participation in the planning and 2) the benefitting localities help finance the construction.

Closely following these events came the Depression, which brought about a dramatic change in the U.S. This was also true for the way the federal government conducted its concerns about water resources and flood-related activities. In 1931 the Federal Employment Stabilization Act was passed. This required six (6) years of advanced planning for all government programs. When Franklin D. Roosevelt became president (1933), his "New Deal" administration accepted this idea of nationwide planning which would provide for the coordination of the work of all federal agencies. The result was a series of multi-purpose plans. Roosevelt saw a need for immediate action to help counteract the effects of the Depression and responded with public works projects to stimulate construction

industries and to provide jobs for the unemployed. Plans were developed for entire river basins. Roosevelt had, in effect, changed the role of the President. He began to submit draft bills to the Congress. This had actually begun with Presidents T. Roosevelt and Wilson, but F.D. Roosevelt went even further. He would send messages, draft legislation, and actively use committee chairmen (a practice that is common and expected today). In Title II of the National Industrial Recovery Act of 1933, and in the Emergency Relief Appropriation Act of 1935, the "...president was given unprecedented public works planning powers to deal with the economic crisis" (Holmes 1972:13).

The dramatic change in the role of the government can be seen in the creation of the Tennessee Valley Authority (TVA, 1933). This was the only agency empowered to exercise all federal functions in the development and management of water and land-related resources within a geographical area. This included the planning, construction and operation of the dam and reservoir projects for the primary purpose of navigation and flood control. It also included the generation of electricity. It sold the power it generated to help create revenue. In addition, it operated nitrate plants for fertilizer and munitions, and helped plan soil conservation and forestry. Thus TVA became the fourth independent federal agency designed to develop water resources and to deal with flood control. Unlike the Corps of Engineers, it needed the approval of only one set of committees, the Appropriations Committees of the House and Senate.

In addition to the TVA, the federal government was actively appropriating money for four National Planning Boards. The first one was created by the National Industrial Recovery Act of 1933. This was the Public Works Administration, which was a "comprehensive" program of public works that included a full spectrum of water related projects. The Public Works Administration built a great many multi-purpose dams. The National Industrial Recovery Act had unprecedented funding in 1933, three billion three hundred million dollars (\$3,300,000,000), and in 1935, four billion eight hundred eighty million dollars (\$4,880,000,000). This provided a great deal of strength to the U.S. Corps of Engineers and the Bureau of Reclamation, which were doing the majority of the flood control work.

In 1935, Congress gave the Corps of Engineers authorization to follow up the "House Document 308 survey report" (which authorized data collection concerning water resources) to take in consideration the economic changes of the country. The initial emphasis was on navigation, but that soon changed to flood control. Up until 1936, flood control studies had been limited to specific rivers, mainly the lower Mississippi River valley. The 1936 Flood Control Act began a National Flood Control Program with the U.S. Corps of Engineers in charge. This authorized a series of multi-purpose reservoirs.

The 1936 Flood Control Act was passed to help solve some of the problems created by the great droughts of the middle 1930's. An additional factor in its passage was the creation of more jobs to

help fight the Depression. The written justifications were the benefits of controlling floods that hurt industry, commerce, and the general welfare of the people. It eventually led to cost-benefit analysis, which has been a source of contention on flood control projects since its inception.

The 1936 Act was particularly controversial since it required the states to provide the land, easement, right-of-way, operation, and maintenance of the projects. Many states were reluctant to support these projects since they would not be the main recipients of the projects' benefits. This was especially true of the smaller states in the east, where the chief beneficiaries would be those living down-stream in another state.

The rapid and large increase of the federal government's involvement in flood control can be easily seen in this period. The President established the National Resources Committee by Executive Order under the Federal Emergency Relief Act of 1935. This provided for a nation-wide study of the drainage basin problems and programs in the United States. To do this, forty-five (45) subcommittees were formed. Shortly thereafter, in June of 1936, the National Planning Board became the National Resources Board. The National Resources Board put together eight (8) regional monographs for drainage basins throughout the U.S. These reports from the committees and subcommittees were brought together in 1938 for the first statement of national policy concerning water resources in the Drainage Basin Problems and Programs (Soice 1972:10). This formed the basis for more presidential action in 1939. The National Resources Committee

became the National Resources Planning Board by Presidential proclamation. This resulted in a major federal government undertaking that worked at the federal, regional, state, and local levels. It worked in direct connection with the Bureau of the Budget to investigate the construction plans of the different government agencies. A three-way agreement between the Corps of Engineers, the Bureau of Reclamation, and the Bureau of Agricultural Economics was reached that provided for their joint consultation of projects. These agencies were required to exchange information on any project that involved construction that might alter the country's natural resources. The inter-agency cooperation that was mandated by the President lasted until 1943, when it was abolished due to the government's reorganization in response to World War II.

The interagency relations mentioned above were not the first, but actually the culmination of actions that took place during the 1930's. The Interagency coordination began in 1933-34 with a report by the President's Committee on Water Flow. This committee was composed of the Secretaries of Agriculture, War, Interior, and Labor. The Committee was reorganized in 1934 and was composed of the Secretaries of Interior, War, Agriculture, Commerce, and Labor, and the Federal Emergency Relief Administrator. In 1935, the following agencies were also made members: the U.S. Corps of Engineers, the Bureau of Reclamation, the United States Geological Survey, the Federal Power Commission, the Tennessee Valley Authority, and the Public Health Service. The 1936 Flood Control Act (mentioned earlier) broke down some of this interagency coordination by dividing flood

control between the Corps of Engineers and the Department of Agriculture on what was supposed to be functional and geographical criteria. This act had no provisions for consultation between the two agencies (a problem that was partially corrected by the National Resources Planning Board of 1939).

In 1937, President F.D. Roosevelt wanted to create seven (7) additional regional resources planning agencies similar to the Tennessee Valley Authority, but Congress rejected this proposal. In 1938, Congress authorized the Secretary of War to install dams with the adaptability for future development of hydroelectric power if it was so recommended by the Corps of Engineers and the Federal Power Commission.

1938 was yet another year that experienced a series of catastrophic floods on the Merrimack, Connecticut, Ohio, Upper Mississippi, Missouri, White, Arkansas, and Wilimette rivers. These floods were a stimulus to Congress which authorized the construction of multi-purpose reserviors that had initially been approved in the 1936 Flood Control Act. The 1936 Act had also given the Department of Agriculture jurisdiction over all investigations of flood control and related land management. An additional amendment was passed in 1937 that gave the Department of Agriculture jurisdiction over everything that was surveyed by the Corps of Engineers. Thus, the 1936 Act was a landmark piece of legislation with its numerous consequences. Its initiation of cost-benefit analysis made agencies justify construction on the basis of the tangible benefits and costs. The direct benefits concerned flood control, power, pollution control,

and similar aspects of the project. The indirect benefits were the construction jobs, recreation, new houses, and the like that were the result of the project.

While the 1936 Act was a landmark, it did result in much negative reaction. One outcome of this was the passage of the 1938 Flood Control Act. This was a fairly direct response to the states not wanting to bear the brunt of the costs. The 1938 Act provided for the federal government to assume the cost of the lands, easements, and rights-of-way on all reservoir projects. Operation and maintenance were still the responsibility of the states.

More legislation was passed in 1939, in particular the Reclamation Project Act, which authorized the Secretary of Interior to construct multi-purpose projects. The dominant purpose was flood control.

The 1930's saw the beginnings of the fifth federal agency to become involved in flood control. The Soil Conservation and Domestic Allotment Act of 1935-36 provided the Soil Conservation Service with some flood control capabilities, such as building small dams, levees, and land management to prevent flooding. The Soil Conservation Service would be one of the main federal agencies to become involved in inter-governmental conflict in the 1940's and 1950's.

In 1939 and 1940 the Bureau of Reclamation began building projects in some of the Great Plains states. Labor for these projects was provided by the Works Progress Administration and the Civilian Conservation Corps. Some of the planning and labor for these projects was also made possible by the Department of Agriculture.

During the 1930's the federal government had continually placed the burden of construction costs on the communities and/or states that would directly benefit from floodway construction and levees. With the 1938 Flood Control Act, the federal government changed its policy and agreed to pay for navigation and flood control costs. Any additional benefits would be made at the expense of the communities and/or states (Holmes 1972:20-2). In 1941, Congress authorized money for channel improvements for flood control and navigation, but specifically refused to allocate money for only flood control.

Congress had taken much action concerning flood control during the 1930's and the early 1940's. It was not waiting for the President to initiate such actions. It was taking a stronger position against the President, and no longer giving in to every request he made. President Roosevelt had asked for a permanent National Resources Planning Board and Congress had adamantly and specifically refused to allocate money for the N.R.P.D. in 1943. In order to circumvent this congressional rebuff, the President continued to appoint National Resources Planning Boards by executive orders. The first was Executive Order 9384 which directed all public works construction agencies to prepare and keep updated all long-range programs by submitting annually made reports to the Bureau of the Budget. The Bureau of the Budget was to consolidate programs and to prepare an overall advanced program for examination by the executive branch. The ramifications of this consolidation under the Bureau of the Budget were significant. Before any agency could submit a report to Congress on any aspect of its advanced program, it was required to submit the

report to the Bureau of the Budget for "advice" about its relationship to the President's program. The "advice" of the Bureau of the Budget was to be included in the report when it was given to Congressional subcommittees. The purpose of this channeling of reports and the addition of "advice" was to insure that the President's desires were formally recorded in any report that went before the Houses of Congress. The Bureau of the Budget was placed in a position with a great deal of authority, but Congress placed a check on that authority by allocating only small amounts of money for flood control projects for the first two years. Then in 1945 Congress refused to appropriate any money, saying that the Federal Interagency River Basin Committee could and should coordinate the construction. The Bureau of the Budget ended up doing work only as a supervisory agency examining the methods of economic justification of the projects being proposed.

Congress' reason for not wanting the National Resources Planning Boards was its desire to put the Corps of Engineers in full charge of the planning. Congress took action permitting the Corps of Engineers to report only to the Congressional committees to obtain its appropriations. The justification for only reporting to Congress was that the Corps would be able to maintain its grassroots relations by working with the representatives of the people. The importance of the grassroots relations was to justify Corps of Engineers projects. This was significant since the Corps was changing their emphasis to multi-purpose reservoirs and meeting some strong local (and national) opposition. The railroads were against the multi-purpose reservoirs

since one of the purposes of the reservoirs was to improve river navigation which they felt would hurt their business. Farmers were opposed to the reservoirs since it was their land that was usually flooded with the filling of the reservoirs. Rural real estate interests were opposed to the reservoirs since an announcement of a project made any speculation in rural farm land dwindle to almost nothing near the project sites because the government frequently purchased this land at low prices. And finally, there were some sportsmen's clubs that used the project areas for recreation, mostly hunting. Thus the large multi-purpose reservoirs proposed and being built by the Corps were meeting some significant opposition. The single-purpose reservoirs built by the Soil Conservation Service for either flood control or water supplies were much more popular with the people, and rarely met much opposition. The single-purpose reservoir was smaller in size, required smaller local contributions, and was generally quite popular (Holmes 1972:23).

The early part of the 1940's gives a clear indication that the federal government was experiencing a shift within the branches that were concerned and controlling the nation's flood control policies. During the 1930's much of the federal government's actions had been initiated by the President, but during the 1940's the role of the President became less significant and Congress became more active. President Truman tried to push for a Missouri Valley Authority and for a Columbia Valley Authority, but Congress would not approve such programs. Congress took the approach that the ultimate decision of such projects' desirability (or at least the study to determine the

desirability) should be made by the congressional delegation from those specific districts in which the project would be constructed. If a project was found to be economically feasible and desired by the specific congressional districts, the project was generally funded unless there was substantial local opposition.

Congress passed the 1944 Flood Control Act that led to the planning of an unprecedented number of projects. The large number of projects was intended to prevent the anticipated unemployment from the ending of World War II. These plans anticipated construction that would continue on into the 1960's. They were based on the ending of mass unemployment, a continuing decline of the farm population, and subsequent growth of urban, suburban, and the metropolis. An additional important part of the Act was the requirement that the states be included in the planning of flood control projects. These trends and the increasing federal legislation were some of the main reasons that the national attention was diverted from the Public Works programs which had intended to benefit the rural and smaller urban areas. They had not helped the major urban areas as much (Holmes 1972:25).

The majority of the projects in the 1944 Flood Control Act made up what became known as the Pick-Sloan Plan. This plan was a combination of large U.S. Corps of Engineers projects and the Bureau of Reclamation projects that were limited almost entirely to small flood control projects. This was a congressional effort to provide for a clear division of projects between the Corps of Engineers and the Bureau of Reclamation. Each agency agreed to forego the rights of

criticism of the projects assigned to the other. One of the major reasons for the development of the Pick-Sloan Plan was almost five (5) years of interagency conflict about the Arkansas-White-Red river basin. This conflict prevented the regional committee from achieving the originally intended comprehensive plan in sufficient detail to serve as the basis for authorizing the construction of projects. The regional interagency tasks were limited in the Missouri River basin in particular, and also in the other river basins when compared to the comprehensive planning of TVA.

The Pick-Sloan Plan helped to resolve the interagency problems between the Corps and the Bureau of Reclamation, but it intensified the dissatisfaction of the Department of Agriculture, which was a proponent of small dams. The Plan also made many of the studies by the recently formed committees to study river basins redundant and unnecessary. This is yet another example of the lack of communication and rational decision making by the various parts of the government for there had been a number of committees formed during this time, and some of them had begun to take action.

In 1943, the Federal Interagency River Basin Committee (FIARBC known as "firebrick") was formed. The New England-New York Interagency Committee (NENIAC) and the Interagency Committee on Water Resources (IACWR, known as "icewater") were also formed and continued until 1954. These committees were originating during and shortly after World War II. The justification was that the executive branch and Congress felt that there was something wrong with the existing federal water resources programs. As a result of these opinions,

many official commissions were appointed to make recommendations concerning some of the aspects of water resources planning, organization, and policy (Holmes 1972:40).

Thus it can be seen that the Pick-Sloan Plan had a significant impact upon the various agencies of the government. It also indicated a clear change in power from the office of the President to the Congress. Congress had to provide the coordination between the work of the Corps of Engineers and the Bureau of Reclamation. A division of labor was made based on geographical boundaries. The Corps was to do most of the work east of the 98th meridian and the Bureau of Reclamation did the work west of this line. This gave the Corps the widest geographical jurisdiction and more than one half of the construction. This was to become a sore point for the Bureau of Reclamation.

The potential impact of the Pick-Sloan Plan came out in the open in a November, 1948, meeting in Oklahoma City. In this meeting the Corps of Engineers presented a program of huge dams with an anticipated cost of \$57,000,000,000 (fifty seven billion dollars). This received wide support in the houses of Congress since the money would not be concentrated in one district, but spread over many districts with fairly large expenditures in each of the districts (Peterson 1954:30). The 1948 meeting was a bid on the part of the Corps of Engineers to gain total control of all the flood control projects in the nation. They based their claim on the Flood Control Act of 1936. Their contention was that they were to have authority

over all flood control projects and that the U.S. Department of Agriculture had control only over tributaries.

The contention of the Corps of Engineers was examined in the Hoover Commission Reports of 1949 and 1954. The first report of the Hoover Commission proposed a broad administrative reorganization to facilitate water resources planning (White 1969:71). The emphasis was on multi-purpose planning to develop the river basins to their fullest extent (Soice 1972:11). One goal was to develop a better balance between rural and industrial economics. It was thought that this would increase economic opportunities, maintain the population, and increase income levels. The second Hoover Commission report was chiefly an update on the first Commission report with little that was new (Wolman 1969:12).

These reports were in many ways similar to those of President F.D. Roosevelt's "New Deal" era, and met heavy opposition from the conservative members of Congress and the Truman and Eisenhower administrations of the 1950's. Congressmen suggested that the comprehensive plans that were being proposed were verging on socialism. One of the volumes of the reports, entitled Ten Rivers in America's Future, was seen as ten more possible Tennessee Valley Authorities. The mood of the country after just fighting a war to preserve individual freedoms found few were willing to sacrifice even a small part of their freedom for the efficiency of comprehensive planning. The proposals were not implemented (Holmes 1972:42).

This negative reception to the Hoover Commission Reports foreshadowed the mood of the 1950's. Some of the largest conflicts in

this period were whether to protect against floods and how this should be done. A direct confrontation between the U.S. Corps of Engineers and its supporters and the Soil Conservation Service and its supporters occurred. The Corps was in favor of "big dams," while the Conservation Service was for "little dams." The supporters for the small dams method of flood control structures advocated proper land use and small upstream flood control dams as the best method of solving the flooding problems on the main stem of the rivers. Those in favor of the big dams claimed that virtually no amount of upstream flood control measures could prevent the catastrophic floods that occur on the main stream. "Thus the stage was set for a bitter struggle on how floods should be controlled" (Soice 1972:13).

The proponents for small dams were largely rural, agriculturally oriented groups that vehemently opposed having their prime farm land of the river valleys flooded permanently by the huge reservoirs that were being built to protect the cities on the major stem of the rivers. The big dams were also opposed for inundating the most productive farmland in the valley, for causing upstream sedimentation, and "land soup" reservoirs (the silting-in of the lakes due to up-stream erosion) within fifty (50) years (Peterson 1954:199). The Soil Conservation Service suggested that land stabilization measures be implemented to enhance the "insoakability" of the basin and reduce the runoff. The reduction of the runoff would help alleviate erosion as well as greatly reducing flooding. It was felt that only the largest of storms would cause hazardous runoff and this could be controlled by small upstream reservoirs. The small dams were cited

as being more economical, more efficient, and would permanently flood only a few acres of less productive farm land (Peterson 1954).

The big dam proponents were insistent that the main stem flooding could not be prevented by land treatment and/or small dams. These proponents admitted that land management reduced the frequent and small floods that periodically occurred, but the effect on major floods in large drainage basins was said to be insignificant (Leopold and Maddock 1954). Land management did provide some benefits, but little was achieved in reducing flood damage (Hoyt and Langbein 1955:186).

The controversy between the proponents of "big dams" and "little dams" was eventually decided in favor of "big dams." There were several reasons for this decision. One was the relatively slow progress that the Soil Conservation Service program suggested for the implementation of "little dams." People preferred the "instant" protection that was offered to the major urban areas by the "big dams."

A second reason for the move toward "big dams" to control flooding, and perhaps the major influence in that decision, was the flooding that occurred in the early 1950's. This seemed to spur the desire for "instant protection," and led people to take the position that the logical choice was for "big dams." In the summer of 1951, major flooding hit the midwestern part of the United States. President Truman asked Congress for a four hundred million dollar (\$400,000,000) flood package. One hundred ninety million dollars (\$190,000,000) was to be used directly for flood relief. Significantly, for the first

time a president gave Congress a proposal for a federally-backed flood insurance program. Fifty million dollars (\$50,000,000) of the original one hundred million dollars was to be used to begin such a program. Congress felt that this was too much money. The insurance companies thought it was impossible to spread the risk of flooding over a large enough number of policy holders to make the program economically feasible. It was believed that only those people who were certain to be flooded would buy the insurance (National Flood Insurers Association 1976:1). The result was a Congressional compromise on the package that President Truman had proposed. One hundred million dollars (\$100,000,000) was allocated for rehabilitation loans to flood disaster victims, five million (\$5,000,000) was for direct relief and nothing was allocated for the beginning of a flood insurance operation by the federal government.

In 1952 the Missouri River had floods that did four hundred million dollars (\$400,000,000) worth of damage. President Truman again suggested a flood insurance program, proposing that one and a half billion dollars (\$1,500,000,000) be allocated for the program. This time the suggestion was made that the insurance industry handle the program and that the federal government should underwrite it. Ninety percent (90%) of the value of an individual's flood damaged property up to a maximum value of two hundred fifty thousand dollars (\$250,000) would be covered by the insurance. Congress also rejected this proposal, and the pattern was set. No plans were to be made for disasters. The idea of flood insurance would be considered only after major floods has occurred and would then be rejected by Congress.

One outcome of the flooding was the passage in 1954 of Public Law 566. This law authorized the Secretary of Agriculture to help local organizations plan and carry out works that would improve flood protection and the agricultural aspects of water use. Pressure from local organizations and states led to this law being amended in 1956 since it gave less assistance than the programs of the Corps of Engineers and the Bureau of Reclamation. Both President Eisenhower and the Department of Agriculture opposed the amendment, but it was successfully passed. All of the costs of the projects funded by the amendment were to be paid for by the federal government (as long as they related to flood prevention and control). In addition, provisions were made to loan up to five million dollars (\$5,000,000) to local organization(s) and communities to finance their share of the construction. The amendment changed the regulations so that small projects (those costing \$250,000 or less) did not need Congressional approval.

With the passage of Public Law 566, the Soil Conservation Service became responsible for three separate construction programs. One program consisted of eleven (11) watersheds authorized for work in section 13 of the 1944 Flood Control Act. A second program consisted of sixty-two (62) "pilot" watersheds originally proposed in 1953. Eight (8) of these were discontinued but the remainder have been completed. The third program was a series of projects, most of which were fairly small. These projects had to be initiated by application of local organizations and approved by the appropriate state agencies. There were one thousand nine hundred sixty-one (1961) more applications

than funds available. One thousand eighty-eight (1088) of the projects were estimated to be suitable for planning, two hundred sixteen (216) were being planned, two hundred eighty-nine (289) were authorized and eleven (11) were completed. The 1956 amendment had the Department of Agriculture cooperating with the federal government, state governments and local agencies for the coordination of the programs. Seven (7) of the projects involved cooperation with the Corps of Engineers, one (1) with the Bureau of Reclamation, and six (6) with state governments.

At the same time this was going on in the early 1950's, the people at the Bureau of the Budget had become dissatisfied with merely doing supervisory work of examining the methods of economic justification of proposed projects. In December of 1952, the Bureau of the Budget sent Circular A-47 to all of the heads of agencies involved in water resources. This circular mandated the benefits of each purpose of a multi-purpose project must exceed the costs of including this purpose. In addition, local interests should contribute one half ($\frac{1}{2}$) of the costs of the land enhancement value of the flood protection. There would be a fifty (50) year maximum repayment period of the federal investment. There was a provision for "taxes foregone" that should be included in the estimates of the project costs (Holmes 1972:37). This circular (A-47) was clearly intended to prevent the construction agencies from building the most expensive projects that could be justified on an overall cost-benefit procedure analysis. The individual evaluation of each purpose of the project meant that many of the previously included purposes of a multi-purpose

project could not be built, or as was often the case, the cost-benefits of these purposes were re-evaluated so that they could be included in the construction of the project.

The mid-1950's was a time when the various parts of the government were trying to come to grips with the problems surrounding flooding. While the government was acting, so was nature. In the summer of 1955, Hurricane Diane swept into the east coast of the United States causing some of the costliest flood-related damage in the history of the U.S. This was followed by even more flooding in the fall of that same year. Six of the northeastern states were particularly hard hit. Business men and politicians called for a government-backed insurance program. Connecticut Governor Abraham Ribicoff said, "We will hammer at the doors of Congress until we get action" (National Flood Insurers Association 1976:2).

IV. The Beginnings of the National Flood Insurance Program

In 1956, President Eisenhower sent to the Congress a proposal for a two billion nine hundred million dollar (\$2,900,000,000) five (5) year flood insurance program. This proposal had provisions for insuring business structures up to a maximum of two hundred fifty thousand dollars (\$250,000). Homes could be insured up to ten thousand dollars (\$10,000). The federal and state governments would subsidize forty percent (40%) of the premiums. Private insurance companies would sell and service the insurance and resulting claims. The private insurance companies would be re-insured by the federal government up to one hundred million dollars (\$100,000,000).

President Eisenhower told the legislators,

I believe that this act will open the way to a new field of protection for our homes and our business and our community properties against one of the most serious exposures to loss that we face today. This new program is a venture into an untested field of risk protection and is admittedly experimental. It does not propose putting the federal government permanently into the flood insurance business. On the contrary, it provides for the government to lead the way on a basis that will enable this field ... to be absorbed into our private enterprise system in the shortest possible time (National Flood Insurers Association 1976:3).

Eisenhower's timing for the introduction of this legislation was important since 1956 was an election year. Congress accepted the President's legislative package and within a few months of its submission, the flood insurance proposal had been passed almost completely as Eisenhower had submitted it, with the exception that its size had been increased to three billion dollars (\$3,000,000,000). Eisenhower signed into law the Flood Insurance Act of 1956 in August of that year. The program was to be administered by the newly created Federal Insurance Administration of the Housing and Home Finance Agency.

The success of the passage of the flood insurance program was only an illusion. After the elections in the fall of 1956, the members of Congress were faced with the prospect that major amounts of money were required to fund the legislation for flood insurance coverage. Congress quickly and quietly decided to kill America's first flood insurance program by simply refusing to appropriate any money for its operation. A Washington journalist wrote, "The Federal

Insurance Administration passed out of existence with the record of having been the shortest-lived government agency in U.S. history. It never wrote a single policy. It never did a single one of the things that it had been created to do" (National Flood Insurers Association 1976:4).

The lack of success of the program came as neither a surprise, nor was it met with public outrage. In fact, the demise of the program had been anticipated by one Boston insurance man who had predicted as much while people were still aroused by Hurricane Diane. He wrote, "Wait six months. Even those who suffered losses will begin to feel that it could never happen to them again." Another insurance executive seemed almost glad that the program had not been successful. "Potentially every insurance company could be bankrupted by one casualty" (National Flood Insurers Association 1976:3).

The country gave the appearance of believing that the best flood insurance would be flood control and that this success lay in the present and future efforts of the U.S. Army Corps of Engineers with their dams, dikes, and levees. "In a sense, the 1956 flood coverage plan fell victim to the theory that a dam in the hand was worth a whole flock of flood insurance in the bush" (National Flood Insurers Association 1976:3).

The remainder of the 1950's showed little public involvement concerning flood control or flood insurance. One exception was opposition led by the Sierra Club which attempted to attract national attention to the Echo Park Dam Project. They were successful enough so that Congress passed the 1958 Outdoor Recreation Resources Review

Act which called for the evaluation of the impact of proposed reservoirs on scenic, recreational, or areas of historical importance. Congress also passed the Water Supply Act in 1958, which provided help to cities in need of water in the western parts of the United States.

While the 1950's were not a particularly successful time for the legislative advancement of a national flood insurance program, there were events occurring that would help people in terms of preventing flood damage. The Tennessee River was the first major river in the United States with "total development," which means that the heights of major floods had significantly been reduced. Even so, there were many unprotected towns where structures were not economically feasible. As a result of this situation, TVA began a cooperative program with the member states and the local governments involving land use planning at the local level. The idea was to prevent flood damage where floods cannot be prevented. TVA would identify the areas subject to flooding and furnish the community and state planning agencies with the data on the physical flood potentials. The state would then prepare a plan recommending flood protection works, flood plain regulations, and flood-proofing regulations. The zoning ordinances that were necessary to enforce the implementation of these plans was left as the responsibility of the local communities. By 1959, twenty-one (21) communities had initiated flood plain planning studies and nine (9) had officially adopted some type of flood plain regulation (Holmes 1972:29-30).

The success of the program led TVA to recommend that the federal government adopt a similar program for national use. This was reported in a formal recommendation to Congress in a report to the Senate Committee on Public Works on August 31, 1959. The outcome of this proposal was the passage of the Flood Control Act of 1960 which authorized the U.S. Army Corps of Engineers to undertake a similar program.

The Corps of Engineers almost immediately began to propose programs, but they tended to be structural and met opposition from other government agencies. The National Park Service opposed some of the Corps' flood control structures, as did the Bureau of Reclamation. The conflicts between the various government agencies concerned with flood control has a fairly clear line of authority in the federal government. According to the Legislative Reorganization Act of 1946 (which was still in effect until the latter 1970's), numerous standing committees were consolidated in both the House and Senate. The House and Senate Subcommittees are responsible for navigation and flood controls of the U.S. Corps of Engineers. They are also responsible for research and construction grants, Public Health Service, the Tennessee Valley Authority, Public Law 566 projects, and the Soil Conservation Service. Other committees in the Houses have no flood control activities. When projects involved interstate compacts, they must also go through the Judiciary committees of both Houses. The latter is fairly common since the eastern states are geographically so small that flood control usually involves several states. The reorganization was attempted to improve the

coordination of government agencies (Holmes 1972:31-32).

A major source of the interagency conflict was the Corps' emphasis on the structural approach in spite of TVA's nonstructural successes. The Corps ignored the findings of the 1957 House Public Works Committee report that estimated the mean potential annual flood losses were \$911,000,000, of which \$491,400,000 were already protected by structures. They compared these findings with 1936 data that was used in the passage of the 1936 Flood Control Act which indicated that the average annual flood losses were \$95,000,000 (ninety-five million dollars) or \$212,000,000 (two hundred twelve million dollars) in 1957 dollars. It was true that the structures had reduced the 1957 damages to \$420,000,000 (four hundred twenty million dollars), which was still more than twice that of the 1936 damages. Hoyt and Langbein attributed this increase to 45% increase in property values, 25% increase in the amount of flooding, and a 30% increase in building and other uses of flood-hazard lands. Their conclusion was that what was needed was not more flood protection as much as prevention of further encroaching on the flood plain (1955:90).

In 1960 the two Congressional Public Works Committees were again concerned with flood control and had members reflecting a nation-wide geographical distribution of flooding problems. It was interesting to note that most of the representatives were from middle-sized cities, small cities, and rural areas and not from major urban centers. The power and influence of these committees became even greater with the demise of the National Resources Planning Board in

1965. Congress and the Bureau of the Budget set up a test of economic feasibility for any project that was being presented for funding: 1) The benefits must exceed the costs; 2) The local interests must obligate themselves to repay the costs that cannot be properly allocated to the federal government.

These criteria led to some problems. One problem was the overestimating of the primary benefits and underestimating the primary costs. There was a great deal of uncertainty about the potential and costs of crop yields that needed to be considered in the costs of the projects. Likewise, there was considerable uncertainty about the production costs of the projects, due to inflation, weather, and unforeseen problems. As it turns out, there was (and still is) not a rigorous method to estimate the costs of the projects that are proposed. A second problem is determining the secondary benefits. Secondary benefits are such things as full employment and increased investment opportunities. While the employment for the construction of the project is reasonably straightforward, the employment opportunities existing once the project has been completed have been extremely difficult to determine (White 1969:74). Likewise, the investment opportunities have been greatly overestimated in numerous cases, or perhaps more accurately, the economic viability of such opportunities has not proven to be a positive factor in supporting the construction of these projects. A third problem is the evaluation of such intangible benefits as lives, recreational uses, scenic values, and the preservation (or destruction) of wilderness areas which cannot be evaluated in dollar figures.

The Corps of Engineers had justified its construction projects using cost-benefit analysis. Their general modus operandi was to build the largest project that would still be cost-beneficial. This obviously opened them to criticism of not making the most economically efficient project, but of looking after their own self-interests (Peterson 1954).

The criticism that the Corps of Engineers received was not undeserved. In fact, from the 1950's on, there had been criticism directed toward the whole flood control movement for ignoring planning alternatives. Geographers (most notably led by Gilber F. White, first at the University of Chicago and later at the University of Colorado) and hydrologists pointed out that the annual flood damages had actually increased since the Flood Act of 1936. The Corps of Engineers programs were criticized for actually encouraging residential occupancy and commercial development of the flood plain with the result that floods would overflow the structural barriers causing increased flood losses (Holmes 1972:34). White, among others, pointed to the need for consideration of alternatives such as flood plain zoning, flood proofing, weather forecasting and flood insurance which might make present and future Corps of Engineers projects more effective (White 1966).

The controversy of the 1950's cannot be placed entirely on the shoulders of the U.S. Army Corps of Engineers. The groundwork for the Corps' action was set in the Flood Control Acts of 1936, 1938, and 1941, which established a local cost-sharing requirement for the flood control aspects of projects as nothing more than fifty percent

(50%) of the construction costs for channel projects, levees, and diversion flood-ways. Following World War II these provisions were criticized as grossly inadequate to the benefits received, because they had been evaluated in terms of a single benefit. This led to the communities and localities to favor planning alternatives that were most heavily subsidized and to neglect such local responsibilities as flood plain zoning.

In 1954, the Bureau of the Budget proposed that local interests assume one half the costs of flood control reservoirs, but Congress rejected this proposal. The Corps of Engineers had the authority to recommend flood plain regulations by local governments in the survey reports it made. These recommendations were not to be taken lightly, since once they were made they were conditions for localities to meet before any construction could proceed. Many critics of these recommendations cited not that they were made, nor that they were made too frequently, but that they were not made frequently enough. To demonstrate this one can cite the statistics that there had been only one hundred fourteen (114) Congressionally backed flood plain land use recommendations in U.S. history for authorized projects. (This can be contrasted to the thousands of flood-prone communities or the thousands of flood control projects.)

The 1960 Flood Control Act contained Section 206, which provided that the Corps of Engineers should collect and disseminate flood hazard information for the use of local planners in areas subject to flooding. It also included a new formula for local cost sharing for the Corps, mandated by the Hurricane and Tidal Flood

Protection Act of 1958. This formula made provisions for the federal government to share the "total first costs" up to seventy percent (70%).

This was a significant step, for it modified two earlier pieces of legislation. The 1939 Reclamation Project Act had given the Secretary of the Interior the power to determine the interest charges for the price of municipal water supplies. The 1960 Flood Control Act also was a definite change from the Flood Control Act of 1944, and which had remained in effect up to 1960. The latter Act had given the Secretary of the Army the power to determine the amount of reimbursement required for municipal and industrial water supply facilities. Both agencies had provided full reimbursement for municipal and industrial water storage costs, including interest. This position had also been adopted by the Bureau of the Budget. This can be contrasted to the projects of the Soil Conservation Service where the law required the local organizations to repay all costs for purposes other than flood control, agricultural uses of water, and fish and wildlife preservation and enhancement (Holmes 1972:37).

The general trend in all of this legislation during the 1940's, 1950's, and even the 1960's was typified by statements coming out of the Jones Subcommittee in 1952, which examined the government's involvement in flood-related problems. This committee expressed that an understanding of the relationship of upstream runoff control to downstream flood control works was a technical problem which could only be solved technically. This led to a trend toward comprehensive development of river basins by the Corps of Engineers and the Bureau

of Reclamation rather than individual purpose projects. The integration of the planning was done by several federal agencies and state and local planners. One outcome of this was to give the President greater power. The move was toward centralization of federal flood prevention measures, which was the opposite of what had taken place (Holmes 1972:43). In 1958, Robert Pealy wrote a "physical plan" for the next twenty-five years that was thought to be the culmination of the ongoing centralization. This proved to be incorrect.

In 1962, the Senate passed Document 97, which formally set forth a new water resources policy, but did not have a specific implementation agency. The policy had three objectives: 1) to improve national and regional economics; 2) to preserve the environment; 3) to promote the well-being of the people. While these three objectives were clearly delineated, the general thrust of the policy was basically economic, giving only "lip-service" to the environment and to social issues.

In 1965, a new Water Resources Planning Act was passed by Congress. This act created a council composed of the Secretaries of Interior, Agriculture, Army, Health, Education and Welfare, and the Chair of the Federal Power Commission. Shortly thereafter, the Secretary of Transportation was added. In addition, the Secretaries of Commerce and Housing and Urban Development became associate members. The overall purpose of the council was to coordinate the federal, state, interstate, local and non-government plans for water

resources. This committee was a further centralization of the activities concerning water resources planning and flood control measures.

Nineteen sixty-five also saw the continuation of natural forces influencing the federal government. Hurricane Betsey struck the United States and did over one billion dollars (\$1,000,000,000) worth of damage. This prompted the newly created Department of Housing and Urban Development (as one part of the above mentioned committee) to explore alternative methods of flood insurance. At the same time the National Association of State Insurance Commissioners set up its own flood subcommittee to explore alternative methods of having economically affordable flood insurance. This came to a head in meetings which took place in Dallas in the latter part of 1966. Out of these meetings came a drafted version of a proposed flood insurance bill which was submitted to Congress in 1967.

During this same time the private sector of the U.S. was also becoming involved in the problems of flooding. The insurance companies met and decided to do a new feasibility study to investigate the possibility of a new flood insurance program. They created the National All-Industry Flood Committee which existed for three years. At first they tried to work flood protection provisions into extended coverage endorsements of standard property policies without sending the premium rates too high, but this proved unsuccessful. They concluded that private enterprise alone could not handle flood insurance (National Flood Insurers Association 1976:3).

The conclusion of the committees that were formed and eventually disbanded in the early and middle 1960's was that the federal government would have to form some sort of national flood insurance program if people were to be able to purchase affordable flood insurance. Thus in 1967, President Johnson proposed legislation that had been drawn up by the Department of Housing and Urban Development along with the committee formed by the private insurance companies. Congress received this legislative proposal in the spring of 1967. It was easily approved by the House and Senate in the late fall of that same year. However, problems arose since there were two different versions, one from each house of Congress. The basic problem was one of how the program should be financed. The House wanted periodic Congressional appropriations and the Senate and private insurance industry objected to this, preferring a more permanent funding of the program. Several months passed before a scaled-down (money-wise) version of the bill was passed when it was included in an omnibus Housing Bill that was approved by both Houses of Congress. This bill was signed into law by President Johnson on August 1, 1968. Thus the National Flood Insurance Program was created, and unlike flood insurance programs in the past, this one appeared to be here for some time.

The need for some kind of program to provide flood insurance to the people had been known for a long time, but it was not until the signing of this bill that the desire for such a program became concretely filled. Approximately seven percent (7%) of the land area in the U.S. is subject to periodic riverine or costal flooding.

These flood-prone lands are located within some twenty-five thousand (25,000) separate communities. Most of those communities have done little to prevent the exposure of lives and properties to destruction from floods. Platt (1976) has even suggested that many communities have encouraged new development in flood-prone areas. A recent study (Schneider and Goddard 1974) of twenty-six (26) cities across the U.S. showed a mean of more than one half ($\frac{1}{2}$) of their flood plain land as developed or in the process of being developed. It has been estimated that six million four hundred thousand (6,400,000) single family homes are situated in the flood plains (U.S. Congress 1975). This has led to mounting flood losses. Over nine billion dollars (\$9,000,000,000) has been spent since 1936 on structural works to hold back flood waters. Yet annual losses due to flooding have been increasing and are now well over one billion dollars per year (Water Resources Council 1968). The rate of flood disasters is presently increasing. Three of the worst flood disasters have occurred in the last twelve years, and they account for over sixty-five percent (65%) of the damage caused by the ten floods which were the worst in U.S. history. These disasters have increased the amount of federal expenditure for disaster relief from fifty-two million dollars (\$52,000,000) in 1953 to two and one half billion dollars in 1973 (\$2,500,000,000). Gilbert White (1945) noted that to build dams and dikes without restraining further occupance of the "protected" floodplain was to invite greater losses when a storm exceeded design limits. Structural projects must be accompanied by non-structural measures to restrict new development in down-stream

flood plains, and this is part of what the National Flood Insurance Program is designed to do. Public and Congress had done relatively little in the past. The 1955 Task Force Report on Water Resources and Power wrote, "...flood zoning ... has great verbal support ... almost nothing is done about it" (Grey 1956:12). A 1958 survey disclosed only fifty examples of flood plain regulation in the entire U.S. (Wernecke and Mueller 1972:10).

Even the flood experiences of the 1960's failed to prompt local communities into action. In Vermont over sixty million dollars (\$60,000,000) had been spent on structural works but only a small number of communities have adopted some type of flood hazard regulations (Wernecke and Mueller 1972:12). Just after that report was finished, Vermont had heavy flood damages in June of 1973. Conventional private insurance coverage against flood losses had been sadly lacking. Local public officials, investors, and property owners had chosen to ignore the danger, and the insurance companies took a rational approach that if the risk of loss in the flood plains is inevitable, then the insurance premiums will reflect this. Premiums were so high that they were basically not affordable. The burden of loss had fallen on the victims and the federal government.

The federal government was urged to subsidize private insurance industry and not to do a piecemeal job by itself (Platt 1976: 303). It was thought that from an economic standpoint this would be cheaper and easier. The insurance would permit the occupants of floodprone areas to share the burden of flood losses wherever

they occur through the payment of annual premiums. Platt wrote that flood insurance and floodplain regulations have been identified as the requisite elements in a more rational approach to flood plain management. Both are needed, for one without the other will not be sufficient to prevent flood losses. One must limit the right to build in floodprone areas or it will be virtually impossible to provide flood insurance at reduced rates. If one does not limit the rights to build in these areas, there will be greater flood losses through the exposure of additional property to destruction (Platt 1976:304).

The National Flood Insurance Act of 1968 (P.L. 90-448, Title XIII) made flood insurance available for the first time to owners of property on rivers and coasts at a federally subsidized, and therefore more economical rate. The rates for the coverage of the existing structures were lowered by federal subsidy to about ten percent (10%) of actuarial, or the real risk rates. Any new construction could also get flood insurance, but it was available only at unsubsidized rates. (This was true once the actuarial rates had been calculated for a community.) The insurance was underwritten by a pool of insurance companies organized under the Act. The actual policies were written by commercial insurance brokers.

The initial response to the National Flood Insurance Program could hardly be called enthusiastic. In the remainder of 1968, after the signing of the Act, and the first part of 1969, only four (4) of the seventeen thousand plus (17,000) communities then eligible

took part in the Program. A total of twenty (20) policies were written in that period (Platt 1976:304). The federal government employed two measures to remedy the lack of participation. The first concerned an amendment which dealt with the problem that most communities had a lack of sufficient floodplain data on which to base substantive regulations. This was the 1969 amendment authorizing a provisional eligibility during an "emergency" phase of the Program. This "emergency phase" would be in effect until the federal floodplain mapping studies were finished. The amendment provided an initial layer of emergency insurance coverage to be purchased at subsidized rates. It also provided for the deferment of floodplain zoning until the studies had been completed. The latter was due to the largely unpopular reaction people had to the idea of restrictive zoning of the floodplain.

The 1969 amendment clearly eased the way for communities to join the Program. From 1969 to 1973, almost three thousand communities joined the Program; most of these were joining the Program in the emergency phase. Thus, a lessening of the severity of the requirements to enter the Program helped bring about a substantial increased participation by the public.

Even though the 1969 amendment had resulted in some significant increased participation in the NFIP, as of 1972 there were still only ninety thousand (90,000) policies sold nation-wide, with a net worth of one billion four hundred million dollars (\$1,400,000,000). The Department of Housing and Urban Development's Federal Insurance Administration was unhappy with this slow progress. The insurance

rates were low due to the federal subsidization, and the Program had been in existence for four years, yet the number of policies covered less than two percent (2%) of those potentially eligible. Consequently, in June of 1972 the premiums were cut an additional forty percent (40%) in an effort to stem the tide of public apathy. The rate for private dwellings which had been forty cents per one hundred dollars (40¢/\$100) was reduced to twenty-five cents per one hundred dollars (25¢/\$100).

If Americans are not economically oriented, it would be difficult to say what they are. The economics of the Program were dramatically brought home when Mother Nature stepped in to re-emphasize the destructive economic potential that floods can have and that the National Flood Insurance Program was designed to thwart. In the same month that the insurance rates were cut, June 1972, Hurricane Agnes ripped through eleven (11) states and the District of Columbia, causing an estimated three billion dollars (\$3,000,000,000) in damage. This was the worst natural disaster in the history of the United States to that date. President Nixon's response was quick. He gave Congress the Flood Disaster Protection Act of 1972, however, almost as quickly, he changed his mind and took the legislation back.

One of President Nixon's reasons for withdrawing his proposed legislation may have been the dramatic increase in the number of applications for flood insurance following the disaster of Hurricane Agnes. By the middle of 1973 there were two hundred twenty-five thousand (225,000) policies in force, with a value of over four

billion dollars (\$4,000,000,000). This was an increase of one hundred fifty percent (150%) in the number of policies in force in one year.

President Nixon once again changed his mind in 1973 and resubmitted the Flood Disaster Protection Act to Congress. The House and Senate labored over this bill for nine months. The result was both an expanded and much tougher version of the bill that Nixon had originally introduced the previous year. The bill mandated flood-prone communities to join the Program. The purchase of flood insurance in flood prone areas and communities was no longer voluntary, but virtually mandatory. (This was to be a crucial issue in the next few years of debate about the NFIP). With the Congressional passage of the bill, Nixon signed it into law on December 31, 1973.

Nixon's new law made some significant changes in the functioning of the Program. An individual could purchase flood insurance only if the community in which s/he lived had already joined the Program. In order for a community to join the Program, it must submit a relatively short application that indicates its intention of coming into compliance with the Program. (This allows the community to enter the Program in the emergency phase.) This application is sent to the Federal Insurance Administration indicating that the community will adopt a set of building codes to regulate the construction in the flood plain. The community must indicate a willingness to comply with the flood plain management requirements and standards set by the federal government. These requirements have been designed to protect those in danger of flooding, and to prevent

any increase in damage by restricting future construction in the flood prone areas. Once this was done by the community application, then individuals may purchase the federally subsidized flood insurance.

In the emergency phase, insurance was purchasable at rates subsidized up to ninety percent (90%). People can purchase the insurance at these rates as long as the Federal Insurance Administration or its agents area conducting a detailed flood risk study of the locations susceptible to flooding in order to determine the actuarial rates. When the rate study is completed, the community is eligible to join the regular phase of the Program. When a community moved into the regular phase, all property insured at the subsidized rates were "grandfathered-in" at these rates. All new construction and those purchasing insurance for the first time have to pay actuarial rates (non-subsidized).

Communities that are potentially flood prone and that do not voluntarily enter the Program on their own initiative will be notified by the Federal Insurance Administration (FIA) of their tentatively being designated as flood prone. Being flood prone was defined as having a one percent (1%) chance of flooding in any given year or having a serious flood once every one hundred years. Once a community had received this notification by the FIA, it had one year to enter the Program. It can immediately enter the emergency phase of the Program at any time during that year by submitting an application.

The emergency phase allowed a person to buy coverage for up to thirty-five thousand dollars (\$35,000) for a single family home, one hundred thousand dollars (\$100,000) for a multi-family dwelling, ten thousand dollars (\$10,000) for the contents, and one hundred thousand dollars (\$100,000) for non-residential buildings. The 1973 Flood Disaster Protection Act removed the monetary limits on the total amount of insurance that could be written in the regular phase of the Program.

The outcome of this legislation was rapid increases in the number of communities participating in the Program. By April of 1975, there were six thousand three hundred eighty (6,380) communities participating. By December, 1975, this number had increased approximately one hundred percent (100%) to over thirteen thousand communities (13,000+). In the latter part of 1976, there were over six hundred twenty-five thousand (625,000) individual flood insurance policies in effect. These policies were worth over sixteen billion dollars (\$16,000,000,000). This represented approximately ten percent (10%) of the six million four hundred thousand (6,400,000) single family dwellings identified as being in flood prone areas.

The National Flood Insurance Program was beginning to work. After Hurricane Eloise in 1975, twelve thousand three hundred seventy-five (12,375) claims were filed totalling over fifty-eight million dollars (\$58,000,000). This compares to one thousand six hundred fourteen (1614) claims totalling five million one hundred forty-six thousand dollars (\$5,146,000) for similar damages due to Hurricane Agnes in 1972. It should be noted that a significant amount of

these payments were still federal money since the coverage was subsidized by the federal government. However, part of the money was provided by the premiums of the flood insurance policies. In addition, the other objective of the Program was to prevent increases in flood losses by preventing further construction in the flood plain. This second objective may have been met and thus kept the losses lower than they might otherwise have been.

The Program would appear to be functioning more or less as it had been intended to do, but it was not without its critics. In 1976, Senate Bill 810 was introduced and sponsored by Senators Eagleton, McIntyre, Bayh, and Stevenson. This bill was designed to eliminate both the mandatory participation by communities and the mandatory purchase of flood insurance by recipients of federally related financing in flood hazard areas. This bill was introduced because groups, communities, and states complained that the federal government was illegally controlling land use. (It was eventually passed as part of the 1977 amendments to the Program and these will be discussed later in this chapter.)

While all of this action was going on around the National Flood Insurance Program in the 1970's, the federal government was also changing its position on several related issues. A task force established by the Water Resources Planning Council recommended that there be a change in the government's priorities. Economics was no longer to be the main emphasis considered in water resources planning. Consideration must also be given to non-monetary aspects such as the environmental quality, social well-being of the people,

and regional development. Thus a change had been made, one away from strictly a cost-benefit analysis of the desirability of projects (Water Resources Task Force 1970). This made it even more clear that the federal government was turning away from the structural approach to flood control and was emphasizing the more non-structural ones such as the NFIP.

The National Flood Insurance Program was receiving support from the agencies concerned with water resources and had received legislative support in the early 1970's. The Program was changed little until 1976 when more legislative action was taken. On August 3, 1976, President Ford signed into law Senate 3295, the Housing Authorization Act of 1976 (P.L. 94-375). This produced the first major change in the NFIP since the re-orientation of the Program in 1973. One of the most significant parts of this Bill was to amend the Acts of 1968 and 1973 by extending the authority of the emergency phase of the Program until September 30, 1977. There were a number of reasons for this extension; some of the more important ones were: 1) the final mapping of the flood plains had not yet been completed in all of the communities, and they could not officially enter the regular phase of the Program until this was done; 2) some communities had not yet entered the Program even in the emergency phase; and 3) some communities had dropped out of the Program and in order to re-enter they would need to go into the emergency phase.

The official title of the part of the legislation that dealt with the NFIP was an Amendment to the Flood Disaster Protection Act

of 1973 (P.L. 93-234). It had several other important aspects. It authorized another one hundred million dollars (\$100,000,000) in 1977 for the flood insurance studies that were (and still are) being done. This was vitally needed funding for the continuation of the Program. While this was significant, it was even more significant in that part of the Program was altered so that federally-related loans could be made in communities with flood hazards that were not participating in the NFIP (Natural Hazards Observer 1976:5). This allowed communities to return to the pre-1973 voluntary status of the Program. This part of the amendment was called the Taylor-Ichord amendment and allowed federally insured banks and savings and loan institutions to lend money to uninsured purchasers in flood hazard areas of non-participating communities. This strikes Sec. 202(b) of the 1973 Amendment that had previously prohibited these institutions from lending money to uninsured purchasers in flood hazard areas. It does require a lender to notify the purchaser or leasee whether or not that in the event of a flood that federal disaster relief assistance will be available to such property as a condition of making or renewing a loan (Sec. 202(b)). It denies emergency assistance in non-participating communities hit by a flood disaster, but it did authorize assistance in such areas for non-flood related disasters (Sec. 3(a)(4)).

The first change removed what had been the National Flood Insurance Program's key incentive. The 1973 Act made local availability of mortgages from federally regulated lending institutions contingent upon a community's adoption of "sound" flood plain management

practices. Now a community can withdraw from the Program. It can then develop the flood plain without applying adequate flood plain management standards and then re-enter the Program to cover the newly constructed buildings at rates subsidized by the federal government. This new amendment focuses only on sanctions of banks and savings and loans. It places a new responsibility on these lenders to notify the borrowers of the eligibility for disaster relief. This is especially important if the community is not in the Program and the maps designating the flood plains have not been issued. The loans could be made only for homes prior to a March 1, 1976, deadline or following an area's identification as a flood hazard, which could come after the March 1 deadline.

Nineteen seventy-six (1976) also saw problems of conflict surrounding the Program both within the federal government and between the government and the private sectors. The 1968 creation of the Program united parts of the federal government with the private property insurance industry. Problems began to arise concerning how much authority the Federal Insurance Administration could exercise over the National Flood Insurers Association. The Federal Insurance Administration took the position that the Secretary of HUD and therefore her delegate, the FIA, had broad authority to arrange the financing and administration of the Flood Insurance Program, to make explicit the terms under which insurance companies are permitted to join and participate in the pool to provide flood insurance coverage, and to determine the details of the adjustment and payment for the claims made under it (Natural Hazards Observer Dec 1976:5).

The National Flood Insurers Association (NFIA) took the position that it had the operational responsibility for the business of selling and servicing of flood insurance under the 1968 Act, not the federal government. NFIA further took the position that any relationship between NFIA and the Federal Insurance Administration could not be effected without the NFIA's consent, which would follow from a good-faith negotiation between the two sides (Natural Hazards Observer Dec 1976:5).

The 1976 Amendment included several points that the National Flood Insurers Association found objectionable since these would hinder what they considered effective business practice. Some of these points were: 1) any contract that insured an amount in excess of ten thousand dollars (\$10,000) had to be reviewed by the FIA administrator prior to the insurance of the policy; 2) uniform policy forms must be used and would be subject to evaluation by the Administrator; and 3) competitive bidding practices must be followed.

The FIA's position on these three points was that they are based on the 1973 Amendment which makes participation obligatory and required that they insure all policy holders and guarantee that they receive fair treatment. The FIA has taken the position that the NFIA must allow coverage of the costs of removing household belongings in the face of an imminent flood threat. This could cost the NIFA a considerable amount of money and the NFIA disputed this responsibility. This is one of the key points that set off the controversy in 1976 (Natural Hazards Observer Dec 1976:5).

Nineteen seventy-six was also a year that saw the NFIP evaluated by the General Accounting Office. The GAO listed four basic responsibilities for the NIFP: 1) estimating communities having flood hazard areas; 2) providing flood hazard boundary maps and notifying the identified communities; 3) making and publishing flood insurance studies and flood insurance rate maps; and 4) insuring that participating communities adopt and enforce flood plain regulations. GAO found that the FIA had been making progress on the first two points, but had done little on the latter two. The insurance studies and the flood insurance rate maps have not been done quickly enough so that flood prone communities could adopt flood regulations and property owners could obtain the maximum insurance coverage available only under the regular phase of the Program. GAO was also especially critical of the lack of coordination of the federal agencies involved in the program, and it suggested that the monitoring functions of the NFIP had not been adequately developed (General Accounting Office 1976).

The GAO study was not the only one done in 1976. The National Research Council Panel on Flood Studies in Riverine Areas recommended specific changes in the managerial and technical aspects of flood insurance studies. Their recommendations were intended to reduce the time and cost of the studies. They recommended the use of public agencies such as the Corps of Engineers or the United States Geological Survey to conduct water accounting unit studies of the basic hydrologic information. They suggested that the private sector (such as private engineering firms) could conduct

community flood studies as needed. All of this information should then be assembled by one organization which also should coordinate all of the studies within one or more water accounting units (Natural Hazards Observer Dec 1976:7). The rationale would seem to have been to prevent studies done by different agencies and thus coming up with different and often contradictory data sets that would potentially endanger people and/or property within the water accounting units. One such example where this exact thing happened was the city of Wichita, Kansas.

While the studies of the NFIP were to have their impact on the Program, flooding continued to occur. Tulsa, Oklahoma, was flooded on Memorial Day, 1976. The city conducted a six-month study to develop a new flood management policy. They hired a private consulting firm to collect the data and made some interesting findings. The first finding of significance was that fifty-one percent (51%) of the residents of the floodplain received no help following the flood. This obviously resulted in a significant loss to individuals. The city itself was to lose seven hundred fifty thousand dollars (\$750,000) in taxes because of the devaluation of property from the flood. Unlike some other flooded communities in the past, eighty-two percent (82%) of the people flooded wanted the federal government to purchase their flooded homes and to turn the flood plain into open space. Ninety-three percent (93%) of the residents of the flood plain believed that disclosure of the flood hazards should be mandatory before home purchases were made (Stanley Williams, Planner, Tulsa Metropolitan Areas Planning Commission). It is

certainly possible, and probably likely, that these figures were high due to the recent flooding and the strong memory these people had of being flooded. However, it is noteworthy that communities participating in the NFIP are required to have lending institutions notify the prospective buyers of the property in the flood plain of the potential danger, something the people of Tulsa felt should be required.

The remainder of 1976 was a relatively quiet year for the Program as it went along ploddingly doing its assigned tasks. However, in 1977 the Flood Insurance Litigation Coalition formed and in March filed a law suit against portions of the NFIP. Terry Keeling was a Houston real estate man who became the spokesperson for the Coalition and was head of the Texas Landowners Rights Association. They had initially raised one hundred fifty-three thousand dollars (\$153,000) for the suit. Much of this money came from communities such as Cape Girardeau, Missouri, and Williamsport, Pennsylvania's Lycoming County Redevelopment Authority. Their concern, along with that of other communities, local government entities, counties, cities, and special districts was that their tax base was being eroded by the effects of the flood insurance laws (such as what transpired in Tulsa). They feared property values would drop thus lowering the amount of money raised by property taxes. The largest contributors of money were Brazoria and Fort Bend Counties in Texas which were 70% and 40% flood prone, respectively.

The law suit was handled by Rhyne and Rhyne of Washington, D.C. Their tactic was to attack the constitutionality of the Program,

contending that the Program was a confiscation of properties without just compensation. The suit was directed against the 1973 Act, and not against the Program as a whole, according to Keeling. It was particularly aimed at the mandatory part of the Act, which they felt was also unconstitutional. Another issue involved in the law suit was the use of banking functions as a control measure. The groups were seeking an injunction to prohibit the federal government from imposing any economic sanction during the litigation. This injunction sought only selective relief for those entities, organizations, and individuals who had actively participated in the Coalition. The Texas Landowners Rights Association had long contended that the Program was a "federal land use control" measure. For months they had sought the passage of an act that would allow communities not to participate in the Program if they agreed to forfeit any rights to disaster relief funds in case of a disaster (Natural Hazards Observer March 1977:4).

The name of the law suit was The Texas Landowners Rights Association, the City of Cape Girardeau, State of Missouri, the Pacific Legal Foundation et al. vs. Patricia Harris, Secretary, Department of Housing and Urban Development; J. Robert Hunter, Acting Administrator of the Federal Insurance Administration; and Richard W. Krimm, Assistant Administrator for Flood Insurance. The suit was making its way through the courts and was filed in the Federal District Court of the District of Columbia on November 15, 1977,

It is interesting to see that this suit was filed after the recently passed amendments of October which had modified the Program.

Terry Keeling, head of the Texas Landowners Rights Association, said that the suit and the recent amendments might solve the problem.

"The problem is not going to be resolved as long as participation in the flood insurance program has to be on a community, not an individual, basis." He indicated that he felt flood insurance should be available strictly on a voluntary basis. Their law suit was constitutionally based, and he contended that there was confiscation of property without compensation.

The U.S. Federal District Court, District of Columbia, ruled on the lawsuit filed in November 1977 by the Texas Landowners Rights Association on May 31, 1978. The Court ruled in favor of HUD, finding that the NFIP was constitutional. The Court cited that the method of sanctioning was an acceptable "carrot and stick" with attractive incentives. It further stated that the flood plain lands were not directly appropriated by the federal government, so there was not taking of property. "The restrictions placed upon the use of private flood property are necessary to protect public health and safety," according to the Court. Terry Keeling, president of the Texas Landowners Rights Association had instructed their attorneys to begin an appeal proceeding to the Circuit Court of Appeals. So round one of the court battle went to the NFIP and HUD.

On October 29, 1979, the Supreme Court of the United States denied a petition for a writ of Certiorai, submitted by the Flood Insurance Litigation Coalition. This action put an end to the appeals process for these groups. They had been seeking a declaration that the NFIP was unconstitutional. The denial by the Supreme

Court meant that the Federal District Court ruling of May 31, 1978, would remain in effect. That ruling found that the NIFP was using acceptable methods for inducing community participation and that the regulation of private lands by the federal government does not constitute a taking of private property (Natural Hazards Observer March 1980:3).

The early part of 1977 also saw the Federal Insurance Administration and the National Flood Insurers Association reaching an agreement that attempted to solve some of the problems they were experiencing. A draft of this tentative agreement inviting public comment was published in the Federal Register on January 28, 1977. The agreement provided for competitive bidding practices, which had been a point of contention. This still left unresolved the major issue of whether the administrator of FIA, under the power granted to HUD, could issue a regulation that binds the NFIA or whether the relationship was a contractual one and therefore not unilateral. The FIA's position was that they could unilaterally mandate policy to the NFIA. A second point of contention was whether the computer system that was being implemented should be under the management of the NFIA or as the FIA contended, a separate organization. The FIA preferred the contract to go to a separate organization so that it could be compatible with the HUD system in case a transfer might be necessary in the future (Natural Hazards Observer March 1977:4). One could already see at this point that the FIA was preparing for the possibility of transferring all of

the activities of the Program, and thus assume total responsibility and control of the NFIP.

In May, 1977, the National Flood Insurance Program received somewhat of a boost from President Carter when he gave his environmental message of the twenty-third of that month. He called for the establishment of a National Water Resources Management Policy by the Office of Management and the Budget within six (6) months. He also issued Executive Order 11988, which directed federal agencies to refrain from supporting, funding, or indirectly issuing permit and licenses to new construction projects located in the flood plains, unless there were not practicable alternatives available (Natural Hazards Observer June 1977:8).

In this Executive Order, the President directed the Water Resources Council to issue guidelines for determining flood plains where maps are not available. However, this Executive Order does not address the question of liability. It does not say who would be responsible if the information provided is incorrect nor how correct information could be provided.

Much of the discussion, as in President Carter's speech, revolved around the idea of floodplain, and this normally means the 100 year flood plain. The use of the 100 year flood plain in an arbitrary one, but one that conjures an image that such a flood is possible within the lifetime of most people, and therefore something they should be concerned about. However, the images that it brings about are not always accurate ones. An article in Flighttime reported on community recovery from the 1972 Hurricane Agnes. One person

from Elmira, New York, was reported to have "... had about enough of the government's predictions of the 100-year floods (those floods of major proportion that are supposed to occur in approximately one hundred year cycles)." The man had lived in Johnstown, Pennsylvania, in 1936, in Elmira in 1948 and was in Elmira for the 1972 flooding from Hurricane Agnes. His comment to a government man at a community meeting was, "I think your odds of one hundred year floods are 'censored'." This was a clear example of both the people in the public and the author of the article not knowing what the one hundred year flood really is. This also illustrates the difficulty that the NFIP has had in making their policies and goals clear to the public.

Other problems have continued to plague the effective implementation of the NFIP. Since the government does not have one agency that controls all of the policy decisions about water, the various agencies often end up with contradictory policies. These problems were noted in the 1977 publication of the Water Resources Council's "Water Resources Policy Study: Issues and Options." It point out that much of

Federal water resources planning is oriented to construction projects rather than to comprehensive management of the nation's water resources by alternative means. This orientation has precluded the use of nonstructural measures such as flood plain management and pricing policies, and has, therefore, resulted in projects that are not as effective, efficient, or environmentally sound as otherwise possible. (Natural Hazards Observer Sept 1977:4)

The Water Resources Council proposed four options to meet this problem: 1) equalization of federal cost sharing for structural and non-structural measures; 2) favoring the implementation of non-structural measures through differential federal cost sharing policies; 3) requiring that the nonstructural or total water management alternatives be considered whenever a structural project is recommended; and 4) strengthening the total resource management role of river basin commissions in both water resource planning and implementation (Federal Register 42, #146, July 15, 1977). I should point out that even these four proposals are moderate positions. For example, they are not giving primary emphasis to nonstructural approaches. They were only asking for parity with structural projects or for the consideration of nonstructural measures. Although they called for a consolidation into an agency for comprehensive management, one of their suggested options was to give the river basin commissions more strength. Thus, there is a desire for greater centralization of decision-making, yet a simultaneous movement away from that centralization.

Another opinion was expressed by C. Robert Hall, Vice President of the National Association of Independent Insurers, when he called for voluntary purchasing of all types of insurance. He expressed concern over the proposals that have frequently arisen since Hurricane Camille in 1970 to have every property owner in the U.S. carry "major disaster insurance." He argued against this citing that there are other types of insurance available and that to require disaster coverage for all would make "Kansas pay for

Louisiana floods or California quakes. This is unequal and unfair taxation, which would be rightfully resented by millions." He goes on to cite the Flood Insurance Program as a warning in the difficulty of finding protection in all encompassing disaster insurance (Hall 1977:1-2).

These comments help provide a perspective for the climate that existed around the NFIP in 1977. The Program was continually being called into question. It lacked strong support throughout the government. One of the results of this was the 1977 amendment to the Program which President Carter signed on Wednesday, October 12. The amendment was part of the Housing and Community Development Act. One of the important parts of this amendment was to change the Program to let conventional lending institutions have the discretion to approve loans within flood hazard areas in non-participating communities without the protection of flood insurance. This was one of the points that the Texas Landowners Rights Association had brought suit over. All that the lenders were required to do was to advise the prospective buyers or renters whether a property lies within a flood hazard area and whether, in the event of a disaster, the property would be eligible for Federal Flood Disaster Assistance. This revision applied only to non-participating communities. The purchasing of flood insurance remained a condition of conventional financing within the designated one hundred year flood plain areas in participating communities. Institutions with direct federal financing assistance such as FHA mortgage assistance, Veterans' Administration mortgage guarantees, and the like would still be prohibited

in non-participating communities. The amendments also included an extension of the Program to September 30, 1978, for both the emergency and regular phases of the Program. The available limits of flood insurance coverage had been increased and broadened for the regular Program.

It was of interest to note that two additional amendments were approved, but that no federal funds were added to the Program to implement them. These amendments concerned the purchase of flood damaged property and the reimbursement of some of the fees for those communities that had successfully appealed FIA's technical determination. While these latter two amendments did not receive funding, they were signs of changes to come in the future conduction of the Program.

The passage of the 1977 amendments and the issuance of Executive Order 11988 came about for several reasons. The first concerned public unrest over the delineation of the flood plain. The second was the government's irritation at the alleged delay at the local level in complying with the entrance requirements of the Program. The third was the strong support received for the amendment by realtors because it allowed more property to be developed and more for them to sell. And the fourth reason can be seen in the following quote from Missouri Senator Eagleton:

This amendment would made a modest change in the National Flood Insurance Program. Very simply, it would allow a community which has compelling reasons for not adopting the restrictive HUD land use code to continue to have access to conventional forms of financing ... all my amendment

seeks is to give local jurisdictions a small degree of choice about how they handle purely local affairs. (Natural Hazards Observer 1977:9)

The opponents to the amendment were adamant in their opposition, and this can be seen in Representative Ashley's comments:

"Experience under the National Flood Insurance Act of 1968 ... proved conclusively that a purely voluntary program without lending prohibitions in non-participating communities simply would not reduce the spiraling federal costs of annual flood disasters" (Natural Hazards Observer 1977:9).

The amendment and Executive Order significantly changed the Program, and were indicative of several things. They showed that the Program was not proceeding at the pace originally intended. It was taking longer to complete than initially planned. The Program was costing more money than planned for. A significant reason for this would appear to be the lack of knowledge concerning how many communities were in the floodway or the flood plain, and would therefore need to have mapping done. Each year the number of communities identified as having flood hazards has increased.

A second important point was that there was pressure to alter the Program so that people could continue to get federally related loans in flood hazard communities even though the community was not participating in the Program. It allowed people to build in the flood hazard area even when they knew it was a potential flood area and if they were not a part of the Program at that time. Thus

a community could postpone entering the Program, perhaps even for years, if they were building in the flood plain. There was also no penalty for dropping from the Program, then building in the flood plain, and after the completion of the construction re-entering the Program in the emergency phase and having the new construction covered at the subsidized insurance rates. It is easy to see how the Program was substantially weakened by the adoption of this amendment. The underlying rationality of the Program was being subverted by vested interests within the economic system. The developers, financial institutions, some cities, and others would be allowed to continue to develop the flood plains.

Shortly after the amendment was signed by President Carter, the FIA moved to break away from the National Flood Insurance Association. On November 2, 1977, the Secretary of FIA filed a report with Congress signifying her intention of going from Part A to Part B of the 1968 Act. This would result in the federal government assuming all underwriting risks for flood insurance and for the choosing of a new fiscal agent as of January 1, 1978, when the then current contract of FIA with the National Flood Insurers Association and its consortium of one hundred thirty-two (132) insurance companies expired. The Secretary wanted a new contract with Electronic Data Systems (EDS) Federal Corporation of Dallas, Texas. The NFIA opposed this action. Congress had until December 2, 1977, one month, to review this action.

When the Program was begun in 1968, Congress had expressed a strong preference for a government-industry partnership, however, it

did provide an alternative for the federal government to take over if the partnership failed. Eight members of the Senate Committee on Banking, Housing and Urban Affairs had writted to the Secretary asking her to extend the contract with NFIA so that the General Accounting Office could review the two budgets (NFIP's and NFIA's). The Natural Hazards Observer reported that strong pressures were building from other sources to secure this extention (Dec 1977:9).

While it may seem that the Program was being attacked almost continually, it should be made clear that it also received considerable support. One of the largest organizations to support the Program was the American National Red Cross. The Governors of the Red Cross prepared a statement that read:

The Red Cross will seek to promote and enhance the role of the federal, state, and local governments in providing extended recovery programs adequate to meet the needs of disaster victims and will encourage participation in the National Flood Insurance Program as well as the adoption of state and local hazard mitigation programs such as land use regulations, improved building codes and adequate constructions standards.
(Natural Hazards Observer March 1978:1-2)

Support of the NFIP came from other groups as well. The League of Women Voters held meetings and passed out literature in support of the Program; this was true for the League in Kansas. The Sierra Club and other conservation groups gave active support to the Program. The Sierra Club published an article in its magazine, Sierra (1978) detailing the goals and workings of the Program.

The support for the Program had been strong enough that some states had passed laws that were even stronger than the requirements

for entering the Program. The Secretary of HUD, Patricia Harris, sent a letter to Senator Clifford Case of New Jersey discussing this point. She wrote:

It is to the taxpayer's and the Program's benefit that existing heavily subsidized risks be eliminated. At the same time, the citizens required in effect, to purchase insurance cannot justly be called upon to bear the chief economic burden because of inadequate insurance coverage, narrowly construed. So while we applaud the states and local communities for their various flood plain management regulations, we are not going to walk away from insured who face tremendous economic loss because of insufficient recoveries under their policies as compared to their actual losses where a reasonable construction of the federal policy permits the interpretation that such losses are covered under the policy (Natural Hazards Observer 1978:9).

Secretary Harris was making the point that some states, such as New Jersey, are saying that any structural damage is considered a complete loss, and that the people cannot reconstruct at the same site. For communities in the emergency phase of the Program, the amount of insurance is so limited that it is almost impossible for the people to recover enough money to rebuild a comparable structure. Harris' position is that the federal government will attempt to help these people if it is at all possible.

To help prevent the problems cited in Secretary Harris' letter, and other related problems, the Water Resources Council issued a set of guidelines for federal agencies to use in implementing Executive Order 11988 -- Flood Plain Management (Federal Register 43, no. 29, February 19, 1978). The objectives of the Executive Order were to "... avoid to the extent possible the long- and short-

term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative..." The federal agencies are required to use their regulations and procedures to avoid the base (one percent chance) flood plain if at all possible, to act to adjust the base flood plain, and to keep the public informed of proposed actions in the base flood plain and encourage public participation in flood plain decision-making.

In the early part of 1978, the Justice Department ruled the legislative amendments were passed and signed into law in 1977 took precedence over the Executive Order. This had the implication that the federal agencies that regulate lending institutions could not impose flood insurance purchase requirements as a condition of the loans in flood-prone communities that were not participating in the National Flood Insurance Program. This opened the way for continued construction on the flood plains with no control over the new construction.

The NFIP was evaluated by a number of different people and organizations. Senator Thomas F. Eagleton, Democrat from Missouri, released the results of a questionnaire which he had sent to three thousand four hundred communities (3,400) that were designated by the FIA as having failed to meet the flood insurance deadlines for participating in the NFIP. Most of the communities were small. Of the seven hundred twenty-eight (21%) that responded to the questionnaire, four hundred twenty-six (426) or fifty-nine percent (59%)

were under one thousand (1000) in population, and one hundred ninety-eight (198) or twenty-seven percent (27%) were under five thousand (5,000).

Most of the communities indicated that only a small part of their area was mapped as flood prone. They felt that most of these areas were not prime industrial, commercial, or residential lands. They listed several reasons for not participating in the Program:

	<u>No.</u>	<u>%</u>
1) community said they had never been flooded	376	52
2) HUD map was found inaccurate	261	36
3) mistakes in the FIA Program	104	14
4) red tape (paper work)	65	9
5) no information	56	8
6) not needed or wanted	51	7
7) high ground	38	5
8) too costly	27	4
9) had own flood management program	11	2

Several points brought up in this study were being examined by the FIA. A spokesman stated that an ongoing effort was being made to correct the Program. Through March 31, 1978, the FIA had recinded one thousand four hundred forty (1,440) maps so that these communities were no longer considered as having serious flood prone areas and that the sanctions of the Program no longer applied. As of the same date, there were three thousand two hundred eighty-seven (3,287) communities remaining under the sanction. The FIA also had a study underway on technical assistance to small communities (Natural Hazard Observer June 1978:8-9).

Gilbert White described 1978 as a year with momentous changes in the national position on management of natural hazards across the land. "The system for marketing flood insurance was revised and its land-use planning provisions underwent serious challenges on both the constitutional and legislative fronts" (Natural Hazards Observer Dec 1978:1). Congress chose not to appropriate funds to do a significant amount of research during the fiscal year of 1979 on such things as who buys flood insurance. White described the governmental activities as disjointed and somewhat uncoordinated. The reorganization of the emergency preparedness agencies was approved by the Congress and would slowly go into effect in the next six months. The reorganization carried the aspiration of unifying activities and had a strong preference for mitigating disasters before they occurred. White wrote that, "The genuine integration of local, state, and federal programs remains to be achieved" (White 1978:1-2).

The early part of 1979 saw the Federal Insurance Administration begin to redirect the emphasis of the NFIP. Originally the NFIP had been essentially a mapping effort. It had begun to change to an indepth technical assistance effort which would concentrate on the communities that had not only substantial flooding potential, but also considerable flood plain development or pressure for such development. A review by FIA showed that most of the severely flood prone communities that had considerable development and population at risk had already been mapped or currently were being mapped.

The FIA was working with the Corps of Engineers to take over the remaining studies and mapping efforts. The Corps could not handle all of the work due to staffing problems. As a consequence of the Corps' inability to do the studies, the FIA had to change its study procedures to permit federal agencies to subcontract the flood insurance study work to other parts of the federal government and to private engineering firms. One of the primary agencies to subcontract the flood insurance studies was the United States Geological Survey. The subcontracting was designed to release FIA staff to work with the state coordinators and regional planning agencies in providing guidance and advice to community officials on the day-to-day flood plain management problems. FIA staff would then help the community officials and staff to review their options in development and management of the flood plains (Jiminez 1979:2). Ms Jiminez (Federal Insurance Administrator) gave examples of such help for local community staff as in Soldiers Grave, Wisconsin, and Baltimore County, Maryland, which used revenue sharing funds and bond money to purchase property in the flood plain. This provided the localities with direct control over the property in the flood plain.

Another change in the NFIP that Ms Jiminez reported was that the Flood Insurance Rate Maps (FIRMs) had not been as useful as originally hoped, and changes were made to compensate for this. "The final product of the current mapping effort is a flood insurance rate map that is not useful for flood plain management purposes and that agents and lenders have problems reading." They tried to make the

FIRMs in the remaining mapping studies to be more useful. "Instead of a system of mass-producing and mass-distributing flood insurance rate maps, the public will have access by telephone to a central facility that will provide flood zone and location determination for the purposes of loan closings and insurance applications." Training procedures for FIA state coordinators and regional planning agencies began in February 1979.

Ms Jiminez went on to report that there was a new determination to work and help other federal agencies to integrate flood plain materials in their activities. Thus, they would be more aware of any impact that was directly or indirectly affecting the flood plain. This was designed to save money, help people's immediate needs, and to advance the cause of long range hazard mitigation (Jiminez 1979:6).

While the NFIP was undergoing these redirections in early 1979, other agencies were undertaking related activities. The New England River Basins Commission Task Force on Flood Plain Management had developed a regional strategy for coping with flooding in the New England area. The goal of this Commission was to minimize flood damage and to preserve the coastal and river flood plains. Their plan was to use both structural and non-structural mitigation techniques (National Hazards Observer 1979:7).

Almost simultaneously with the release of the Commission study of New England came the report of research on the relationship between the federal programs and the flood plain development. The research findings indicated that some federal programs encouraged

urban growth and this growth occurred in the flood plain in a significant number of cases. The highest incidence of developmental pressures came from "201" Wastewater Treatment Works Programs under the U.S. Environmental Protection Agency. It was important to note that although no federal program encouraged flood plain development as a direct goal, several programs allowed development in the flood plain. Only two programs were found to actually discourage flood plain development: 1) National Flood Insurance Program; and 2) Land and Water Conservation Fund Program of the Heritage Conservation and Recreation Service. The research recommended reducing flood plain development pressures resulting from federal programs. Flood plain development possibilities should be identified during the early stages of the planning process, and this requires coordination between the federal agencies planning major works and the FIA (Natural Hazards Observer March 1979:8).

On March 31, 1979, President Carter did sign Executive Order 12127 and officially establish the new Federal Emergency Management Agency (FEMA), with an effective date of April 1, 1979. The action transferred to FEMA the functions of the U.S. Fire Administration and the FIA. At a later date FEMA was to also take on the Civil Defense Preparedness Agency, the Federal Disaster Assistance Administration, and the Federal Preparedness Agency. These latter agencies were to be transferred by October 1979.

The government continued to act to further its control over the people and the states when the Federal Disaster Assistance Administration

proposed rules for the implementation of Section 406 of the Disaster Relief Act Amendments of 1974 (P.L. 93-288). This referred to a condition of any loan or grant made as the result of a presidentially declared disaster. It required the states or local government to make an evaluation of the natural hazards in the affected area and plan appropriate actions to mitigate any hazards. In addition, the state would be required to furnish evidence of compliance with these conditions. Communities would have to take "adequate" measures to minimize or eliminate the danger from the hazard.

In September, 1979, John W. Macy, Jr., the new director of the Federal Emergency Management Agency, issued a published statement detailing the goals of FEMA. The most immediate benefit of FEMA would be the establishment of a single focus on emergency management as it was found at the federal level. "The consolidation of scattered and often overlapping functions throughout the government will end a major source of frustration for emergency management professionals in state and local government and in the private sector." FEMA was designed to be a cooperative undertaking with the federal government as a supportive partner to supplement the efforts of the state and local governments, as they prepare for and respond to periods of crisis (Macy 1979:2).

The actual workings of the new FEMA were still unclear in 1980. While it was to serve as a central agency at the federal level, the other agencies which it oversees continue to exist. FIA continued to function, and to be concerned with flood insurance and flood

prevention. FIA responded to floods in Mississippi during 1979 by beginning a process to coordinate federal, state, and local activities following this disaster in order to lessen the vulnerability of the communities in the future.

One approach that the FIA has explored is land acquisition and relocation as an important flood plain management tool. Jackson, Mississippi, was studied and three conclusions were reached: 1) acquisition would be cost-effective in the long term; 2) acquisition was attractive because it can be used to realize other community benefits such as open space and reduced pollution; and 3) acquisition is a permanent form of flood damage reduction (Natural Hazards Observer Sept 1979:6).

A study done in three communities in Mississippi revealed that one hundred forty-two (142) of one hundred ninety-nine (199) residents living in flood prone areas were willing to relocate if they could do so without financial loss, and that these people wanted to move out of the flood plain, but were hindered from doing so because of the costs involved. The research findings have led FIA to explore ways to implement Section 1362 of the National Flood Insurance Act which provides for the acquisition of land. The FIA also is exploring the possibility of working with other federal agencies and local programs to buy land in the flood plain (Shaeffer and Roland 1979).

In August of 1979, Sheaffer and Roland, Inc., released the conclusion of a research project they had performed for the FIA. This

was a quantitative study to evaluate the economic, social, and environmental effects of regulating use of the one hundred year flood plain in the United States. They conducted twenty-one case studies of flood-prone communities, and used a scenario method for the years 1980 and 1990, as futures of each of the communities as they might be under three different regulatory situations: no regulation, moderate regulation (which was similar to the current NFIP standards), and stringent regulations (prohibition of development and substantial improvements and correction of past uses by existing vulnerable structures).

The findings were of considerable interest to anyone wanting to prevent flood damage or flood loss increases. The projections indicated that if the NFIP standards were followed flood losses would not only not decrease, but would actually increase. The main benefit of the Program would be that the rates of increased loss would not be as great as they had been in the past. They found that the rate of population movement to the flood plain would be reduced and that the rate of conversion of open space flood plains to urban uses would continue, but at a reduced level. However, the process would not stop.

The scenario with no regulations resulted, as one could have easily guessed, in greatly increased flood losses and in housing on the flood plain. It was only in the scenario with the most stringent regulations that one could hope to find an action reduction of flood losses, flood plain housing, and the conversion of open space to developed uses. One cannot help but reach the conclusion

that the NFIP was a program that was not solving the problems of the flood plain, and the developments that have been continued there. This development is not completely irrational since the federal government has stepped into the situation to prevent the investors from suffering devastating economic losses during flooding. The government is protecting people other than major investors, such as the individual home owner, who is subject to the trends in capital development as far as they must buy a house where they are being built. The lands on the flood plains have also been sought out by investors who are building plants and factories for their nearness to the water, and often times, rail transportation.

The latter part of 1979 saw the release of yet another study, that of the U.S. Water Resources Council's "Impediments to Federal Sponsorship of Non-structural Floodplain Management and Flood Recovery Measures" to the President's Water Policy Committee. The report focused on flood responses as they involved flood plain management, particularly as they lay within the jurisdiction of the federal government.

The report made many recommendations; some of the more important ones were: 1) an interagency agreement should be made to develop and implement non-structural mitigation plans; 2) an interdisciplinary, interagency hazard mitigation assessment team should be established at the time of a major flood; 3) a mitigation report should be written recommending where non-structural measures should be taken, and specifying actions to be taken by each agency and

and level of the government; 4) conformity with hazard mitigation reports should be required to satisfy Executive Order 11988; and 5) FEMA should coordinate all the foregoing processes.

It was also interesting to see that all the studies and federal action concerning the NFIP in the U.S. were having consequences outside of the country. Canada instituted a flood damage Reduction Program, which was modelled on the U.S.'s NFIP. They also used maps and brochures and found that they were not very effective. They were trying to use real estate agencies and mortgage institutions to either be persuaded or compelled to assist with the implementation of the Program. In a similar type of government action, the Australian government had under consideration a natural disaster insurance program. Their program was eventually tabled, and the program aborted because of doubts about the success of the program, "... as well as philosophical notions regarding governmental rolls in the private sector" (Natural Hazards Observer Dec 1979:3).

Nineteen seventy-nine (1979) also saw the release of a report by the Geological Society of America. The report was critical of the NFIP, the government, developers, and the public. "With building on flood plains occurring at an ever-increasing rate, it is apparent that legislators, planners, builders, and the public, despite years of experience, have failed to comprehend the fact that flood plains will inevitably be flooded" (Moss, 1979).

In 1980, the NFIP had been in existence for just over one decade and several people had taken the time to examine its goals

and its progress towards those goals. One such person was Larry Larson, whose concern was flood plain management for the State of Wisconsin. He noted that the Program had been in existence for slightly more than a decade, and during that time most of the states had developed flood plain management programs. The objective of the state and national programs had been to pass the cost of building in flood hazard areas on to those people who insist on building in these areas. Larson noted that there had been:

... considerable controversy over the programs and in an effort to lessen political problems and the outcry from land rights advocates, many of the programs, including the NFIP, have compromised their efforts to regulate future development by allowing encroachment into the floodway that would result in increases in flood elevations up to one foot above the level that existed at the time the regulations were put into effect (Larson 1980:4).

Larson was quite adamant that this was an error to compromise the goals of the programs. He advocated a zero-rise floodway that would allow no encroachment into the floodway. The only exception would be if "... each and every property owner affected by such increase is compensated through some legal arrangement for any flood evaluation increase on that property" (his emphasis). He cited many justifications for such a proposal, particularly the experience that had been obtained from states that had employed this idea, such as Illinois, Michigan, Colorado, and Wisconsin. He went on to write:

When adjacent property owners are required to sign a flooding easement to compensate them for increased flood damages caused by their neighbor's fill in a flood plain adjacent to them,

they learn that flood plain regulations do not simply restrict development -- these regulations rightfully protect the rights of all other property owners who would be adversely affected by that action (Larson 1980:5).

Wisconsin has had zero-rise floodways for nearly four years and it also requires the purchasing of flooding easements for any floodway encroachment. They have found that an increasing number of private citizens have called to report that someone in the community was building in the flood plain and that they might have an adverse impact upon the property or safety of the people. Larson reported that the adverse reaction to flood plain management programs had "greatly lessened" because of this increased public support. In the past, only those who have had an interest in developing vacant land in the flood plain expressed their concerns at public meetings. Many of the local officials were of the opinion that these were the only people heard. Now a change is coming about.

Larson advocated that the NFIP be changed to a zero-rise floodway as soon as possible. He was of the opinion that the current one foot floodway rise only encourages new development, not only in the flood plain, but in the floodway, which is "diametrically opposed to those redirected goals and objectives of FIA and FEMA" (Larson 1980:4).

The Spring of 1980 saw the FIA put into effect a pilot operation for providing information to communities participating in the NFIP. The Map Information Facility was used by insurance agents and brokers for communities in Arizona, Louisiana, New Mexico, Nevada, and Oklahoma for communities in the regular phase of the NFIP. These

people can use a toll free number and by giving the FIA the address or a description of the location of the property, they can get information that would ordinarily be obtained from a map. This included base flood elevation at the location, flood hazard zone or status of the community. This project was begun to help deal with the many complaints that concerned the Flood Insurance Rate Maps which were difficult to read for many of the insurance agents and bankers of the communities. The FIA was trying to work out the bugs in the Map Information Facility before making this available on a nation-wide basis. Originally this was scheduled to be ready on a nation-wide basis by September 1, 1980, but that deadline was pushed back and the project was eventually terminated in 1981 for being inefficient (Natural Hazards Observer Sept 1981).

V. Themes in the Historical Case and the Need for Further Research

There are several major themes in the social historical case study of the National Flood Insurance Program. The themes are the underlying ideas, the commonalities that are found in the historical case. A discussion of these themes will provide a better understanding of how the NFIP developed and works. It will also be shown in the following pages that several unanswered questions are raised by the themes.

The federal government became involved in the development and administration of the NFIP through a long and circuitous route. The initial involvement can clearly be seen as the federal government used the Commerce Clause to improve navigation and, indirectly, flood

control. As Habermas suggests, the government intervened in the economic sphere to improve trade and commerce. In the twentieth century, the government became more involved in flood control, as flooding proved to be increasingly costly to the private sphere and the federal treasury. The government paid for not only preventative structures, but for recovery from flood damages. Also, in some periods, the government funded flood control construction in an attempt to reduce problems in the economic sphere such as unemployment and economic depression. These are problems Habermas said would be administratively addressed, and they were.

The NFIP began as a non-structural approach in the 1960's to this growing economic burden on the federal government (and the people). One result of this Program was a federal partnership with the insurance industry. This association had a goal that could be traced back to the Eisenhower administration. The federal government would subsidize flood insurance, but only as a short term solution until the government could turn the flood insurance program over to the private insurance companies. Thus, the federal government was defining a role for itself of only temporary intervention into the private economic sphere to provide a more stable (and profitable) situation for business in this sector of the economy. Some of the questions that come are are: Do the people in the public know about these economic problems caused by flooding? How do the insurance people, real estate agents, and finance people view these economic problems? How do they feel about the government attempting

to control flood problems with the NFIP? How do they feel about the government attempting to control the flood insurance partnership and the concomitant issues such as controlling the cost of the premiums, what profits could be made, and who sells the insurance?

The second major theme found in the social history of the NFIP was the growth of the federal government and the concomitant problems of rational administration. This theme is closely connected to the economic theme. Habermas wrote about the growing complexity, conflict, and problems of coordination and the case of NFIP supports him. In the early history of the U.S., the country was geographically, economically, and governmentally smaller. In the early years only the U.S. Corps of Engineers and the USGS were involved in flood related issues. Even though there were only two federal agencies working in this area, there was a definite lack of coordination between them.

In the latter part of the nineteenth century and the early part of the twentieth century, flood control was linked to other areas such as forest reserves. New governmental agencies were created such as the Bureau of Reclamation and new commissions were created. These agencies and commissions were not well-coordinated. There was a great deal of work such as surveys, mapping, and flood studies that was done over and over again by the different agencies since they often did not know that the others were doing similar work. Not only was some of the work redundant (often with only slight variations in the procedures and results because of each agency's own rules, guidelines and objectives), but there was considerable conflict

among the agencies. The agencies competed for surveying, construction of projects, and for the types of projects to be constructed.

With the beginning of the NFIP it was hoped that the problems of rational administration of flood control efforts were solved. However, this was clearly not the case. The NFIP was only one agency within the Federal Insurance Administration, and it was unsuccessful in accomplishing its goals in the years after it was begun. Subsequently there were many changes implemented in the NFIP. The Program went from voluntary participation to mandatory and then back again. The NFIP did not have the personnel to carry out all of its assigned tasks. The NFIP had to subcontract work to other federal agencies and, eventually, to private firms. Because so many agencies and firms were involved, crucial flood plain maps often did not fit together into a coherent whole. Isolated studies did not consider study areas immediately adjacent. Thus, the information provided to the public was often not well integrated nor very helpful in solving flood problems.

Even as the NFIP was attempting to deal with the problem of flooding in non-structural ways, the Corps, Bureau of Reclamation, the Soil Conservation Service, and many other federal, state, and local agencies were also grappling with similar issues. The Federal Emergency Management Agency was created to help provide better coordination, but the evaluations concluded that the needed coordination was not present.

The concept "rationality of administration" focuses attention on obvious problems of increased complexity, coordination, and change.

To gain a better understanding of these problems and of the NFIP interviews with people administering and affected by the program are needed. Gathering and analyzing primary data can help attain an understanding of the inter-agency conflicts. The historical case study seems to indicate that these conflicts were not as prevalent in the NFIP as they had been earlier; is this really true? Do the people working in the federal, state, and local agencies see problems in coordinating their activities? How have the numerous and rapid changes affected the Program? These questions can only be answered by gathering primary data.

A third theme found in the social historical case study was the roles of science and technology. From the very beginning of the U.S. federal government's involvement in flood control, science and technology have been used to help guide these efforts. Engineers from the U.S. Corps of Engineers and the USGS worked on surveying which led to a scientific-technical definition of the problem, and eventually, to the actual structures that were built to try to alleviate the problems. The number of scientists, technologists, and engineers involved with these problems has increased, as has the number of agencies and activities of federal, state, and local governments, many of which have their own scientists and technologists.

The governments have consistently taken the position that only the data provided by the scientists and technologists can be accepted as valid. The testimony of local citizens concerning the past frequency of floods, where the flood plains are, and what has been flooded have not been considered adequately valid information to

change flood plain studies and recommendations. This also fits well with Habermas's conception of the roles of science and technology in advanced capitalist societies. However, the federal government is not the only body that has access to scientists and technologists. Are there communities and/or organizations that have their own scientists and technologists to challenge those of the federal government and, therefore, the recommendations and mandates of the government? Do people completely accept the role of science/technology as the definers of truth and solutions to flood problems, or do they attempt other solutions and definitions of the problem?

If there are problems concerning economic, rationality of administration, and science and technology, then one should expect opposition and legitimation problems. A fourth theme found in the social historical case study was the opposition to the intervention of the federal government. One of the fundamental beliefs of many people is that the private sphere and individual freedoms should be free of governmental intervention (Habermas 1975). Another way of saying this is that the government, especially the federal government, should not interfere with people's private lives any more than is absolutely necessary. Previous federal intervention to reduce flooding problems have resulted in opposition. Holmes (1972) noted the frequent local opposition to the structural approach of the federal government used in the 1910's. The introduction of cost-benefit analysis as part of the 1936 Flood Control Act resulted in more controversy and opposition, both from the private sector and from several federal agencies. Many state governments also objected to

the projects coming out of this Act. The flood control projects changed from single- to multi-purpose flood control reservoirs and opposition increased. Opposition came from the farmers, railroads, real estate agents, and sporting clubs. In addition, federal agencies such as the Soil Conservation Service opposed the move to multi-purpose reservoirs. Environmental groups such as the Sierra Club protested the possible impacts of the projects. Other criticism came from academicians who questioned the covert encouragement of the people to occupy the "protected" flood plains and the lack of non-structural alternatives.

Once the NFIP was formally operating, it was subject to criticisms on several fronts. People objected to the mandatory nature of the Program, and they successfully urged legislation to eliminate this aspect of the Program. The NFIP came under attack from organized groups such as the Flood Insurance Litigation Coalition. The FLIC was composed of people from many parts of the U.S. who argued that the NFIP was an unconstitutional confiscation of property. They also objected to the use of banks and financial institutions as a means of control. They wanted individual, voluntary participation, not mandatory, community participation.

Nationally circulated magazines carried articles where private citizens were quoted as challenging the Program, and the role of the federal government. People within the insurance industry were quoted on their opposition to the NFIP. Senator Eagleton conducted a non-random survey of communities who were not in the Program and found more public opposition. Schein (1981) noted people's refusal

to admit there were flood hazards where the NFIP indicated they existed. Many people did not accept the Flood Insurance Rate Maps as accurate.

Thus there has been a history of opposition to federal actions concerning corrective measures for the flood problems. The more recent opposition has raised questions of the constitutionality of the Program. The courts have decided that the Program is constitutional, but the courts cannot decide whether the people will continue to oppose the Program and the expansion of the federal government into the private sphere. Thus one can ask if this opposition to the program has continued, and if so, to what extent? Have frequent changes in the Program's rules and regulations further provoked the people to oppose the Program? Have the federal cut-backs led to changes in FEMA and the NFIP so that the people working for the Program feel they cannot adequately perform their jobs as they are supposed to?

The questions raised by each of these themes can best be answered by gathering primary data. This can be done by interviewing people who work for FEMA, the NFIP, state and local governments, the insurance companies, and real estate agents. One needs to interview those people who have done the scientific work to put the maps together. Public meetings need to be attended to see who attends, what they say, and what they may say privately as well. All of these sources need to be explored to better understand the themes found in the historical case study, and thus better understand the NFIP.

Chapter Four

THE SUMMARY AND ANALYSIS OF THE PRIMARY DATA

The following chapter will provide a summary and analysis of the primary data gathered to examine the themes discovered by the historical case study of the development of the National Flood Insurance Program and to try and answer questions that were raised from the analysis of those themes. The data will also be examined for new themes, to see how Habermas's theoretical framework provides an understanding of the NFIP as a response to the workings of advanced capitalism, and to see how the NFIP may be used to show the scope of Habermas's ideas. The analysis of the primary data may also add to Habermas's analysis of advanced capitalism.

The data for this chapter were gathered by attending public meetings, some private meetings, interviewing people in many different parts of the social world, such as parts of the federal, state, and local governments. Other people were interviewed as well, scientists, technologists, engineers, architects, and private citizens in such areas as insurance, real estate, and finance. Of course, people were interviewed that were directly affected by the NFIP and flooding. For more detailed information about the data gathering and analysis see the chapter on research methodology.

I. Economics

Economics is clearly connected to almost every issue related to the development and implementation of the NFIP. People have been and are suffering major losses from flooding. The dams, dikes, and levees were built at costs now totaling over ten billion dollars, yet flooding

and losses continue. In the past flood insurance was available only through Lloyds of London which NFIP officials said had insured only four or five people in the U.S. They explained the low number of policies was not because people did not want flood insurance, but they could not afford to pay the premiums Lloyds' was charging.

The lack of success of structural measures can be seen in the annual costs of flooding in the U.S. which now runs into the billions of dollars each year (averaging approximately \$4.5 billion per year). The federal government saw and felt this economic expense as the historical case study demonstrated. The case study could not answer the question of whether or not the people saw this economic problem. Nor could it answer the following questions: How do the people in insurance, real estate, finance, and the government view this economic problem? How do these people feel about the federal government setting up, running, and essentially controlling the National Flood Insurance Program? Are the people sensitive to the financial problems the government has had in operating the NFIP?

There are other important questions that could not be answered by the historical study, and these relate to Habermas's ideas. Habermas wrote that a system cannot experience a crisis but only its subjects which have consciousness can (Habermas 1975). Trying to answer the above questions can help in determining if the people feel the U.S. is having a crisis or if the system has crisis potential. The present data can not provide a complete answer to these questions especially if one believes as Habermas did that one can not tell a crisis has happened until after it occurs.

A. How do the people see the economic problems related to flooding?²

The historical case study demonstrated that the federal government first became involved with flood control, and eventually flood insurance, because of the costs of flooding. The federal government is currently employing two methods of dealing with flooding, the older structural approach that has not proven successful in preventing an increase in flood damages and the non-structural approach of the NFIP.

The issue of structural versus non-structural approaches was one of the most mentioned topics in the collection of the primary data. This issue came up at every public meeting I attended and in every interview conducted. Private citizens were aware that flooding was continuing to take place around the country, and they knew that structural protection had been built and was being built.

As previously mentioned, the structural approach has the longest history in the U.S. Several of the interviews produced materials in the form of newspaper clippings, and copies of letters that demonstrated the construction of dams had been pushed by people in the private sector. Clinton reservoir near Lawrence, Kansas had been politically backed by two of the major regional publishers. This dam was part of the Pick-Sloan Plan, but it could not be originally justified because the first cost-benefit analysis made showed a balance of more costs than benefits. The publishers continued to push for a re-analysis by writing editorials, writing letters to government officials, calling Congressmen, and having private conversations to push for the new study. They were successful in having the Corps of Engineers do a re-evaluation of the costs and benefits. The corps made a careful selection of those items that would

be included in the cost-benefit analysis, and this time they reached the conclusion that the dam could be justified.

Several people interviewed expressed the opinion that the dam would never have been built without the efforts of the publishers. The main justification for the Pick-Sloan dams had been navigation and flood control, yet these could not justify the construction of the dam. What helped justify this dam was the inclusion of recreational services, its use as a future water supply for surrounding communities, and its potential for economic development of the area around the reservoir. (This last point has been a commonly used economic justification for reservoirs built in the last twenty years. According to the Corps of Engineers own data, the economic developments have been substantially less than anticipated for the majority of the projects where it was included in the evaluation.)³

The above example should not be taken to mean that people did not want structural measures or that they were wanted by only a few. The opposite appeared to be the case. In the interviews the people repeatedly mentioned their desires for structural protection. They talked about the need for these measures. Private citizens in the communities still wanted levees in spite of their community being in the emergency phase, or even in the regular phase, of the NFIP. These people knew flooding occurred, and they knew they had property that could be damaged. They had no idea of how much flood damage was done annually, but they did know their property or other people's property was endangered by flooding.

One representative of the American Red Cross stated at a public meeting that it had flooded in his community, and it could happen again.

He wanted to know if the federal officials would consider deepening the present channel or consider some structural alternative such as levees or a tunnel.

These sentiments were fairly common at the meetings I attended, and in the interviews. These beliefs were helped by parts of the federal government continuing to propose structural measures to the public as the Corps of Engineers was doing. The Corps was holding a series on public meetings in cities to discuss different plans to protect the city from a one hundred year flood. One of the plans they proposed consisted in a structural approach that would cost \$20,000,000 and reduce the potential damage by approximately eight percent (an amount significantly less than the cost of the project). Flood proofing⁴ had also been considered in this city, but was not thought to be feasible. The Corps said relocation was another possibility and would cost two million dollars. This is one-tenth the cost of the structural approach, but as one person at the meeting said it does not consider the social costs of having to move people from their homes which would mean the break-up of friends and neighborhoods.

This last point raises an important issue, that of self-interest. The people at these meetings were there because they had a personal interest in flood control. One meeting had a number of people who spoke out (this was extremely rare as most meetings had no one from the public attend, much less speak out.) A consulting engineer addressed the meeting and proposed an alternate plan to the ones presented by the government officials. His plan called for the construction of retention dams which would flood some of the country clubs and their golf courses during heavy rains that would normally

produce flooding in other parts of the city. The engineer's plan was greeted by applause and considerable vocal support from the public who attended the meeting. A Colonel from the Corps of Engineers immediately dismissed this plan. His dismissal was interesting because he did not say the plan was scientifically unsound, or technically impossible, but it was "economically unfeasible,"

At the same meeting a woman stood up and demanded to know about the loss of tax revenues that would take place with so many families having to move. There were approximately seventy families told they would have to relocate because recent flooding had damaged their homes by over fifty percent of their total worth and these homes were in the one hundred year flood plain. This decision had been made by the city government, and the federal government supported it and would not provide any loans for reconstruction in this area.

She then asked about the cost of new moderate income housing for those people who would be displaced. She wanted to know if the federal or local governments would provide funds to help these people. One of the federal government officials said the government "might" help the people with some money, but he was unsure that the state or city had any money allocated for financing relocations. In fact the state and city did not have any money, and the federal government did not have money that was made available to these people.

An interview with this woman after the meeting revealed that her concern was not totally an altruistic one for the people having to move. She was one of the families that had been told they had to find new homes outside of the flood plain. She was highly resentful of this and

adamant that she and most of the other people did not have the money to move their belongings even if they were given a fair market value for their house.

Another elderly woman attended the same meeting and she raised a similar issue. She said that this was the first time her property had flooded (and the records indicated this was the truth). Unfortunately she lived in an area designated as the one hundred year flood plain and would have to move. She wanted to know how she could afford to relocate. She said she felt she could not afford the price of another piece of property especially if she was forced to move where she needed a car to shop for groceries (which she did not need at the present time).

A black man from one of the poorer sections of town (he identified himself in this way) said that the flood waters were being drained into the "poor areas of town," and he foresaw more flooding in the area he represented. He said there was "already much flooding every five years." He pointed out that most of the structural work was "done in the rich sections to protect the money."

I questioned the Corps and NFIP personnel about this point and although they did not want to admit to the black man's accusations, they basically substantiated his contention.

Another person from the same part of town as the black man suggested the Corps should try tunnelling to redirect the flood waters away from the poorer sections of town. The representative from the Corps of Engineers immediately rejected this proposal by saying it was too expensive. (Once again it was ironic that the Corps should take this position. Tunnelling had been done in the past for some of the

"richer" areas of town, and tunnelling was one of the alternatives that the Corps had proposed at some of its public meetings.)

A man from one of the areas that had recently been flooded in another community stated that the houses that had been flooded were not substandard because of the flood damage. He said four homes on his block had been condemned by the city, and he wanted to know what was going to happen. He was told he would have to move off of the flood plain if his house was damaged beyond fifty percent of its market value. His house had not been damaged that badly, but he was upset that it was now worth substantially less since the area was a known flood plain and had been flooded.

Still another man at the same meeting spoke for his mother-in-law who had asked him to come and represent her. She lived in one of the areas that had flooded. Her home was condemned, and although she was elderly, she would have to relocate according to city officials. She had no desire to return to her old home, but she wanted to use the property as a source of income. The son-in-law stated this was almost impossible "because of the forced relocation killing the value of the house." He went on to say that the city could not, or would not, pay fair market value for her house.

Individual interviews with the city officials yielded denials of this last point. They said they were paying fair market value, but this value was less than what it would have been before the flood. A spokesperson for the state went on to say that the state had recently taken the position that it would not financially help relocate anyone. This was a significant change in policy because the state had provided help to people who were forced to relocate in the past.

These examples of people's involvement at the public meetings indicate that they were doing so for personal reasons. The people were acting as individuals, or representing relatives. There was little if any indication of class consciousness⁵ with the possible exception of three people mentioned above, and the people's response of approval when the consulting engineer proposed structures that would flood the country clubs and golf courses. One would be hard pressed to conclude this indicated class consciousness.

It seemed to indicate what one engineer said. "People will get more involved in the (National Flood Insurance) Program when they see the Program or flooding affects their own interests." People became involved if their land was flooded or if it was designated as flood plain and they feared property values would drop. This latter was a frequently expressed fear.

People's self-interest was a primary reason why they wanted structural measures to protect themselves and their property. It was a reason why they attended the public meetings. It indicated they had at least a limited understanding of the economic problems generated by flooding and advanced capitalism. Their self-interest was one of the main reasons that they bought flood insurance. One of the people worked for the Soil Conservation Service and he purchased flood insurance for his own home. He said it was so reasonable, especially for flash floods which can happen anywhere. He did not live on the flood plains so his rates were the cheapest ones available. He said he felt people were foolish to not buy flood insurance, even if they did not live on the one hundred year flood plain. This comes from a man whose own work is concerned with the promotion and construction of small dams on

tributaries. He felt that the flood insurance program was vital and that his work merely supplemented the land use control provided by the NFIP.

This leads to a third topic in trying to answer the main question of this section, how do the people understand the functioning and purpose of the NFIP? It appeared many people in the public tended to view the NFIP with suspicion. Some of the people remembered when major dams were built. In order for the reservoirs to be effective the land behind the dams had to be flooded, and this required people to give up land. Farmers were especially hard hit by the forced sale of their land. Many people in the rural areas are still negative about any flood control measures. They see the flood plain zoning as land use control. They are strongly opposed to land acquisition by the NFIP because it is similar to the forced selling of land that they saw in the past. Economic compensation was not enough for most of the people I interviewed. The government had forced them to give up an important part of their lives to permanently flood their land.

The above fears are understandable, but the number of people who had to sell their land for these large flood control projects is relatively small. The National Flood Insurance Program affects literally tens of millions of people. Yet the people did not seem to know hardly anything about the NFIP. This was true of the private citizens who attended the public meetings and had, therefore, expressed at least some interest in flood-related problems. This lack of interest was seen in the historical case when communities did not join the Program and individuals did not buy the flood insurance policies in any great numbers until the Program was made mandatory (1973-7).

Insurance agents frequently expressed surprise at the number of people who did not buy flood insurance policies, especially for those communities that were in the emergency phase of the Program and had the federal government subsidizing the costs. One insurance agent expressed amazement in the few policies she had sold. She said that those people who had bought the flood insurance policies were in a "definite minority and will insure against anything." She said renters can get flood insurance and insure the contents of their homes even though they do not own the premises. She tried to explain the lack of people purchasing flood insurance by saying that most of the people do not think about floods until they occur. "They think it won't happen to me," if they think about it at all.

It should be re-emphasized that most of the flood-prone communities in the U.S. are participating in the NFIP. Close to 16,000 are in the emergency phase and almost 2000 are in the regular phase. However in the majority of these communities people are still not purchasing flood insurance in large numbers. In fact, people are actually dropping their insurance policies as the number of people holding policies has begun to decline in the 1980's.

The decline in policies was attributed to the increase in deductibles to \$500 for the damage to the structure and \$500 to the contents. This, in addition to the contents of basements no longer being covered, explained the drop according to one NFIP official. The demand for flood insurance was such that one real estate agent had written only two quotes for flood insurance in the more than one year she was licensed. This is indicative of the lack of demand, because she was working for the largest real estate agency in the community of almost sixty thousand

people and she was the only one in the agency who wrote the flood insurance policies. She said, "there was almost no demand for it."

This lack of demand on the part of the public for flood insurance was further confirmed at the public meetings I attended. There were questions at only one of these meetings (out of over 50 meetings attended) where the local people wanted to know how they could buy flood insurance. All of the people I interviewed about this issue expressed the opinion that the general public did not know much about the NFIP and had no interest in flood insurance.

The one thing that did come up that would increase people's interest in flooding and flood insurance was a flood in that community. One city manager said that there had been no interest in flood insurance until earlier that spring when his community had been flooded. He had seen an increase in the number of policies since then. He said he felt that it took some local flooding to make people interested in purchasing flood insurance.

The NFIP officials were clearly concerned by the lack of participation in the Program and the lack of people buying flood insurance. At one public meeting a NFIP official lamented the fact that there were not more policies in the city, and she said "God will flood the city and that will get the people's attention the quickest." Even in that community which frequently experienced flooding only about ten percent of the eligible people had purchased flood insurance.

The tentative conclusion seems to be that people do not normally think about flooding, its economic and other consequences, and the NFIP unless they experience flooding in some personal way. However, this does not come close to completely dealing with the issue of the people's

knowledge, or lack thereof concerning these issues of flooding.

The mandatory phase of the Program (1973-7) definitely made some people more aware of the problems, but the Program is now voluntary once again. Yet, a person may have opportunity to have to learn more about these economic flood-related problems if the community one lives in is participating in the regular phase of the Program.

If a person wants to get a loan from a bank or savings and loan to build or buy property that is on the flood plain the person is required by law to show the lending institution s/he has proof of flood insurance to cover this property. If the community is only in the emergency phase or is not participating at all, then no proof of flood insurance is needed.

One of the federal coordinators for the NFIP told me that some of the problems he had seen involved towns in a position similar to the one discussed. They were in the mandatory phase and the banks were not requiring flood insurance for structures on the flood plains. He said that the banks in one small town in Kansas had been sued by the federal government for not requiring flood insurance for structures in the flood plains. He said the banks wanted to settle out of court and were successful in doing so when they agreed to require the proof of purchase of flood insurance as part of any loan for land or buildings on the flood plains.

The above example is one of only a few (less than five according to NFIP officials) where the federal government sued banks for not requiring the proof of a flood insurance policy for loans. Even so, it was evident that many banks were not requiring this proof. Almost

none of real estate agents or insurance agents interviewed said that they had had any requests from financial institutions for proof of coverage, and the laws required these institutions to show proof of this coverage. Interviews with lending officers at banks and savings and loans revealed that most of them did not ask for any such proof. They said they assumed the interested borrowers would get the insurance if it was needed.

If the financial institutions had been rigorous in demanding the proof of purchase of flood insurance, more people would have known about the Program. The same point could be made about the mandatory purchase of flood insurance for those communities that were in the regular phase of the Program and had buildings on the one hundred year flood plain. People who owned those buildings were required to purchase the flood insurance. A city manager asked about the mandatory purchase of flood insurance at one of the public meetings. NFIP officials said that anyone living on the one hundred year flood plain had to buy at least seventy thousand dollars worth of insurance to cover the building and its contents. If they did not want to buy the flood insurance, they could either move their property out of the flood plain or flood proof the buildings and have the flood proofing certified by an architect or engineer. All of these measures are expensive and would help inform the public about the economics of flooding. NFIP officials indicated that "only a handful" of communities across the country had tried flood proofing, because it was so expensive. Not only was flood proofing expensive, but the architects and engineers I interviewed said they would not certify a building was flood proofed because flood

proofing breaks down with age, and a flood bigger than the one designed for could still flood the building. If the latter happened they felt they could be sued and it was not worth the risk.

Other reasons can be cited concerning people's lack of knowledge and understanding of economically related flood problems. Many people commented on their belief that the federal government was continuing to provide assistance to communities not participating in the NFIP. One geographer said that people were getting flood relief whether or not they were in the NFIP and he cited the example of Willis(ton), North Dakota. He said there are no economic or other penalties for not joining the Program. What he did see happening was the poor would continue to build on the bottom lands and these were the most dangerous areas for flooding. He was extremely pessimistic and foresaw no real improvement in this situation. People in the NFIP agreed with this pessimism. One official said he felt the effectiveness of the Program was hindered because of other federal programs providing financial assistance to flood victims such as the Federal Disaster Assistance Administration and the Small Business Administration. He said that this aid created disincentives for the communities to participate in the Program. It also means that people do not have to deal with the regulations of the Program; they do not have to face these problems until after they have been flooded.

I should make it clear that some of the people in the public knew about the Program, even the intricacies of it. One man at a public meeting spoke about the importance of letters of exemption. This letter had to be based on technical information and show that a piece of property

that had been mapped as part of the one hundred year flood plain was actually above the flood plain and therefore not required to be in the Program. Insurance was not required for this property. Such letters were rarely given, but they were rarely requested. It is expensive to hire someone to come and survey a piece of property. Private engineers and architects said that this would cost a minimum of a few hundred dollars up to several thousand dollars depending on how large the land was.

If one goes to the expense to have the surveying done and data justifies the removal of the property from the flood plain designation the exemption should take sixty to ninety days to process according to NFIP officials. The man who had the letter of exemption said it took over a year to get his letter and that he should get all of his money back for his insurance premium he was forced to purchase. NFIP officials said that was correct. The man said insurance agents were refusing to refund any of his money, and the NFIP people insisted they would examine his case and make sure he received his money (which he eventually did after another four months waiting).

In summary of the first topic of this economic theme, the question of people's (lack of) understanding of the economic problems related to flooding, one can say that the primary data definitely indicated that some people recognized problems such as the loss of land and property when structural measures or relocation were employed. A very few (3) people expressed concern over who was paying for the flood damages and flood insurance claims paid out as compensation for damages. However, the majority of the people interviewed seemed not too concerned about

flooding. Developers still wanted to build on the flood plains and were doing so when communities did not prohibit this, and most communities had not prohibited it. In fact, there was evidence that some communities were helping developers build on the flood plains even as the same community was passing flood plain zoning ordinances.

City officials clearly recognized some of the problems as they tried to control development on the flood plains. They also bought flood plain land in some of the communities and turned it into parks to prevent further development. This had turned out to be an expensive proposition for the cities, both in terms of the cost of the land and the upkeep of the parks.

When one considers the few people who came to the public meetings, the lack of participation at these meetings, the low number of flood insurance policies, few letters to papers, and the lack of strict enforcement of mandatory purchasing of flood insurance it seems to indicate that the people have little awareness of the economic costs of flooding. What awareness they have has been brought about by personal interests, rarely a concern for local interests, and certainly not for state or national concerns.

- B. How do the insurance, real estate, financial, and other professionally involved people view the economic problems related to flooding?

This second section on the economic problems related to flooding is important because it is concerned with people who as a result of their employment are brought into contact with flood problems. How do they view the economic problems associated with flooding? These people could be expected to have a clearer understanding of these problems

because their occupations could provide some exposure to these issues. In terms of Habermas's ideas, the issue is whether or not the people are sensitive to the economic problems related to flooding. Do the people see the economic problems holding the potential for creating even larger problems? If they do not, Habermas's ideas explaining the administrative attempts to control economic problems suggests why these economic problems are not seen by the people as threatening.

Engineers have historically been close to flooding issues and they recognized billions of dollars in flood damage have occurred. They were aware of the continued "large flood potential" and consequently the danger of more damage than ever before. They were especially sensitive to the importance of cost-benefit analysis and its use to justify new flood control structures.

The engineers said their goal was to develop and construct structural water projects. Their basic approach was to support structural measures to protect construction already endangered by flooding. They recognized flooding is a problem that is not going to go away in the next few years because so much construction has taken place on the flood plains. What they are currently trying to do is "supplement" the zoning that is required by the NFIP.

It is not too surprising that engineers, and geographers were definitely aware of the economic problems of flooding. They have employment that directly deals with these problems. What about others less directly connected to flood control?

People involved in finance, bankers and people working at savings and loans were interviewed. I interviewed some of the loan officers who

were directly responsible for approval of loans and who needed to see proof of purchase of flood insurance to approve a loan in the flood plain (for communities participating in the regular phase of the Program). Of the people in these institutions that were interviewed, none were especially knowledgeable about flood problems or the economics of these problems. The majority knew that they were supposed to ask about flood insurance, but only one volunteered that they made a regular practice of checking for this. The majority did not know where the flood plains in their communities were, nor did they have Flood Insurance Rate Maps in their institutions to check to see if a property was in the flood plain.

The real estate and insurance people who were selling flood insurance indicated they were not particularly knowledgeable about the problems. Usually only one person in an agency would be responsible for flood insurance, and even these people did not seem to know where the flood plains were. To be fair, some of the agents knew where some of the flood plains were, but they all said they would have to turn to books, maps, or call a toll-free number to try and find out if a specific piece of property was on the flood plain. These agents, especially the real estate agents tended to down play the possibility of flooding. One agent said that even if it did flood, and the person did not have flood insurance, he could probably get some kind of help from the government.

City officials were frequently more knowledgeable about the economic aspects of flooding. One city manager said that until the federal program came into existence there had not been any insurance available to cover losses (which was not entirely true, but close). He knew the

NFIP had come into existence because of the high costs of flooding, which had been several million dollars even in his community. He indicated that he felt the people needed to have the government create this program and directly subsidize the premiums so that the people could afford this insurance.

This particular city manager had a good grasp of the Program's intentions and regulations, but he was an exception. Even so, he and many of the other city officials interviewed stressed the importance of structural measures to protect their residents from flooding. One city official specifically mentioned the need to do construction on some of the roads, and around the roads to comply with the NFIP. They had to put in new guttering and to re-route water to keep it off the roads. Developers were directed by the city to do some re-channelling in the area of one golf course.

In other cities there had been land purchased to prevent construction. This land was flood plains and was converted into parks. The city officials said the response from the public had been favorable, and several of the people still living on flood plain land wanted the city to buy their property to use for more parks.

I found out that city commissions had been concerned with problems related to flooding for decades, and in most of these cases the concern was because the community had flooded in the past. Communities had dealt with the economic problems of flooding by making special tax assessments on the streets, and they had passed bond issues to generate more revenue. One city commissioner spoke of people having problems with flooding and they refused to pay their property taxes. The city had to

take over the land and sell it for the taxes. Another side effect of defaulting on taxes was seen when developers found themselves having a bad name because they had been building in areas that flooded. People in the community were becoming aware of the developers having built houses that flooded. Sometimes new houses flooded before the owners had moved in and they refused to pay their property taxes.

In another community the city officials had worked with developers to transfer planned construction of housing and buildings out of the flood plains and onto areas that were not subject to flooding. The city officials said that the building permits and plans for construction had been approved by the city before they became aware that the area was flood plain. They successfully negotiated this change even though the community was not in the regular phase of the program, and the construction would have been covered by the government subsidized insurance of the emergency phase. These city officials said that they would like to buy some of the land that was flooding, but they did not have the money to do so.

It was obvious that most communities did not have the resources to buy all or even part of the land that was flooding. The twin cities of Fargo, ND and Moorehead, MN were regularly subject to flooding. The city officials turned to the county offices which could not help them buy the land, and neither could the states. They turned to FIA which also turned them down. Finally they learned about a part of the 1973 Flood Insurance Act (Section 1362) which provided for the Department of Housing and Urban Development to provide funds to FIA and the NFIP to purchase properties that had been damaged by floods three times in the

last five years. They were turned down at this level as well, as HUD refused to allocate money for purchasing the land or relocations. The city officials learned a great deal they said, but they felt they were turned down to save private insurance companies money. NFIP officials denied this. They said that the money would have come from the federal government and not a private insurance company. The city officials were incorrect on this point, but they definitely saw some of the problems associated with flooding.

Thus the primary data indicated that the answer to this second topic/question of economic problems is that the engineers and people directly employed to deal with flood problems do have a good idea of the economics. This is no surprise. The data suggest that the city officials have some grasp of these problems, especially within their own community, but not necessarily outside of their community. The people in the financial sector have even less grasp of the economic problems associated with flooding, even in their own communities.

Almost all of the people interviewed and discussed in this section favored a structural approach to solving flooding and thought this would therefore take care of the rest of the problems. Except for the engineers, there did not appear to be any real sensitivity that problems of flooding had any economic affect on the people outside of their own community with the exception that the government would help out if the people really needed it. There was not any evidence of a severe economic problem caused by flooding.⁶

C. How do people feel about the government's economic control with the NFIP?

This third question related to economic problems is concerned with people's ideas about the federal government controlling the flood insurance industry. I was surprised to find that private citizens showed almost no reservations about the government subsidizing this insurance. Many of the people who had flood insurance did not realize it was subsidized by the federal government. Others realized it, but said they had not really thought about it until I raised the issue. In fact only two people said they opposed the government "supporting" the flood insurance industry and that was because they thought "the government shouldn't help anyone (or any business.)" The government should "only protect the people." They said the insurance companies should charge what they have to and "the people will buy it if they want it."

While the private citizens were not very concerned about the government running the NFIP they did show some concern about the costs of the NFIP. There were a few meetings where people asked questions about the cost of running the Program. A FEMA representative said that the Program cost approximately one hundred million dollars a year with about eight million dollars going to overhead and ninety-two million dollars going to the studies for the flood plain maps. He went on to say that most of the studies were just about completed so this money could be diverted to other areas, but this was not true. As of 1980 almost 16,000 communities were still in the emergency phase with the studies not officially complete. Even those studies that were done for communities in the regular phase of the Program might have to be done again as the community expands taking in new land or building in areas

that were not originally flood plain but become part of the flood plain as the ground is covered with streets and buildings which inhibit the ground's ability to soak up water.

The representative continued by saying that the money was going to be used to acquire land in the flood plain, to buy structures in the flood plain, and for research and development as it was not longer needed for the studies. This has not happened.

The representative was misleading the people in other ways by not telling them more about the expenses of the Program. He made his comments in spite of the fact that the NFIP had gone "heavily into the red last year due to flooding" as an NFIP official told me. The FEMA representative justified this by saying that the majority of years the NFIP was operating in the black. This also was only a partial truth. The costs of the Program did not include disaster relief or the payment of flood damages above the costs of the premiums taken in. He said these could not be counted "because there was a lot of old construction." The NFIP was trying to keep the amount of insurance paid out at two billion dollars or below, and not as much as the five billion dollars it had paid out in the year prior to the interview. (The NFIP has not been successful in this either.)

The FEMA representative said the money they were not spending was to reduce encroachment and to try and limit the payments for damages they would have to make in the future. This is inconsistent with what he had told the people at the meeting earlier in the evening. The people were told the government would not buy properties on the flood plains or help people move off the flood plains.

It should be pointed out that the economic effects of the NFIP raised more questions than any other topic at the public meetings. In one community people were told that their houses would be razed because they had experienced major damage and were on the one hundred year flood plain. It was interesting to note that none of the commercial enterprises were told that their businesses would be razed. The damage to these structures and contents ran into the millions of dollars, substantially more than the houses that ended up being razed. The explanation for this seeming discrepancy was that the commercial buildings and their contents had not been damaged to a value more than half of their worth. These businesses were eligible for disaster assistance in the form of low interest loans from the federal government. They rebuilt on the flood plain and are still in danger of a similar flood event.

Only two people at the public meetings raised questions about what one could do to not have to buy flood insurance if their community was in the Program and they lived on the flood plain. NFIP officials told them that if their community was in the regular phase these people would have to buy enough insurance to cover \$70,000 in damage to the building and its contents. The only way they could escape this mandatory purchase was to file for a letter of exemption and have data to support it saying that their property was not part of the flood plain.

One man at a meeting had actually done this. He said that the exemption was supposed to be processed in sixty to ninety days, and this was what the NFIP people said at the public meeting. He said his

exemption had taken almost a year. He went on to complain during the meeting that he should be eligible for a refund for his flood insurance, and the NFIP agreed with this, saying he should receive a full refund for a year. The insurance people had refused to refund his money up to that point.

There seemed to be only a small minority of private citizens who were upset about the government controlling flood insurance. Most did not realize it or give it any thought. City officials were more positive about the government's control of the Program. Several city officials said there would not be any flood insurance the people could afford if the government did not control the land use. I also heard several of them say that they were looking forward to their communities joining the regular phase of the Program since the people would benefit from a lowering of insurance premiums for some of the people and an increase in the amount of insurance that people could buy.

This position can be contrasted with that of the people selling flood insurance and those in the finance. People lending money did not like having to check to see if the potential borrowers had purchased flood insurance, and many of the lenders said they did not bother to do this. They did not like the government putting that "burden" on them.

Real estate agents and insurance agents were not happy about selling flood insurance. One real estate agent probably best expressed this when she said that her company felt they had to offer flood insurance because the federal government said they had to offer it to their customers. Her agency was afraid they could be sued by their customers

if they did not offer it. NFIP officials said that people could sue the company for not offering to sell flood insurance, but only because people can sue about anything. There was no federal (or state) requirements that any one real estate or insurance agency sell flood insurance.

Many of these agents complained about the (lack of) profit. One agent said that when she started selling flood insurance she would make four dollars on a premium of forty dollars which was about the average amount of insurance they sold. She complained that this amount of money did not even begin to cover the time it took to talk to the people much less fill out the insurance policy forms. This has changed, but not significantly in the eyes of the agents. There is now a minimum purchase of fifty dollars per year on each policy and an expense constant of twenty dollars per policy per term which went to the agent selling the insurance.

There are 199 insurance companies presently handling flood insurance. Most of the insurance people told me that they felt it was a service that they need to offer. It would guarantee them a small profit with little risk since the government was subsidizing it. A number of companies chose not to participate, and several who had been participating dropped out.

The agents in non-participating companies and those companies that had dropped out of the NFIP were not critical of the government's control of the Program. They were not even critical of the break that had occurred with the old National Flood Insurers Association. Several agents said that flood insurance would be available only if the government controlled the development on the flood plains and continued to

subsidize the companies against losses. They did not see any possibility of having flood insurance at affordable rates without government participation.

A director for the NFIP obviously agreed with this position when he said it would be impossible to provide flood insurance without someone watching over the developments on the flood plains. People would build on the flood plains, flooding would inevitably occur, and "the rates would become too high." This position is very close to what Habermas wrote about with the government needing to intervene to "correct" problems in the economic sphere. The government enlarges the political sphere as it attempts to control the problems of capitalism. Habermas believed this would lead to problems of rational administration.

II. Rationality of Administration

The National Flood Insurance Program has had a long history leading up to its current status, although has officially existed since only 1968. The Program began as a relatively small federal program, but grew dramatically in size and complexity. The growing complexity of the Program was a major theme that came up in the interviews, but one that was almost as many-sided as the number of people interviewed.

The issue of the government's growing complexity can be related to Habermas's analysis of problems of rational administration in late capitalism. Habermas suggested the government must grow in size and complexity to aid in its efforts to administratively take control of the economic problems of capitalism. When a political system grows to control these problems, parts of the administrative system are likely

to come into conflict with each other, competing for resources and authority and making administrative regulations that are contradictory.

The historical case clearly demonstrated the growing complexity of the government. The interviews pointed to this theme again as seen in the issues of conflict among the parts of the government and the problems of coordination among those parts.

A. Does conflict still exist among the parts of the government involved with the National Flood Insurance Program?

The historical case study found evidence of conflict among the different parts of the government concerned with flood-related problems. Notable conflict occurred between the Corps and USGS, the Corps and the Soil Conservation Service, and between the NFIP and the National Flood Insurers Association to name but a few examples. In the period where the NFIP had been in effect there was much less documentation of conflict. The present question directs the analysis of the primary data to see if conflict still existed among the agencies in the administrative sphere.

The primary data revealed that conflict and problems still existed between the Corps and the Soil Conservation Service. The Corps had left out watershed reports and projects when they were conducting the studies for the Flood Insurance Rate Maps for the NFIP. The Soil Conservation Service people told me that they felt the reason for leaving out this data was that the projects had been done by the SCS. People working for the Corps had accused the SCS people of making "rash statements" and it appeared that the non-incorporation of the SCS projects was intentional.

One would expect the lack of inclusion of this data meant that some of the studies were grossly inaccurate, and they were. One town was designated as one hundred percent flood-prone. It was fortunate for this community that one of the people working for the Water Resources Commission knew enough about the situation to see the omissions in the Corps's flood plain studies for this community. He brought these errors to the NFIP's attention and the studies were corrected. This let the people in the community now pay the lowest, not the highest, rates on their insurance premiums.

There were at least five other cases where the Corps had not included data on projects built by the SCS, but in none of them were the potential consequences as severe as for this one community. A side effect of this conflict was a worsening of the agency relations between the SCS and the Corps and between the Corps and the Water Resources Commission. The Corps personnel denied any of the problems existed, except for saying that the people in the SCS had said things they should not have said.

Problems could also be seen between the FEMA personnel, and to a lesser extent, NFIP personnel, and the state personnel. The federal people were the ones who "ran" the public meetings. State personnel would occasionally step in and correct the federal people. Problems of interaction between the state and federal people arose because the state people were obviously better informed about the local situations, (this was a fact admitted by some of the federal people). The federal officials were often defensive about the state people correcting them, especially in public.

One of the state people told me he wished the federal officials would go to him more often for information. There was no question the state officials knew a great deal more about the various communities than did the federal officials. If there had been better communication between the federal and state officials, there might not have been as many administrative problems as they were experiencing. However, rather than moving toward this type of interaction the state officials said they were being pushed out of the NFIP, and they were convinced it would be to the detriment of the Program.

The state Water Resources Commission people had worked very closely with the NFIP in the early years of the NFIP. The NFIP officials frequently turned to the state people for help and information. When FEMA took over the NFIP the FEMA officials were placed in charge of all NFIP activities. Rather than calling or writing the WRC people for information or advice as had been done, the WRC was ignored.

In all of the public meetings I attended there was usually a WRC member present. They were at these meetings even when the federal people such as the Corps, USGS, or FEMA did not have all of their own information there. Not once were the state people called on for any information. Even when the state people spoke out and provided the needed information they were not called on again. They were ignored. One Water Resources Commission person explained this because of past personal conflicts, but I saw this happen with other state officials and in other states. There seemed to be little direct communication between the federal officials and the state personnel.

Conflict was also found between parts of the federal government and the local governments. The mayor of one city had threatened to take legal action concerning power plants that were being constructed on the flood plains. (This area was still in the emergency phase, so construction was permitted.) The mayor was concerned about this construction and about trailer courts that were on the flood plains. This area was supposedly protected by a dam. Studies by the Environmental Protection Agency and the Corps of Engineers had revealed that there were definite questions concerning the safety of the dam. This dam was one of several that was constructed near an earthquake center. An earthquake was expected within the "life span" of the dam. This was a potentially dangerous situation. The mayor said that the EPA and the Corps was suppressing this information, and he had contacted a state geological engineer to confirm or deny this situation. The engineer had confirmed that there was a definite danger from an earthquake. The potential earthquake could damage the dam enough to endanger the power plants and the people's lives.⁷

There were other problems between the government and cities. One city was unhappy with the flood plain study done for it by the NFIP. The city was slow in moving into the regular phase of the Program despite the fact it was one of the few communities that had its study completed. The city did not agree with some of the designations of the Flood Insurance Rate Maps. The NFIP threatened the city to hold its last meeting and move into the regular phase or it would be sanctioned, which would remove it from the Program and not allow the citizens to purchase flood insurance. The city responded by asking for an

administrative hearing to settle some of these problems. (The city was actually wanting more land designated flood plain than the NFIP maps indicated.) The city had the option of going to court and having the judges decide on the disputed issues, but the case was decided without going to court. The NFIP agreed to most of the changes the city wanted when the city agreed to hold its final meeting and move into the regular phase of the Program.

The analysis of the primary data indicated that conflict did exist among several parts of the federal government, between parts of the state and federal governments, and between city and federal government. The conflicts were not over any one topic. Frequently it was conflict about whose data was best; other times it was over the federal control of the NFIP which in turn controlled how much development could occur on the flood plains.

The conflicts have come about in large part because of the growth in the size of the federal government. Its complexity has increased, and with the increased complexity there are occasions when the parts of the government overlap in their purposes and actions. The duplication of work, areas of concern, and competition for resources and authority point to the need for rational administrative coordination to help control or prevent the conflicts from hindering government efficiency and its legitimation.

- B. How do people working in the state, federal, and local governments see the problems in the administrative functioning of the NFIP?

Coordination problems among the different parts of the governments were seen in the historical case. The documentation of these problems

needs to be supported by the views of those who work in and with these agencies. How significant are these administrative problems for these people? What consequences do they see coming from these problems?

The NFIP was but one program in the complex administrative system of the federal government. It should not be surprising that communities responded in a variety of ways. Communities that had experienced severe flooding in the past knew they had flood plains so they restricted development of the flood plains. Many had chosen to try structural measures to protect themselves. Some cities had done their own studies (or had outside agencies do studies for them, such as the Corps, USGS, or SCS) prior to the beginnings of the NFIP. These ordinances resulting from the old studies varied from allowing no construction of the flood plains, to no residences but some buildings, to some that allowed residences depending on how low the lowest floor of the building was.

Even in those cities that had flood plain zoning prior to the NFIP the task of moving into the regular phase of the Program was arduous. This can be seen in one city that had flood plain zoning for six years prior to the Program. City officials said they would soon be moving into the regular phase of the Program, but this was over ten years after the Program began. This community was not the slowest and could be seen as a typical case. One can see how slow this process was even for those communities that already had some sensitivity to the problems.

The main reason for the long time needed to move into the regular phase was the need for new flood plain studies, and the production of

the maps (an issue to be discussed in more detail later in this section). The community's participation had also been slowed six months by an appeal (that failed) but that was a relatively small part of the time involved. If the NFIP had permitted the community to use its old zoning ordinances and maps until the new ones were completed, then the community could have been participating in the regular phase years earlier.

The NFIP did not allow communities to enter the Program until the official NFIP studies were completed, the required number of public meetings were held, the maps were adopted by the city, and flood plain zoning was passed. Communities had to comply with NFIP requirements to enter the Program's regular phase. One city had flood plain zoning, but its old ordinances did not comply in full with those required by the NFIP. The community officials appealed to have their ordinances accepted by the NFIP, but the appeal was denied so they had to pass new ordinances. They made their new ordinances even stronger than required by the NFIP.

One member of the planning staff of this community said, "We still have a few bugs to work out." The "bugs" had come out in a public meeting where people attending the meeting were concerned that buildings resulting from the new ordinances could still be placed on the flood plains. This would endanger adjacent property that had not previously flooded. This was a real problem and one permitted by the NFIP as long as the new construction did not raise the flood height by more than one foot.

Another city commissioner said, "It's (new construction) going to

create more current and flooding for the lower areas." The planning staff suggested the new ordinances would probably discourage development in these areas, but would not totally prohibit it. The Commission said the ordinances would not solve all the flooding problems in the city, because the data was collected only for streams that had a pathway of two hundred feet wide or more. The county must also adopt flood plain zoning regulations, and they must be compatible with those of the city.

One can see the need for close coordination between the communities, the counties, the NFIP, and the agencies doing the studies for the maps. Without good communication and coordination there can be problems, and even failure to accomplish the NFIP's goals.

The lack of coordination between the NFIP and the communities can be seen in one example of irrationality. One Kansas community was in the process of implementing new city planning ordinances, and part of these ordinances were related to flood plain zoning. The new ordinances changed the old regulations concerning the flood plains making them less restrictive. They were changing the ordinances not to move into compliance with the NFIP, because their old regulations were already stronger than needed for compliance to move into the regular phase of the Program, but because the federal government was making them do so; or so the commissioners said. The commissioners were led to believe they needed a specific ordinance governing the flood plain. They went on to say that they had been in contact with federal officials (NFIP) who had encouraged them to make their new ordinances "easier," (less restrictive, so it would be more like the one proposed by the federal

government). Everyone on the Commission felt the government had been "heavy-handed." They did not like this, but felt they had to comply to move into the regular phase.

FEMA officials replied to questions about this by saying they had "merely suggested" the community use the NFIP guidelines because the community was redoing all of its zoning ordinances and this would save them some work. The community officials had not interpreted the "suggestions" this way. Better communications between the city and federal people could have prevented some very negative feelings.

Other communities were clearly not satisfied with the non-structural approach. Several communities were participating in the NFIP, but still actively seeking structural solutions to their flood problems. Cities were supporting the construction of federally funded reservoirs which were partially justified and desired for their flood control. Other communities were seeking money to build levees, and had approached the Department of Housing and Urban Development for funds to have the Corps of Engineers do the construction work.

City officials in many communities were involved with several different parts of the federal government in efforts to control their flood problems. Not all of these contacts were well coordinated, nor did they result in harmonious relationships.

States were also involved in complex relationships with the federal government in the area of flood control and experienced problems of coordination. Many of the people that worked for state agencies tended to focus on the importance of state agencies and their roles in the development and workings of the NFIP. One person pointed to states

such as Iowa and Kansas as leading the way in the early 1960s. He spoke of these states as "...giving the FIA strong ammunition to use..." to demonstrate the need for a NFIP, and these agencies produced early support for the NFIP. Kansas had already adopted the idea of the one hundred year flood plain before the NFIP was created. This position was supported by state insurance people who spoke of the need for the Program because the private industry could not provide flood insurance at reasonable rates without the federal government controlling where people were living, building, and carrying out their business.

The role of the states was also emphasized by people working for the Corps of Engineers. One engineer pointed to states such as Iowa, Kansas, Nebraska, and Colorado which had flood plain land management laws. He said these states showed support for the NFIP by passing laws and having "strong advisee roles," to the local communities.

Another engineer talked about Missouri and how it was the only state in the region that had no flood plain management laws. (There were a few other states that did not have these laws, including Texas.) He said that there needed to be good coordination between the federal and state governments because the federal government did not have any direct control over land-use. The states have this power, and they normally give it to the local level.

The NFIP did attempt to work with the states, and help them. It issued a set of rules on Nov. 28, 1980 to guide its state assistance program. The NFIP officials said this was to help each state accommodate the unique characteristics of the communities as they developed and put

into action approaches to prevent flood damage. The officials spoke of "better use of federal resources and more management at the local level." Forty-eight states were awarded contracts to participate in the first year. The states were supposed to use this money to help communities assess their problems (connected to flooding), provide information on a state-wide basis and a coordination network. At the time of the interview the NFIP officials said it was too early to tell how successful this would be.⁸

Some of the states had acted without the help of the NFIP. States such as Wisconsin and Minnesota had passed laws that made participation in the NFIP mandatory for all communities and counties in those states. Nebraska also had a mandatory participation law which differed from the previous two states. If a community was not in the NFIP and experienced a flood then the state would perform a flood study for that community, and the community had to join the Program. These laws were enacted independently of the NFIP, but were supportive of the Program's intentions according to NFIP officials. The officials continued by saying they wished the states did not have such strong laws because the citizens might blame the federal government for the more stringent regulations of the states.

The primary data indicated that the NFIP was trying to work closer to the individual communities and not working through the states very much. The data also indicated that the NFIP had not been completely successful in coordinating its efforts with the communities or even with other federal agencies.

Rutherford Platt wrote about the lack of coordination among the federal agencies concerned with flood control (1981:1-2). He wrote

about the NFIP, FEMA, the Corps, USGS, and the SCS among others. Attempts had been made to rectify the lack of coordination by a new inter-agency agreement concerning post-flood recovery and hazard mitigation. The agreement created a hazard mitigation team in each federal region and they must file a report about the community's, states, and federal government's preparedness and response to the flood within fifteen days after the event. The report was to focus on compliance with President Carter's Executive Order 11988 that was concerned with non-structural solutions to flooding.

It is interesting to note that twelve federal agencies were involved in this agreement. They included FEMA, Department of Agriculture, Department of the Army, Department of Commerce, Department of Health and Human Services, Department of Education, Department of Housing and Urban Development, Department of the Interior, Environmental Protection Agency, Department of Transportation, Small Business Administration, and TVA. NFIP officials had mixed emotions about this because they were not included (although FEMA officials were). They (NFIP) found it strange that the committee was to deal with problems directly the responsibility of the NFIP and they were not included. The approach was to be non-structural in emphasis, but the Director of OMB told the committee in an official memorandum, "All federal programs that provide construction funds and long term recovery assistance must use common flood disaster planning, and post-flood recovery practices...to minimize flood losses and expenditure of federal money."

This demonstrates a direct administrative response to economic

problems, but at the same time shows questionable administrative decisions about what the emphasis of the inter-agency committee should be. The committee included many government agencies involved with structural measures and construction on the flood plains. It is debatable if the NFIP should have been excluded from this committee, because it was the main government program to prevent development of the flood plains.

The lack of coordination among the federal agencies involved in flood control was a problem frequently cited in the evaluations of the federal government and the NFIP as shown in the historical chapter. NFIP officials readily admitted to their program having a past and present problem of coordination with other federal agencies. Even in the 1980's they still spoke of the breaking of the agreement with the National Flood Insurers Association (NFIA), which was the association of private insurance companies that had been formed with the creation of the NFIP to help handle the selling of the flood insurance. This change resulted in a law suit which was resolved in favor of the NFIP, and the agreement with the NFIA was not continued. The NFIP then entered into a contract with The Electronic Data Systems (EDS) Federal Corp. which lasted for six years. EDS processed the insurance policies and handled the administrative coordination of flood insurance. NFIP officials were dissatisfied with EDS because of the lack of correspondence between the insurance forms and handbooks. They were also not pleased with the workshops which were important in coordinating the program with the insurance agents. The contract with EDS ended and was given to the Computer Service Company, and the flood insurance is once again being sold through private companies.

NFIP officials said that these changes had produced significant problems in coordinating the movement of data among the companies, hiring new personnel, rehiring old personnel, and still trying to continue with the flood insurance studies. The NFIP had to continue to hold public meetings and coordinate its work with the newly created Federal Emergency Management Agency which the NFIP became part of along with its parent agency, the Federal Insurance Administration. The main concern of FEMA was not flood insurance, and NFIP officials said this complicated their work. They found new demands in their job. More of their work became related to disaster assistance such as tornadoes and preparations for civil defense which was unrelated to flooding.

FEMA had only four hundred employees, including clerical workers. This led to some of the workers claiming they were badly understaffed, and overworked. These did not appear to be typical claims of overwork, but fairly accurate appraisals of the situation. An interview with one of the federal technical monitors revealed that the people associated with the NFIP-FIA-FEMA were, as he said, "A hard working bunch." The NFIP had only two members in the midwest region that covered four states, and the region had only three FEMA specialists. In addition they had two secretaries to help with their work.

He said the small number of people and the large workload necessitated them working twelve to fourteen hours a day, a fact confirmed by interviews with these people and by my own observations. They simply did not have enough personnel to do all the work they were supposed to do. The lack of personnel created problems in the administration

of the NFIP. This was seen in some of the local public meetings I attended. One FEMA specialist attended a meeting that was supposed to be the final one for the city, but in actuality it was only the second meeting. One of the other FEMA specialists had conducted an intermediate meeting for the county, but not the city. This meant that the city was not officially ready for the final meeting, and therefore not ready to move into the regular phase of the Program.

This problem had come about because the FEMA officials had to cover the literally hundreds of communities in the four states among the three of them. They were rarely in the Kansas City offices at the same time. This frequently produced problems of coordinating their efforts. On several occasions I witnessed examples of misinformation that proved embarrassing to the federal officials. The FEMA and NFIP officials would be poorly prepared for public meetings. This was happening because they seldom had time to work together on a community's data. This resulted in wasted time and effort as they prepared for a meeting.

This type of problem would be partially eliminated if they had one more FEMA specialist in this region. They were supposed to have one specialist for every state, but there had been a hiring freeze for some agencies, and the NFIP and FEMA were part of this. They said that almost every region was short at least one FEMA specialist and sometimes NFIP personnel. According to one NFIP official this had created a real problem in that they had to go to the required public meetings not well briefed about the situations of a particular community. They did not always know how many meetings a community had

previously had, if there were objections to the studies and maps, or even what data the studies had been based on.⁹

The lack of personnel in the latter part of the 1970's and early 1980s was because of the federal government "...not promoting the NFIP as much," according to one NFIP official who had worked with the NFIP throughout this time. He said that this lack of support, and lack of personnel did not keep them from continuing to be required to "initiate contact with the communities," provide information, attend the public meetings, check on community compliance, and "do the studies for moving into the regular phase of the Program." It had been estimated that all of the studies would be completed by 1972, then 1976, then 1979, 1983, and now 1987. "Now at the beginning of 1984, many are still not done. All communities need to be in the Program, even Chelsea, Iowa, a small dying town, but it must be in the Program." The NFIP has officially changed this position so that thousands of communities no longer officially identified as flood-prone are not required to be in the Program.

Getting the communities into the regular phase of the Program was one of the key problems the NFIP faced. The staff members had gone out and tried to get communities to join the Program, but were only mildly successful because of the lack of personnel which continued to be their explanation. The regional FEMA director was extremely unhappy about this situation. He complained he was short-handed and had to do all the work in three states himself. He said he did not anticipate any improvement in the future.

The situation over the past few years had been deteriorating rather than improving. In the 1970's the NFIP had been conducting

over two hundred fifty studies per year, and this had been cut back to ten per year in the 1980's. These numbers are more than a little misleading. While some work was actually being done on these studies, few were being completed. The reduction in the number of flood plain studies did not free personnel for the NFIP. As of 1984 the NFIP was still so understaffed that they had over one year's worth of studies to do before they could hold the intermediate meetings (the second of the three required public meetings needed to complete the maps and allow the communities to be able to move into the regular phase of the Program).

The completion of the studies was really an illusion as one NFIP official told me. He said that some of the studies were, "fouled up from the word 'go'." They had relied on old data and lacked coordination between the federal and private engineering firms that were conducting the studies. He said it was common for the studies for two adjacent maps to not "fit together", sometimes by elevations of several feet. This meant that one or both were wrong. Other studies of communities would need to be regularly up-dated. Still other community studies were supposed to be complete, but were not even close to completion because of the lack of money to do the studies. This meant they could not hire private engineering firms to do the studies to make up for the NFIP shortages of personnel. He said there were a number of communities that did not have the preliminary flood hazard boundary maps which meant they could not have even the first public meeting.

Both FEMA and NFIP officials complained about the lack of coordination

with the other federal agencies they were working with to do the studies. They said this was another reason the studies were consistently late being completed. It was not unusual for completion of maps to be years later than originally scheduled. In fact, it was the norm. The NFIP could not cite one example of a study where the study was completed and the maps done within one year, the time they were officially supposed to be completed.

The studies were originally supposed to be done by the NFIP, but they quickly saw they did not have the personnel so they often subcontracted the work to another federal agency. The Corps of Engineers was usually the first to get a chance to do the studies, but they were also frequently short-handed. Thus other agencies had opportunities, and the Corps was followed by the USGS, and then the SCS. If none of these federal agencies could do the studies, then they had to turn to private corporations or engineering firms. It was not uncommon in the early part of the Program that one agency, such as the Corps, would sub-contract to do the work, but the time needed to do a study was usually underestimated. The work would then be sub-contracted to yet another agency, such as the USGS, who still might have trouble doing the work because they had their own work to do and limited personnel.

All of the contracting and sub-contracting led to long delays and much paperwork. It could be literally years before private contractors were brought into the picture to do the studies. One of the reasons this would take so long was the federal agencies' refusal to admit they could not do the work as rapidly as required. This was something I

personally witnessed. Several reasons can be given for this. One is that the agencies saw no hurry to do the NFIP studies. Two, the agencies own work had priority over the NFIP studies. Three, the NFIP studies helped insure demand for their work in the future if no one else did it. Four, as some of the NFIP officials said, they were overworked and could not spend all of their time checking to see how fast these agencies were doing the studies. They frequently did not know if they were done or not until the day of a meeting. It was not uncommon for the studies to not be done, as I found out attending the public meetings.

Government officials said that all of the federal agencies must be given the opportunity to do the studies before the NFIP could contract the work to private contractors. Turning to private engineering firms was further slowed because the Corps and USGS would sometimes turn to the state geological surveys to help them do the studies. I found out that this was done usually without the knowledge of the NFIP officials and was sometimes done without the required official subcontracts. The state geological surveys would help these agencies do their mapping of the flood plains. They did work for the Corps in their studies of potential flood heights and flood plain planning. They also reviewed the Corps' impact studies that were part of the flood insurance studies.

The lack of coordination was one of the reasons for the incompleteness of the studies, along with the lack of personnel, and lack of funds. With money available for only ten studies per year per region there were thousands of studies still to be completed, and thousands of

re-studies needed in the future. Some communities would need re-studies almost every year or two as they rapidly grew and developed.

I attended the public meetings of one such city. It had initially joined the Program well before the Program had been mandatory. Its final meeting was not held until over ten years after it entered the Program. NFIP officials acknowledged during this final meeting that the studies for this city would have to be up-dated almost immediately. Another city was in the emergency phase for over eight years, and still had not moved into the regular phase. This whole process was originally designed to take only one year, and now these communities were considered to be "...taking the normal length of time" as one NFIP official put it. The NFIP offered the explanation that the longer time needed to complete the studies was the result of the limited staff available, and the whole country had to have studies for the flood plains. The amount of flood-prone communities known to exist by the federal government had increased six-fold since the Program began. This added to the time for the completion of the studies as the government tried to do all of the studies at the same time.

I interviewed one state hydrologist who had worked on approximately fifteen community and county studies to develop flood insurance maps. He spoke of the tremendous size of the task and the need for FIA-NFIP to contract the work to agencies such as the Corps of Engineers and private architectural firms. He continued by saying there was a gigantic need for coordination, and how difficult this was because there were so many communities and different agencies involved in doing the studies.

He said that there were almost always delays in the studies and new information was needed for the final maps of many communities.

The overwhelming amount of work came through in the interviews with everyone who was involved in doing the studies. One Corps engineer said that he had only one other officer to help him do the work on the flood plain studies for the NFIP. They were the only two Corps people in the region who did the studies for the NFIP, and this was only part of their duties. He said that the Corps responsibilities came first, and Corps personnel were not too comfortable working with the NFIP but had to because of a Presidential order that directed them to do so. (It is difficult to tell if this "discomfort" was true of all Corps personnel working with the NFIP, but it was true of the two working in this district.)

The lack of coordination was also confirmed by Corps personnel, and this coupled with the shortage of personnel largely contributed to the studies being incomplete. One problem in this long process was that the cities did not have the flood maps. This often allowed people to continue to build houses, condominiums, streets, and industry all of which changed the heights of floods, how fast the water rises, and how much damage can be done. The change was almost always an increase in danger and damage.

The NFIP definitely had problems of coordinating its activities with those at the local, state, and federal level. These problems came about in part because of the complex set of tasks it was trying to accomplish, and the complexity of the federal government. The problems of coordination were not simplified since the NFIP also had

to coordinate its efforts with insurance companies across the nation. This was made even more difficult as the NFIP was frequently undergoing changes in its rules and regulations as could be seen in the historical study.

C. How have the changes in the NFIP affected its rational administration?

The NFIP has undergone changes since its first year in existence. Some of the people most affected by these changes were the ones selling flood insurance. These people spoke out about the frequent and sometimes confusing changes that have been made in the Program. Insurance agents commented on how they had to attend workshops on an annual basis if they were to have "any hope in keeping up with the changes in the Program." Their efforts to stay knowledgeable about the NFIP were only partially helped by the federal government holding these workshops because the government did not directly contact the agents about when and where these would be held. The agents had to depend on announcements in their professional periodicals to learn when and where the workshops would be held. The workshops offered the agents an opportunity to learn how the flood insurance applications should be filled out and processed. The application forms were frequently changed so this became an important source of information for them.

Not only did the forms change, but so did the administrative structure of the NFIP as it broke from the NFIA. When some of the agents began to handle flood insurance it was all done locally. Either their own insurance company handled the insurance, or if you were a real estate agent or financial person, a local insurance company would process the forms. This changed to having the insurance go through

limited local companies who worked through a regional insurance company, and finally, the agents selling flood insurance went directly through a national company contracting with the federal government. These changes were accompanied by frequent changes in the forms for the insurance policies and the rules for filling them out.

Any insurance or real estate agent was supposed to be able to process an application for flood insurance. The forms were to be completed and then sent directly to the national company contracted to process the forms; presently this is Computer Services of Los Angeles. There is a systems manager the agents can call if they have any problems.

The agents said they relied on the federally sponsored workshops to gain information about the workings of the Program, and the changes that were taking place in the Program. Attendance at these workshops was important because the agents had almost no other way of knowing about the changes in the Program. The agents usually had a written manual to help them fill out the insurance application forms, but the manuals often were out of date.

It was doubly important in terms of the success of the Program for the agents to come to these meetings since one agent, at most, attended these workshops from any one insurance company, real estate agency, or financial institution. Everyone else at those places was dependent on this one person.

Complaints about the workshops were frequently heard. The people said that the government almost never contacted them to let them know about the workshops. They complained that the workshops were a waste

of time. (Not so much that they did not learn anything, but that they were not making "any money" by selling flood insurance.) Attendance was not required by the federal government. NFIP officials said attendance was lower than they had hoped for. The people who did attend did not give the appearance of being in favor of or interested in the Program. They complained that they had to pay ten dollars to attend the workshop. The NFIP did try to make the workshops convenient by holding them in many different cities, but the lack of good communication about when and where they would be held worked against them.

It would be difficult to over-emphasize the importance of the workshops for the potential success of the NFIP. It is in the workshops that the NFIP presents information on the changes that have taken place within the Program, especially those associated with the completion of the insurance forms. The forms are long, and complicated. They must be completely filled out, or the computer at Computer Services will reject the application. So even if a community complies with the NFIP regulations and a person wants to buy flood insurance, the insurance may not be available if the form is not properly completed.

One of the questionable things about the insurance application process is if an application was rejected by the computer the form is sent back to the potential insuree. The insurance agent does not see the form again, and he is the one with the manual which contains the important information how to correctly fill out the form. The person trying to get the insurance must then try to figure out what went

wrong and how to correct the problem. The insurance agents said any number of small things could be wrong, and the "average person could never figure it out." A rejection can happen when an applicant does not know something as seemingly inconsequential as when a building was constructed. This is common in the U.S. for older buildings as they were frequently not dated when construction was completed.

The importance of the workshops was not to be denied, but their acceptance by the insurance agents and other people attending was hardly overwhelming. One reason for this was the meetings were extremely awkward. NFIP people, and those representing the national computer company had to explain the changes in the insurance application forms which turned out to be designed by one group of people, and the instructional manual for completing the forms which had been completed by another group of people. Problems arose because the manual and the insurance forms often did not correspond. Not only that, but with the frequent changes in insurance forms (sometimes as many as four in one year), some of the agents did not have the right forms, and others did not have the right manual. There were also changes in the terminology on the forms and manuals. These changes did not correspond with each other. FIA officials said that sometimes the words meant the same thing, and other times they did not. There was no definite way to tell for sure, even FIA and NFIP officials seemed unsure.

The workshops discussed major changes in the Program as well. One example was the change in what was considered the first floor of a structure. In the past it had been the ground level of the building,

but this was changed to include basements as the bottom floor to calculate the insurance premiums. This meant that all the houses with basements had to be re-evaluated to determine if the house was now considered in the flood plain. If they were now considered on the flood plain the owners or renters would have to pay significantly higher rates.

The workshops were also important in providing feedback to the NFIP officials. This feedback sometimes demonstrated the lack of rational administration. One man was attending a workshop and had come from a nearby town of approximately fifty thousand people. He indicated that he was not able to obtain any of the flood insurance rate maps. The NFIP and state officials found this hard to believe because maps for this city had been available for three years. The man indicated that there must be a problem in the distribution of the maps, and other people at the workshop confirmed this. (It turned out that the maps had been sent to the city in question, but had been sent to the wrong office and filed without any of the appropriate city officials knowing about it.)

When the maps were available the problems were still not solved. Many of the agents complained that the maps were so badly reproduced, especially blurred, that they could not be read. Officials admitted to this problem, and said they hoped it would be corrected, but there was nothing they could personally do about it.

The workshops frequently increased the agents' levels of confusion rather than clarifying. The primary publicized purpose of the workshops was to explain changes in the NFIP, especially rule changes. At

one meeting the insurance agents found the changes were originally supposed to go into effect approximately two months after the workshop. They were then told that had been changed to a postponement of at least six months. Then a federal insurance representative further confused matters by saying she was under the impression that the implementation would take place maybe two months sooner, but she really was not sure when the new rule would take effect.

The agents handling the flood insurance frequently complained about the changes in the NFIP. They did not like the frequent changes in the insurance forms, the manuals, or the changes in terminology. They found it difficult to fill out the forms completely because of the needed detailed information. They did not like the changes such as counting the basement as the ground floor of the building, or the change which resulted in the contents of the basements not being covered by flood insurance. They objected to the change in the deductible to \$500 for the building and another \$500 for the contents. All of these changes, they said, made the insurance less appealing.

The primary data indicated there were definite problems associated with the growing complexity of the federal government. There were problems in the coordination of the federal government agencies, with state, and local governments, as well as those people and companies selling flood insurance. The NFIP was frequently undergoing changes, and these prevented a smooth functioning of the Program. The primary data also revealed other problems of rationality of administration that fit with Habermas's ideas.

Habermas said that with all of the growing complexity there would be parts of the government that would contradict the efforts of other parts. This could result in irrational administrative decisions by one or more agencies within the government, and this was found.

This was supported by data from the historical case as only two agencies were found to actively support the NFIP's efforts to prevent development of the flood plains, and some federal agencies were actively developing the flood plains. My interviews substantiated that this was continuing. Federal offices were frequently moved from one building to another. There were at least seven cases that I was made aware of during the interviews of federal offices moving into buildings occupying the flood plains. This was directly in conflict with Executive Order 11988 according to NFIP officials. The same thing was happening on the state level in two of the states in which primary data were gathered.

There were instances where the administrative rules did not coincide with the goals of the NFIP. One such rule was that the NFIP would not map anything as officially a one hundred year flood plain that was less than one square mile. While this could be defended as saving time in doing the maps and money in terms of the personnel to study such areas, it led to known flood problem areas being labeled as non-flood plain, and these areas could be developed intensely and receive flood insurance at the lowest premium rates. I know of this happening in all of the major cities in the midwest region, and several of the smaller communities.¹⁰

There was a potential irrationality of the Program that one state official pointed to. He said that a community could have enough insurance policies in force that the federal government would not provide disaster assistance to a community if it were flooded. This could be important since flood insurance does not cover all the damage done in a flood. Buildings and contents have the previously mentioned deductibles, plus a limit on the dollar value of their policies. The insurance would cover things normally stored in buildings, but not such things as cars, growing crops, fences, sidewalks, streets, or bridges. The official indicated there could be severe financial consequences even with the insurance. Communities could be penalized for having more than a certain amount of insurance, and complying with the Program which could result in a flooded community not being declared a disaster area. The people not having flood insurance would be ineligible for the low interest loans that become available with the federal declaration of a disaster.

When NFIP officials were asked about this possibility they gave somewhat confusing answers. They said that the regulations for the NFIP allowed a community to retroactively get Federal Disaster Assistance after a flood, but only one time. The area could be declared a disaster if there was no insurance. They continued by saying "... (it would) not need to be declared a disaster if they had insurance." He seemed to be making the highly questionable assumption that everyone would have the insurance and it would cover all of the damage. I raised the point that not everyone would have flood insurance nor was everything covered by the insurance. They responded by saying that a community participating in the NFIP was eligible for loans from the Small

Business Administration. This would lower the interest people would have to pay, but the people would still end up paying according to them. I was still dissatisfied, and asked if disaster assistance had ever been denied to a community because it had too much flood insurance. They said this had never happened, but that it was possible given the regulations of the NFIP and the Federal Disaster Assistance Administration.¹¹

The Program had several loopholes where there was the possibility of the Program not working as it was intended. A community can be flooded while not in the NFIP. Community officials can postdate a letter to the NFIP and successfully be admitted even after the flood, and thus get federal assistance. NFIP officials said this was rare but that it had happened "four or five times." This has a potentially huge economic consequence. People who buy flood insurance in the emergency phase are immediately covered by their insurance. People buying insurance in the regular phase of the Program have a two week waiting period before it is effective.

NFIP officials also said that some communities had joined the Program, then dropped out since there were no real sanctions for not participating. While they were out of the Program construction could take place and then the community could re-enter the Program with the new construction now covered under the emergency phase, and this construction would be "grandfathered in" at the subsidized rates. They said this had happened in at least three communities in this region. (I could find no evidence of the communities dropping out and rejoining the Program so the construction would be covered, although NFIP officials

said they suspected this was what had happened.)

This summary and analysis of the primary data indicated that there are definite problems of rationality of administration. The NFIP is a program attempting to coordinate a complex network of parts of federal, state, and local governments with parts of the economic sphere. The complexity of the Program and its affiliates has produced significant problems of coordination and administration. These problems have been made even more difficult because of the almost constantly changing structure of the government and its regulations.

Parts of the government have come into conflict with each other. This has hindered the efficiency of the NFIP and slowed the accomplishment of its goals. It has also cost the people money, time, and protection that could be provided by their communities moving into the regular phase of the Program. Some of the agencies have made the problems associated with flooding even worse by promoting the development of the flood plains. This directly violates the purpose of the NFIP.

The rules and regulations of the NFIP have loopholes that can and have been used in some cases to avoid the purpose of the Program. These findings offer at least a limited support for Habermas's ideas when he discussed the problems of rational administration with its complexity of administration, problems of coordination, change, and conflicting regulations.

III. The Roles of Science and Technology

The roles of the scientists and technologists were fairly clear in the minds of the people interviewed. They were working for the

government and were expected to generate data that would be used to accurately delineate what the one hundred year flood plains' boundaries were. This data would then be placed in map form, initially the Flood Hazard Boundary Map, and then the final map, the Flood Insurance Rate Map (FIRM).

The tasks for the scientists and technologists appeared to be straightforward. Go out and gather the data as accurately as possible and then convert the data into the needed maps. However, there arose problems almost immediately with the attempts to gather the needed data. NFIP officials said the federal government initially thought that only three or four thousand communities were flood-prone and needed to be studied and mapped. (In one way this demonstrated the lack of administrative rationality at the beginning of the Program when their information was so clearly wrong. There had not been sufficient coordination of the agencies to have made a good estimate of the number of flood-prone communities.) As the studies progressed and more data became available, it became apparent that many more communities were flood-prone and needed to be studied and mapped. There are presently over twenty-five thousand communities that are identified as flood-prone. These have had or need to have studies done to determine their flood plains.

As the number of communities grew it rapidly became apparent that it was going to take considerable longer than anticipated to do all of the studies to get every flood-prone community in the NFIP. There were just not enough engineers and data available to enable the communities to enter the Program in a rapid fashion.

The enormity of the task of gathering the data was mentioned by many people. One engineer said some of the states were trying to get their state water resources planning commissions to help gather the data for the NFIP. He said the planning for the Program required considerable data and this had been a problem since no one had this data. The lack of available data was one of the main reasons for the development of the emergency phase of the Program. Without the data no maps or zoning ordinances could be made and the communities could not enter the regular phase of the Program.

Without the surveys and studies there was no way to complete the maps and delineate where the flood plain was. Without maps zoning would be almost impossible, and this would mean there could be development in the lower-lying areas subject to flooding. This development would occur in spite of the fact that some of these areas were known to have high water almost every year.

The NFIP was relying on engineers and technologists working for the federal government to do the early studies, particularly those who worked for the U.S. Army Corps of Engineers. The Corps was also doing studies and mapping of its own and needed almost all of its engineers for these studies. When the Corps could not supply enough engineers to do the studies the NFIP turned to the USGS. The USGS was also limited in the number of engineers it had available to sub-contract to work for the NFIP. This resulted in other federal agencies being contracted to do the surveying and mapping. These agencies were the Soil Conservation Service, the U.S. Department of Agriculture, and the Bureau of Reclamation. These agencies employed fewer engineers and

surveyors than the Corps and USGS and consequentially had fewer to help the NFIP. The NFIP then turned to other sources to have the studies done. They used state geological survey people, private engineering firms, and in some instances local county and city planners.

Even with all of the agencies involved the studies were going slowly because of the lack of personnel, and money to hire personnel. One hydrologist who worked for a state had participated in studies for fifteen communities and counties. He said he was concerned about the large number of studies that needed to be done and saw a need for more agencies to become involved to help finish the task. He felt it was necessary to employ people from many federal agencies and from private ones as well if their studies were to be completed anytime soon.

As the NFIP moved into the 1980's thousands of studies still remained to be done. Progress in this area was tremendously slowed as the number of studies funded was reduced from two hundred fifty per federal district to ten per district per year.

The importance of the engineers, hydrologists, and others who worked with the scientific and technical data used in the studies and the making of the maps is an obvious and important role of these people in the NFIP. A critical evaluation of their work and its connection to the NFIP shows other roles as well. People have great faith in science and technology. They are used to determine what the real work is like, what could be done to deal with the flood plains, and what should be done. One university professor who was interviewed confirmed the great

faith the people have in science and technology. He stated that, "...people have a strong belief in science and engineering..." and he went on to say that these beliefs were not always well founded. This is a similar point to the one Habermas made in his discussion of science and technology demonstrating some control of nature, and thus taking on the role of defining what is true in this realm.

Because of this belief by the people in science and technology the data gathered by the flood plain studies can help legitimate the NFIP. The Program was legally set up so that only "technical data" could be used for the NFIP's flood insurance rate maps (FIRMs) said a representative of a private engineering firm who had been contracted by the NFIP to do flood plain studies of some Kansas communities. Most of the cities and communities relied upon the data provided by the NFIP to designate what the flood plain boundaries were.

It was clear in the public meetings and the interviews that science and technology served as the foundation and legitimation of the Program. Science and technology were supposed to set the criteria of what was acceptable and therefore true. One man can be used as an example to illustrate this point. He raised the issue of appealing the designation of his land as flood-prone. A FEMA official told him an individual land owner could file for an exemption from the city flood plain regulations. He said there was no set criteria or form that the letter had to take, but it must include "scientific and technical data." He indicated no other information would be accepted as valid to lower the insurance premiums or to allow substantial construction on the property.

In public meeting after public meeting and in interviews this justification came up that the studies were based on scientific data. This meant, as one city commissioner said, the ordinances (flood plain zoning ordinances) were based on "scientific and engineering data." It was almost as if the data, and therefore the ordinances were unchallengeable.

A second theme can be seen in these positions. If the data is scientifically gathered it is value free. It merely describes the way the world (or in this case the flood plain) is. I found this viewpoint in many of those who were working for the NFIP in doing the flood plain studies. One engineer pointed to the many floods the district had experienced. The damage had totalled billions of dollars, and this made it important for the Corps and NFIP to go to the communities and inform them of their capabilities. People change their outlook about floods as they become aware, he said. He was quick to point out that the role he played was to provide flood plain information and management services to the NFIP and not to enter into any controversies. His job was, "...to just provide the facts."

The engineers did not use the term value free, but it is not stretching things too far to say this is similar to what they were talking about. This position was also similar to some of the people who worked for the USGS. One engineer working with this agency said they did flood plain work as well as working with other agencies. He said their main tasks were to help do the flood plain mapping, and review the environmental statements, especially those dealing with structural measures. They presented themselves as working with the

communities and providing them with data, but would not interpret the data into policial statements or positions.

A similar position was taken by the people who worked for some of the state geological surveys. One geologist said his basic job was to study the groundwater sections, the geologic structure of the state, and then use this information to review the geological impact of environmental statements which in turn affect construction on the flood plain. These reviews were especially important in places that were not fully participating in the regular phase of the NFIP because the reviews and impact statements were needed for the consideration of construction of power plants, and permits for dredging or channeling, and any changes in the flood plains or streams.

Several of the geologists expressed major concerns about the relationship of the NFIP and the structural measures that have been taken and were continuing to be taken to prevent flooding. The data gathered and used by the NFIP led most people to believe that there was precise knowledge of where the flood plains were and what would be flooded. The geologists said they almost always used static time models in their computer simulations which are not reflective of what really happens.

Thus one of the major roles of the scientific and technical data was to define what the situation on the flood plains really was, what the truth was. The NFIP accepted no other types of data for their flood studies or maps. This is not the same thing as saying that the public totally agreed with this position. In some of the public meetings the issue was raised that none of the residents living on the flood plains

were contacted about their own experiences with flooding. The NFIP officials told them that the information of the people living there "was not considered valid." One of the people in the meeting expressed the opinion that a local creek was not controlled and does flood even though the scientific data did not indicate the danger of flooding by this creek. This person had pictures of the flooding, but the NFIP officials refused to accept this as valid information and they refused to change their FIRMS.

Another private citizen at one public meeting asked why there had been no sociological or economic studies conducted by the NFIP or FEMA. The response was that these were "not unimportant issues, but that they could not be connected to flood events using good hard technical data" and therefore were not considered in the flood plain studies.

This points to a related issue, who has control over what is considered valid data. The answer to this is clearly the federal government and the NFIP. The scientists and engineers doing the studies pointed out they rarely came into contact with the public. It was the NFIP that was involved in dealing with the public and fielding questions that the public might have about the data and the maps. This situation definitely put the federal government in control of most of the information, the surveys, and resultant maps the communities needed to develop flood plain zoning ordinances.

The data helped legitimate the Program and was the definer of truth. The NFIP was in a powerful position because of its almost complete control over what information was accepted as valid. It had contracted

all of the available engineers working for the federal government, and many of the engineers that were available in state governments, and private agencies. Even so, there was not always the time nor the money to do new studies, and some of the maps that were made were based on data that had previously existed (rather than having engineers go out and do new studies and gather new data). This resulted in studies and FIRMs that contained major discrepancies from the actual flood plain conditions. People could be in danger of major floods and not know this because of the data. People would also be paying incorrect flood insurance premiums in some cases.

The federal government had most of the data, but the data was being gathered by scientists and engineers from many different agencies. This created problems of what the flood plains were really like in one city. This city was a growing one. It was expanding its boundaries and the people working for the NFIP already knew some of the parts of the map for this community contained errors due to hydrological problems that had not been considered when the maps were made. The expansion of the city had also led to problems because the city study had been done by one federal agency and the county study had been done by another. The agencies had not worked together, and the maps did not fit. It was ruled that the data gathered for the city was incorrect and restudies were needed. The expansion of the city also led the NFIP to conclude that the city would need to regularly update the maps to keep the information accurate after the restudy.

This last example points to another theme of the primary data. There were problems with bad data, and other problems with the lack of data.

One university professor was critical that the flood plain studies for the NFIP were using the data gathered to control development in only the one hundred year flood plain. He correctly felt this did not cover all of the areas that might flood. Yet he was incorrect about how much data was supposed to be gathered and made available. One of the hydrologists working for the state of Kansas correctly noted that there were two sets of maps and tables: those for the one hundred year flood plain and those for the five hundred year flood plain. He was one of the people working on the "flood profiles" which meant doing computer simulations to graph the elevations and distances the potential floods could cover.

While there was more data available than many thought this did not mean it was good data. Some of the studies this hydrologist worked on had problems, and he admitted this. The studies for two small towns in central Kansas had been based on the assumption that two dams would be completed. This would have protected the towns from flooding, but the dams were incomplete. The hydrologist's data was not an accurate reflection of the situation for these communities. A FEMA official said this situation was unusual, and I did not find information that indicated any similar ones existed. However this same official did say almost all of the communities in the NFIP would need to have their studies updated because of significant changes in these communities over time. He went on to say that some of the studies, such as those for some eastern Kansas towns were "fouled up from the word go" because they relied on old data which the NFIP officials knew was inaccurate of the present flood plain status of those towns.

I found the use of old data more common than I expected. One state water resources man said that the data used on most of the NFIP maps had come from old U.S. Corps of Engineers reports, some of which had been gathered years or even decades before the FIRMs were made. NFIP and Corps officials confirmed this as true. He also indicated that there had been other sources of data as well, such as basin reports on some rivers and counties which were done in the 1920s and 1930s.

It came out in the public meetings that the NFIP findings were not based on totally new data. This was interpreted by the city commissioners to mean that there were probably flood prone areas that had not been studied and were not going to be discovered by the NFIP. The commissioners asked about putting a pump station in one area that was known to flood. The pump would remove water that would cause flooding. This was rejected because other commissioners and the city manager were concerned that the city had already "wasted a lot of money" with their past mitigation actions on one of the creeks. The mayor defended the structural measures, but said he would not recommend that the commission take any further actions to build structural protections, at least not until better data was available and they could make a more informed decision.

In another community city commissioners were becoming increasingly skeptical about the quality of the data they were receiving. This community had been studied by the Corps of Engineers. The city had planned their sewage pipes based on Corps data. This data turned out to be wrong, and the pipes were too small to handle the rains the city

were experiencing. The water could not flow through the pipes fast enough, it backed up, and flooding occurred. This type of flooding was not considered when the NFIP studies were done. The justification was that there was only limited staff available to do the studies, and it was taking a long time to complete them without looking at every "minor" place that might flood. There were many other studies that had to be done. The study for this community should have been completed several years earlier, but there were questions about some areas. Final checks were being made and some changes were going to be made on the FIRMs according to the NFIP officials, but this turned out not to be true as no changes on the maps were made. (NFIP officials frequently said there would be changes in the FIRMs, but I saw many communities told this only to have the officials turn around and ask the communities to go ahead and accept the maps as they were and enter the Program. The justification was that restudies would be done and the old data corrected. Unfortunately restudies were not being well funded, and not many were being conducted.)

One of the larger cities in the region had already completed some of the flood studies on creeks within the city prior to its participation and mapping by the NFIP. These early studies were done by the Corps, and the studies for the NFIP were done by the USGS. When these studies were compared significant discrepancies were found. The differences were not immediately settled, and the dispute was placed before the Water Resources Council which resolved the matter in favor of the data gathered by the Corps.

One of the main reasons for the differences was the USGS had studied only the areas within the city boundaries where the Corps had also studied county land. There was a bridge near the city that would cause additional and higher flooding in the city, but it was not in the city limits (where the USGS studied). The differences in the data had serious implications. Some of the developers in the city had already started construction projects and some had even finished building streets, all of which was done because they had incorrectly assumed the data provided by the USGS was correct. In some cases the construction was as much as 4.1 feet too low and all of that had to be changed.

Even with this controversy and the severe negative economic consequences it had for the city and some of the developers, there was no real challenge to the legitimacy of the Program. It was the government agencies who had the data. They had challenged each other's data. It was another government agency that settled the dispute, deciding which set of scientific data was correct.

The discussion of the next community will provide evidence that was unique among the communities I gathered data in. This city had its own set of engineers and architects. The people working for this city appeared just as competent as the people working for the federal government, and the federal people openly acknowledged the skills and competences of the people working for the city. The city engineers and architects had newer data than the Corps studies. The city engineers, architects, and city officials wanted to include the changes the city had been making such as diverting one creek into

another and thus revising the new maps (FIRMs). The federal officials said that this would have necessitated a formal appeal and postponed the city's entrance into the regular phase of the Program. What the FEMA/NFIP people wanted was to hold this final meeting then arrange a meeting with the NFIP, USGS, Corps, and city engineers and architects to avoid any further problems.

This meeting was not a long time in coming for as soon as the public meeting had concluded the man representing the FEMA/NFIP went to the city officials, architects, and engineers and arranged to go upstairs and hold an unofficial meeting. Once there the city engineers pulled out their maps and showed the NFIP and USGS people what changes had been made. The changes were numerous and significant. The city engineers obviously had more recent and better data, and this was acknowledged by the federal people and the USGS. The NFIP people began marking on the maps they had just shown at the public meeting downstairs. They drew lines that meant a rezoning using city data, and no challenges were made by the Corps or USGS. The only questions the NFIP people asked were to gain more information or clarify information. The head of the NFIP/FEMA delegation decided to drop some areas from those that were zoned as part of the flood plain. Many of the smaller areas were removed from zones making them no longer a part of the one hundred year flood plain even though the data clearly indicated the land was within this flood plain. This was a case where the city engineers were not pleased because they did not want people building in these areas (which was exactly one of the things the NFIP was created to prevent), and it was a situation where the available

data was unquestionable, but was being ignored in deference to a FEMA administrator who wanted to move the city into the regular phase of the Program as rapidly as possible. The administrator tried to justify his actions by saying FEMA/NFIP would not map such areas because "they were too small and there were too many to deal with."

Many of the changes in this city came about because of the city channeling streams and building levees. The levees the city had built were not as high as needed to be accepted as flood control measures by FEMA/NFIP regulations. The city engineers had a great deal of data, and argued they had followed government regulations in the construction. Unfortunately for the city what had been sufficient for the Corps was not adequate for the NFIP.

In spite of some setbacks, the city engineers had basically taken over the meeting while the FEMA/NFIP and USGS people let them present their data. The main representative of the FEMA/NFIP was obviously unhappy, actually mad at the USGS. The USGS had used data gathered by the Corps of Engineers seven years earlier, so the data the USGS used to draw the maps was out of date. The FEMA representative said there would have to be a restudy of the city, and he asked the USGS how long this would take. The USGS man said they were out of money, the NFIP and FIA were out of money, and they (USGS) were short of personnel and could not do the work. Almost a complete remodelling of the maps using computer simulations was needed, and this would cost "a lot of money."

The FEMA/NFIP representative responded that it appeared the city engineers had the personnel to do the studies if the USGS did not.

The USGS representative agreed and said the city engineers had the skills to do the work. They even had the same computer programs that were originally used by the USGS. The FEMA/NFIP representative then asked the city engineers to do the restudy, but they said they had lost personnel due to recent retirements and cut-backs, so they did not have enough people and time to do the necessary restudy.

This meeting was brought to an end with the FEMA/NFIP representative saying there was more money being made available to the Program for ten additional studies and restudies. He was hoping this city would be on the list for a restudy. If it were on this list they could then have a private engineering firm do the restudy. The city was not on this list. It has had to wait for more money to be made available.

This meeting pointed to some of the problems of relying on scientific and technical data to support the Program. One, it demonstrated the NFIP's reliance on scientific data does not indicate the government has virtually total control in this area. Habermas has suggested the government has almost a monopoly on scientific and technical knowledge. This case demonstrated the federal government could be successfully challenged and the studies changed by the data controlled by local government employees. This meeting also showed that it is the federal rules that decide if any area should be counted as part of the flood plain even if the scientific data indicated otherwise. The ultimate criteria is not entirely scientific data. This meeting also pointed out that the administrators of the Program can decide to include or exclude data and work outside the rules if they choose to

do so. His position gave him authority to override the regulations of the Program and the scientific data.

This meeting provided evidence that further construction on the flood plains was possible. People rely on the data provided by the maps, and they assume the data is valid. One university professor felt this reliance on the data was not justified. He said people put too much faith in the survey's findings when the evidence the surveys provided was not that good. He said we "...need positive evidence..." the flood will reach a certain height and this cannot be accurately obtained through computer simulations. New streets cause the water to rise faster than the models often anticipate. These and other factors need to be considered and added to the height of the flood prediction when development takes place on the flood plains. He went on to point out that this is especially important in urban areas and in the suburbs where there is little surface land to take in the water. This was important, but not so much for rural and pastoral areas.

The problems of bad data and the lack of data were mentioned at several of the public community meetings. As more maps were made and more public meetings were held, the validity of the data being provided by the NFIP became more frequently called into question. It was a relatively common occurrence for city officials to be critical of the maps when they were presented at the public meetings, and infrequently people who had no official capacity in the city vocally dissented. The city officials were extremely concerned because they knew the maps served as the basis for what the city must use to

develop their building codes and lending regulations. Given the importance of the data, the maps, and the subsequent regulations which would be made, none of the city officials who were interviewed initially knew if the city they lived in had ever had a one hundred year flood. In one instance this led to a discussion where one of the NFIP representative tried to explain the statistical nature of flood possibilities.

One of the cities participating in the emergency phase of the Program was almost ready to move into the regular phase. A public meeting was held and the maps were presented. Some of the people on the city council did not agree with the data on the maps, and they asked questions about making an appeal. The NFIP representative told the city officials and those members of the public who were attending "...no personal data would be accepted, only good, hard technical facts..." and the "...burden of proof is on the city" to show the NFIP maps were wrong.

Several of the smaller cities and communities did not agree with the data presented to them. Most of the ones which challenged the data did not go to the expense of hiring outside engineers to come in and oppose the data the NFIP had provided to them. One community did go to this expense to hire a private engineer from another community (they did not have any engineers in their town who could do the work). The findings did not agree with what the people in the community "knew" to be true, yet the new data supported the NFIP's data. It had to be used for the flood plain zoning ordinances which were in turn accepted by the NFIP and the community was made a member of the regular phase of the Program.

The NFIP had been designed in such a way that the city officials and county officials relied on the data presented to them by the people working for the NFIP. In one public meeting in a large city the Corps of Engineers made a presentation on different plans that would complement the NFIP. The Corps felt that one of these plans would be needed because the NFIP regulations permitted businesses and residences already in place prior to the community's entrance to the regular phase of the Program to be covered by flood insurance even though they were on the one hundred year flood plain. These structures were "grandfathered in" and the Corps felt the need for some type of structural protection for these buildings. The Corps had not yet completed their studies, but the preliminary data indicated the structural measures they proposed would cost \$20,000,000 and would only reduce the damages of a one hundred year flood by eight percent on the flood plain. They advised against attempting to floodproof buildings along one of the main creeks that caused flooding. They said floodproofing was not really possible.

It was not surprising that the presentation at this meeting received challenges from the public. However, it was surprising that the challenges were not just "lay" people but people who in some cases were also scientists, technologists, and engineers. One man in this meeting was a consulting engineer and he suggested an alternative plan to the one proposed by the Corps of Engineers. His proposal was dismissed immediately as being "not economically feasible." The dismissal was not based on the impossibility of his ideas. When the engineer was asked if they had studied this man's proposal, he answered, no,

but they knew this without going through an extended study. The justification for the dismissal was economics, and secondarily who had control over "all" the knowledge. Government experts were not ready to yield to hardly anyone on this point.

Another person in the public meeting offered a proposal to build a dam that would have kept the flood waters on a golf course and prevented flooding of any residential or business areas. Still another person called for the construction of a series of canals through the shopping area. This person represented a group of "entrepreneurs, urban futurists, and wanted a Renaissance in the city." The Corps engineer dismissed both ideas. He said the suggested dam would not prevent a flood similar to the one they had recently experienced (which was a combination of a three hundred year flood followed by a five hundred year flood). A dam to hold that much rain would have to be "huge" and could not be built in the city. It was possible to build such a dam, but he felt the people of the city would find such a dam unsightly. He also rejected the cost of the canals as being economically unfeasible.

In another community a series of studies had been done during the middle 1960's by the Corps of Engineers. This was three years prior to the existence of the NFIP, and the data was used to enact flood plain zoning to control the development in the community. When the NFIP came into existence, this community joined the Program in the emergency phase. It was then scheduled for studies so they could join the regular phase of the Program. The Corps of Engineers was originally contracted to gather data for the new studies, but they were short of

people to do the work so it was sub-contracted to the USGS. The studies took longer than was anticipated, but finally reached the point where the city was able to hold the necessary public meetings to examine the data and maps, pass the necessary ordinances, and move into the regular phase of the Program. At one of the meetings several of the commissioners were concerned the new city ordinances would not solve all the flooding problems in the city because the data was collected only for those streams having a pathway of two hundred feet wide or more. This matter was complicated by the fact that the city and county had done levee work on some of the creeks and rivers. The decision to do this work had been based on recommendations of the Corps of Engineers, and after HUD had agreed to approve the work. One important effect of this construction was the water that might have drained into the creeks and rivers was now trapped behind the levees and resulted in flood damage to approximately twenty houses almost every year (sometimes more than once in a year). Some of these areas were too small to be mapped as part of the flood plains on the FIRMs.

This last case shows some of the problems that still occur even in a community which has seriously tried to alleviate its flood problems by working with the government. It had flood plain regulations prior to the NFIP, and had conscientiously moved toward compliance with the Program. New studies had been conducted, but the data still was not accurate. Restudies were needed to correct the maps and, therefore, correct insurance premiums people were paying. There were definitely problems with the quality of data being used in these

studies. However, for many of the communities the problem was one of a lack of data.

This problem was especially important for communities almost completely in the flood plains. They could be helped by participating in the NFIP. Immediate help would come in the ability to purchase flood insurance, but this would not prevent flooding and damage. What the people in these communities wanted was immediate protection from floods which they felt could be provided by structural measures. Several small communities in the midwest found themselves in this position with a majority of their land on the flood plains. They had structural measures recommended to protect them, but these take years to build and the communities remain vulnerable during this time.

Most of these communities chose to join the NFIP once they knew they were flood-prone. Although they may have found out they were flood-prone, data was not readily available for them to use to make new flood plain zoning ordinances. The studies were taking years to complete, and people were not happy about this. One commissioner expressed his displeasure with the NFIP during an interview. He did not like having to rely on scientific and engineering data. He said the city knew there were problems with the data but the federal people would not accept any evidence except that gathered by scientists, engineers, and architects. This was true in spite of the fact the local people had experienced flood problems where the data said there would not be any, and there had been no problems where the data said there would be problems.

A Corps engineer explained this to me by saying flooding can occur in all areas given the right circumstances. This made his job "overwhelming" at times. The Corps tried to deal with this by limiting their studies to drainage areas of at least two or three square miles. This included the small streams in urban areas that are the most dangerous, especially the creeks. He went on to say "the large rivers are well-known and respected" so in some ways they were less of a problem because dams and levees had been built to protect the people and property.

The lack of information available to the public can clearly be a problem, but in many cases the information is available, and the people do not make use of it. The geologists cited the example of one new community development where the people were building in an area that was not only flood plain, but where the bedrock was so close to the surface they had no hope of getting ground water. No septic tanks would work. The geologist said, "The people just don't read the reports."

This third theme can be summarized by saying science and technology were found to have played major roles in the development and implementation of the NFIP. The primary data confirms this importance. Science and technology were used to determine what would flood and what would not. They have been used to determine what was valid information and what was not. They have provided the data on which the FIRMS were made, and these were used to decide what insurance rates should be charged for each piece of property. They were used to legitimate the Program. The studies conducted by the scientists

and technologists were a required step in communities moving from the emergency phase to the regular phase of the Program, thus affecting how much insurance people in the community could purchase and for what rates they could purchase it.

IV. Opposition to the National Flood Insurance Program and Problems of Legitimation

The historical study of the NFIP demonstrated opposition had come about from several different parts of the society. In this section I will try to show where the opposition had come from, how it has continued to manifest itself, and how the system has attempted to deal with opposition and legitimation problems.

One of the places where these themes came together was the public meetings. At least three public meetings had to be held before a community could enter the regular phase of the NFIP. These meetings provided the opportunity for the NFIP, FEMA, Corps, USGS, SCS, state, and city officials to present the data from their studies, show their maps, and solicit comments from the public. The meetings are a good opportunity for the Program to support the idea of participatory democracy. This guise of democracy is one of the main ways to legitimate government actions according to Habermas.

The information gathered by the federal government and its agencies was presented to the public and their local representatives at these meetings. The citizens' representatives had opportunities to hear the information and hear the comments from the people they were representing. At the same time, these meetings provided a forum for the private citizen to make known any dissatisfaction with the Program, the studies, and/or the government.

One of the first things noted when attending these public meetings was how few people there were attending who were not officially connected to the NFIP. This was confirmed by my own observations and by federal, state, and community officials. One FEMA/NFIP official said he knew of only one community where there had been any local participation and opposition. (There were, in fact, more than this one.) He said he believed the reason for this one community's actions was because it was a university town. He said he did not know why other communities having universities did not have more participation.

Another NFIP official talked about the public meetings that have to be held so the people living in the community have the "opportunity...to challenge..." the maps. The NFIP requires the public meetings to be publicized. Notification is usually made in the local newspaper. He went on to say that not many people came to the meetings, and he cited the six people who were at a public meeting in the university town (50,000) just referred to. I was one of those six people, so the reader can begin to have some idea of how few people attended these meetings when this community was one of the few that could be remembered to have any participation or opposition to the Program.

I attended several other public meetings concerning the NFIP, and the general pattern began to appear that the smaller the community the less likely there was for anyone to attend the meeting but the officials of the community and the NFIP. I also found that if the NFIP was the sole topic of the meeting there was much less likelihood of anyone showing up. There were several meetings I

attended when I was the only member of the public there.

One of the highest attended meetings concerning only the NFIP was in the above mentioned university community where twenty-two people were present. Almost all were city, NFIP, or FEMA officials. The reason for this large attendance was a city meeting the year before had produced several complaints about the flood mapping studies. The NFIP had brought several times their usual number of personnel for a meeting because they anticipated a number of questions and challenges. There turned out be only a few questions and virtually no challenging the studies or maps.

The public meetings were largely run straight through with little comment or questions coming from the citizens. At one meeting where I was the sole non-official attending, the city council members asked me if I had any questions. Once I asked a couple of questions, and then the secretary taking notes of the meeting asked some questions. Although this was an instance where I stepped out of my non-obtrusive role of observer, it did provide the spark for others to ask questions they had apparently wanted to ask, but had not taken the initiative to do so.

Even in the meetings where the public attended there was normally an attitude of acceptance of the Program. There was no real questioning of the Program's nor the government's legitimacy. Most of the people were concerned about their own personal economic interests, and not the intervention of the federal, state, or local government. In fact, many of the people seemed to want the Program when an interest was expressed. They expressed interest about the

part of the Program which would provide economic support for relocation and construction of flood control works. The only negative feelings expressed were at one meeting about the rich and country club people that never seemed to be flooded.

There were exceptions to the above types of meetings where almost no one came or raised objections. The discussion of the public meetings that follows should be tempered by the realization that these were a minority of meetings and atypical of the majority which lacked significant participation.

One community had city officials who said they wanted to appeal the study presented to them. They disagreed with the findings. The NFIP officials told them they had ninety days to appeal the maps (the final maps, FIRMS), and this process could be started with a letter. The appeals would have to be resolved before any solution was final and before the community could enter the regular phase of the Program. There were also questions raised by the people attending the meeting concerning the fact that none of the residents in the city were contacted for more accurate information about flooding. Some of the people attending the meeting said they knew of areas which flooded but were not included as being flood plain. One couple had pictures of their front yard showing it was obviously underwater. The NFIP officials said the residents' knowledge, and even the photographs were not considered valid because of the lack of scientific basis.

In none of the public meetings I attended was there any organized opposition to the NFIP. The most common complaint expressed at the

meetings was objections to the maps (FIRMs). Federal officials confirmed this observation as accurate of other public meetings I did not attend.

At some of the public meetings the people in the audience raised questions about land-use controls employed by the federal government and the NFIP. Program officials usually responded there was no land-use control by the federal government because an individual landowner could try for a letter of exemption which would bypass city regulations concerning the specific piece of property. This letter indicates the property is not on the one hundred year flood plain. If an individual was successful in getting this letter approved by the government, s/he still could not add any fill to the floodway surrounding the property. There could be no man-made changes in the floodway, nor flow of the stream except by the city or state (or any agency of the federal government acting on their behalf).

The NFIP official also justified the Program as not being land-use control by saying that the federal government does not make the zoning ordinances. It was up to the community to decide exactly how to word and enforce their ordinances. The federal government only provided the data for the community to use for its ordinances.

At one meeting private citizens used their time to ask questions of the government personnel attending the meeting. Their questions were not supportive of the proposals for their community. Their community was holding an unusual meeting because so much of it was in the flood plain and structural measures were being considered at the

same time. The very first person was spokesperson for a local community-neighborhood association. She and her association were challenging the cost-benefit analysis. She claimed that a number of the cost factors had been left out and the benefits had been inflated. She also wanted to know why residences were razed, yet commercial areas were not. She continued to ask questions such as why areas that had been designated as flood plains in past studies were no longer in the newly designated flood plain areas. And she finally asked about conflicts between small business loans and flood insurance.

The federal officials let others speak and said all the questions would be answered after everyone had the opportunity to ask questions. None of the questions asked by the first woman were answered by the end of the meeting. Other people did get to ask questions. One woman from a residential association said they were challenging some of the past construction and the construction being proposed by the present meeting. She said the conduit tunnels already in place were not working properly. Maintenance by the city had been stopped and water was being trapped above ground at some of the intersections in the city. This had been reported twice since the city experienced major flooding and no action had been taken.

A man who was not connected to any association wanted to know if it was possible to take out some of the bridges that currently existed. He (correctly) pointed out that the bridges had caused considerable flooding by not letting the water flow through when there were heavy rains.

Another man was then permitted to ask questions and he also pointed to the increased flooding problems caused by the bridges, and he said this had resulted in at least one death. After this man spoke a federal official took over the microphone and began to respond to some of the questions and comments.

He began by saying he did not know when concrete solutions would occur. He said there would be another meeting one year from the present meeting and another meeting following that one when the studies were completed. He said the Corps could not tell the people what to do but they would make known several possible solutions or combinations of solutions. A Corps engineer did respond to some of the questions by saying most of the things the people wanted done were too expensive or "very expensive."

Let me remind the reader the just discussed meetings were the exceptions because few people attended these meetings, and rarely did anyone speak out either for or against the Program. In the meetings I did attend it became clearer that the strong emphasis on rules and regulations often hurt the Program in terms of public relations, but also in terms of accomplishing its goals.

Not all of the communities and community officials quietly went along with the NFIP and its regulations. The most obvious case of community opposition which I personally saw was the public (and private) meetings in one of the major cities in the region. This case was discussed in the section on science and technology, and I will only remind the reader that the city engineers openly challenged the NFIP data, and were immediately successful in most of the challenges they made.

Opposition was more likely if a community were found to be flood prone on a substantial amount of its land. One community of 15,000 in Kansas was over seventy percent flood prone, and this did not include the airport which was completely in the flood plain. The community had four bond issue elections to try to generate money to build flood control structures, but all of these failed. In order for the community to comply with the goals of the NFIP it would have needed structural protection to remove some of the areas from the flood plains so they could continue to grow. They also needed the required flood plain zoning regulations to prohibit development on the flood plains. Without the structural protection the zoning regulations would almost completely prohibit any development. The community had consistently refused to participate in the Program in the regular phase. Staying in the emergency phase allowed them to continue to have some development because the zoning ordinances were not required for this phase of the Program.

The NFIP officials were not always warmly welcomed in these communities which had large sections of their land in the flood plains. When the government officials went to one of the towns in central Kansas they encountered a number of problems according to one of the officials who attended the meeting. This public meeting had over 300 people attending out of a town with less than 5000. Two of the federal officials who attended said they were "literally afraid for their lives." This was told to me when the officials were not in each other's presence and confirmed by a state official who was also there. The people threatened to "tar and feather them." They were so afraid

that after the meeting they checked out of their motel and went to another town to spend the night.

The above case was the only one I learned about where the NFIP people were physically threatened. Nevertheless, they did have problems with some of the other small communities. One small community fought the NFIP and its designation of the community as flood-prone. The fighting was on paper, and "not very enthusiastic" according to one of the state officials who was involved in this case. The state and federal officials involved with the NFIP were unanimous in their position that a community would not have any strong opposition to the NFIP unless a substantial part of the town was on the flood plains.

There were a number of communities in every state that were not participating in the Program or else challenging the Program in some way. Interviews with one state official in Kansas indicated at least eleven communities out of over 600 were opposing the Program. It should be kept in mind that Kansas was one of the states which had supported the NFIP from the beginning of the Program.

Another community had not been an eager participant in the Program according to state officials. An intermediate meeting was called for the community. At the time the community had been in the emergency phase for over three years (which was three times what was suppose to be the maximum time in this phase which shows the types of delays communities experienced). Only two people attended the meeting from the community. One of these people was the mayor who was very much against the Program. He was well-informed about the Program but staunchly opposed to it because of the issue of federal land-use

control. It appeared the majority of the town was against participating in the Program from what the mayor said, although he was obviously biased. Four times the citizens had voted against participating in the Program. One state official told the people "you cannot realistically vote no," but they did anyway.

There was a television show on a local station in the community which had a panel of people discussing the NFIP and structural measures that were proposed or being built. The panel consisted of community members including the mayor, a banker, a real estate agent, people from the state, and the NFIP. On the show the banker changed his opposition to the NFIP to support because a bridge was already being built and it would cause more flooding. The community eventually joined the Program's emergency phase, and the television show was credited with being one of the main reasons people changed their minds.

Another town in Kansas had twice voted down structural measures for flood control even though ninety-five percent of the town was in the floodway or flood plain. All of these towns needed projects of a structural nature to protect them because so much of the community was on the one hundred year flood plain. The people would almost have to remove the whole town to another area outside of the flood plain for the NFIP to be of much help in terms of future development. NFIP officials in the Kansas City regional office cited numerous communities having unprotected flood plains and therefore needed projects, especially levees.

NFIP officials reported one community in southwestern Kansas was still letting people get loans to buy and build on the flood plains.

The lenders were not requiring the people to buy the insurance, nor were they turning down loans for not buying it as required by the regulations. Interviews with some of the lenders in the community revealed they did not even have the FIRMs. All of this community was on the flood plains so compliance with the Program meant no loans should be made. The obvious consequence would be a great reduction in the possibility of growth or construction in the community.

There were a few communities which refused to participate in the NFIP. Others were slow in complying. When this happened a community could be sanctioned by the Program. In the early 1980s there were over 3000 sanctioned communities. These communities always had the option of changing their sanctioned status by complying with the Program. There was no penalty concerning re-entering the Program, nor was there any penalty while a community was sanctioned except that the people in the community could not purchase any flood insurance.

Insurance company representatives in Missouri cited instances of individuals who had objected to the Program and pressured against it. One town had entered and dropped from the Program "many times." (I could find evidence for this happening three times.) This entrance and dropping from the Program was done so people could build on the flood plains then have this construction covered with the subsidized rates by re-entering the Program. This was confirmed by NFIP officials and state officials, but none of the people in the community, especially community officials would admit to this.

The insurance agents were of the opinion that almost all of the communities in the Program would stay in. This position was supported by

the change in the Program from a mandatory one to a voluntary one and having only one community in the four state area drop out on what appeared to be a permanent basis.¹¹ The agents felt the communities would stay in because the people needed flood insurance.

The confidence expressed by the insurance agents that communities would remain in the Program was not shared by everyone, especially NFIP officials, and some state officials. One engineer who had worked on many of the FIRMs said he believed some states and many communities would drop out of the NFIP even though "federal aid will be denied if it floods." (I could not document any denials of federal aid because a community was not in the Program.) At the present time the evidence indicates communities are staying in the Program in overwhelming numbers.

The continued participation of the communities has been in spite of opposition from some organizations. NFIP officials said the Program had faced significant opposition in some of the communities because of the John Birch Society. The Society had gone into communities and given misinformation to the people. Local representatives of the Birch Society said they had opposed the NFIP because it was one instance of the federal government stepping in and taking control with the people losing more of their rights, especially over their land. The Society was powerful enough to keep one small town of around 2000 people and one thousand buildings out of the NFIP. The city had proposed bonds amounting to around \$200 per person to build structures to protect the town and allow it to join the NFIP and still have some construction of its flood plains. (The city was totally

on the flood plains.) If the city had been in the NFIP without the structures it would have cost the people an average of \$23/year per building for flood insurance and in nine years the cost of the structural measures would have been paid for. Communities such as this had little (no?) choice if they wanted to participate in the Program, especially if they wanted to build.

There were a few other organizations and groups opposed to the NFIP. One was the National Association of Home Builders. They were not completely against the Program so much as they wanted a change from the one hundred year flood plain to the fifty year flood plain. This would have made much more land available for development.

It frequently appeared that opposition to the Program came from developers and lending institutions. One real estate and development firm came out publicly against the NFIP and the flood plain maps. This was understandable since they had planned to develop a major construction project on the flood plains.

It was interesting to see the developers rarely come to public meetings. They were more likely to write or call city officials to complain about the Program and the impending regulations. The developers interviewed offered arguments against the Program, and the arguments were varied. Two themes that frequently came up was the intervention of the federal government, and the land-use theme people had mentioned before. There were other reasons advanced by the developers as well. Several developers said they had been working on plans for many years to build in the areas soon to be labeled flood plains. They argued their plans had been in existence long before

the NFIP had conducted any studies, before anyone knew these areas were flood plains. They indicated they had spent thousands or in some cases millions of dollars in preparing for and building their developments. With the passage of the flood plain zoning regulations required by the NFIP they said their construction must stop. The developments had taken place on the land that was now labeled as one hundred year flood plain. Some of the developers laughed at the NFIP official's suggestion they "merely move their property out of the flood plain" and develop it somewhere else. One developer said as long as the land was labeled flood plain it had almost no commercial value and his investment would be "virtually wiped out."

The developers were frequently in the forefront of the opposition in many of the communities. I visited several of the communities in Missouri that had reported opposition to the Program. In one community a city attorney and banker had come out and publicly opposed the Program. They had investments in flood plain land and were wanting to develop this land for businesses.

There were other reports of developers opposing the Program. One federal official said some developers were "bitterly opposed" to it. He said they had told him they would have to build some sections of buildings on stilts. He also knew of an attorney who represented one of the drainage basin districts who had strongly opposed the Program. (He did this on his own, not as a representative of the district.) It turned out the attorney was involved in investments to develop the flood plains.

Some of the developers appeared to be oblivious to the Program or

the dangers of flooding. One developer in Kansas City wanted to build right on the floodway in an area that had experienced several severe floods in the past ten years. The city refused to let him do so.

There was some individual and group opposition to the Program left over from the past construction of reservoirs and the forced sale of lands. As one state official said, "People were interested because of their own interests, since they were in the floodway." He continued by saying their land was no longer of any value. Although this is not completely true, it is largely true. It is always difficult to move people off their land, especially if they want to stay. This is true even when they know it may flood again. He continued by saying the government could not say they would stop the flooding with these projects and programs, but at best there would be some flood control and eventually less damage will be done.

The individuals and groups opposed to the NFIP did not seem to be spread out evenly across the country. State officials said there was virtually no opposition to the NFIP in the larger communities (which was found to be not completely true). There was more opposition in some of the smaller communities. The officials said in many of the towns it was basically a problem of no one taking responsibility to push the Program and to put together the rules, regulations, and zoning ordinances needed to fully participate. This cannot be said to be real opposition. However, in other cases there was actual opposition to the Program, and at least eleven communities I did research in demonstrated this in some form (out of forty-three communities). In the majority of these cases the reasons for the

opposition were the communities were mostly or entirely on the flood plains. The implications of entering the Program would be the communities could not construct any new buildings, and the town would become stagnant.

There were some "very vocal" people in some of the Missouri communities. These people had complained about the Program in letters to congressmen and senators. They had joined organized opposition groups fighting the NFIP, and their communities were frequently not participating in the Program. One engineer for the Corps said the non-participation was because some of the dissidents felt their individual rights were being violated. One dissident said he felt "...the government was infringing on land-use rights." This opposition had been carried to Senator Eagleton and other congressmen, resulting in the introduction and passage of a bill changing the Program from mandatory back to voluntary participation.

Senator Eagleton had been an opponent of the Program for most of its existence. He indicated his concern with "legitimate arguments about federal intervention in local matters" when attending a meeting about the NFIP. A Corps engineer expressed even stronger sentiments when he said he felt the government's actions in using the NFIP were "illegitimate." He went on to say the government should not control the land as the NFIP was attempting to do. The responsibility for controlling land-use was up to the local communities, not the federal government.

This attitude was in many ways reflective of the groups formed in several states. Several of the groups originated in Texas, but spread

to other states such as Missouri, Louisiana, Oklahoma, Arkansas, and even Maryland. The largest of these groups was the Flood Insurance Litigation Coalition, and another was the Texas Land Owners Rights Association. Both were based in Texas and had taken legal action against the NFIP. NFIP and FEMA officials tried to counter the arguments of these groups by saying the NFIP was not a national land use program, but they did say that it compromised some of the people's freedoms and this was necessary to help the majority of the people.

Much of the opposition to the Program seemed to die down with the changing of the Program back to voluntary participation. Even many of the state and federal officials were not strong supporters of the mandatory participation in the middle 1970s. One state official said he opposed the strong mandatory participation once a community was identified as flood prone. He much preferred voluntary participation and this was a position echoed by engineers and architects who worked for the Program and specialized in these types of problems. They seemed to be expressing a genuine concern of the individual and community to have rights to do as they choose even if it means they would not participate in the Program, and remain flood prone.

Professionals from other states also indicated their opposition to strong federal laws. One said they undercut the roles of the states. Another state official agreed with this position, but he continued by saying the communities opposition was because they usually did not understand the problem, not just in their community, but nation-wide. He said there was "problems of vision" in some communities. There was a lack of data in some areas and this made

the people, "...antagonistic against Washington regulations." He continued by saying the people have asked him, "What right does Washington have to tell us what to do?"

The people seemed to be especially concerned about this intervention when they could not be assured that if they participated in the Program and built the structural measures they would not have to worry about flooding. One man who was an officer in a savings and loan in a northern state said the community and county he lived in had its planning commission arrange to comply with the NFIP, but had still been flooded three times. After the third time the residents contacted their congressman to help them get aid to move their homes out of the area. Most of the members of the planning commission did not support the NFIP. One member said the commission's actions to comply with the NFIP was "...an exercise in wasting time." He went on to call the NFIP "...just another picky government regulation." Their lack of enthusiasm is somewhat understandable because there were government provisions to make money available for the purpose of moving people out of the flood plains and buying their property, but the NFIP refused to use the money in this community.

It should be pointed out that opposition to the studies or maps does not necessarily indicate opposition to the NFIP and its purpose. Communities did oppose the maps and challenged the data. I found that some communities would hire private engineers and architects to gather new data to oppose the NFIP studies, but in most of the cases the NFIP studies were supported by the new data, and the communities went on to participate in the Program.

The opposition that has just been discussed should be kept in perspective. It represented a minority of cases in terms of individuals, communities, counties, and states. There was generally no active opposition found with the exceptions discussed here. Several of the state and federal officials felt the opposition was brought about because the people did not know about the Program and really understand it. My research would support this position that the people did not know very much about the Program.

The NFIP tried to handle this problem in several ways. They received a grant from the EPA to put together a tape and slide show designed to educate the people about the Program. One official said that if the people knew about the Program and understood it they would be less likely to oppose it. This position can be supported when community officials changed their mind from one of opposition to support at the public meetings.

The NFIP had also conducted "massive P.R. campaigns" which were facilitated by the state governments and some insurance companies according to one insurance agent. He said it was led and conducted mainly by state and local governments. Large winter snows, such as the ninety-eight inches in Buffalo, NY led to fears of a sudden spring thaw and subsequent flooding. New York, Pennsylvania, Virginia, West Virginia, Maryland, Ohio, and Kentucky had written announcements in the media discussing the potential flood threats and pushing the NFIP. So there was some support for the Program.

In fact, support was more common than one might have believed if one was only focusing on the historical study of the NFIP. Government

officials involved in the structural side of flood control had purchased their own flood insurance policies. This indicated their support and beliefs went beyond mere lip service to the NFIP. One city which had challenged the NFIP studies was supportive of the Program in spite of disagreeing with the studies for the community. The city planning director said both the city and county he worked in were "basically supportive." He said this area had a long history of flooding and they wanted to eliminate the damage. There was still "a great deal of concern over flooding and drainage problems" but groups had been formed years ago and they were strong supporters of the structural measures and were supporting the NFIP as well.

This support was seen at some of the public meetings. The Sierra Club, Audobon Society, League of Women Voters, and the American Red Cross (all national organizations) had representatives at one community meeting offering support from their organizations. There were also neighborhood associations attending four communities' public meetings and supporting the Program. Their support was sometimes in a round-about manner when they opposed the proposed regulations and called for stronger ones to prevent any construction on the flood plains. Interviews with people in these organizations yielded the information that they felt the city and federal governments were too ready to give in to business interests instead of protecting the home owners.

Private citizens at some of the public meetings expressed similar sentiments. They complained how their communities' ordinances would allow houses to be built two feet above the flood plain, or buildings

could be flood proofed and built on the flood plain. They said that if either of these were to occur, it might result in flooding areas which would not have previously been subjected to flooding. (These objections were raised in two communities.)

This finding was not anticipated. Habermas's ideas would not have led one to expect this, nor would the material in the historical case study. People who were in opposition to the Program sometimes wanted more land use control, more stringent regulations, not less. This was true not only of the private citizens, but even six community officials (in four different communities).

There were city officials who strongly opposed construction on the flood plains in their communities and around them. The mayor of one community had threatened legal action to stop construction on the flood plains near his community. Another mayor had turned to a state geologist for more data to fight such construction. These people were also joined by city council members and private citizens who took legal action to prevent more construction on the flood plains which they felt would endanger their community, property, and lives. These actions can be seen as supportive of the NFIP not only because they agree with the goals of the NFIP but because the NFIP had helped make the people aware of the dangers of such development of the flood plains.

This fourth theme can be summarized into a few points. The first one is few people were knowledgeable or involved in actions connected to the NFIP. There was little participation at the local meetings, and the people expressed little understanding of the NFIP at these

meetings and in the interviews. A second point is some opposition was found. The opposition was expressed by individual citizens, communities refusing to participate in the Program, banks not requiring flood insurance for loans, and organizations filing law suits against the government and the NFIP, to name some forms the opposition took. The opposition was in a definite minority of communities, and individuals. Even when people openly questioned the legitimacy of the government by using the word legitimacy, their actions and opinions belied this view. They continued to participate in the other government activities even when they went so far as to file suit against the government. They were working within the normal legal channels which is evidence they accept the government as a whole even if they do not accept the NFIP. Most of the opposition to the NFIP has died down with the Program no longer being mandatory.

A third point is the Program received support from several sources. These included private citizens and community, state and federal officials, as well as local and national organizations. This support was somewhat surprising and not anticipated by the themes found in the historical study of the NFIP. A fourth point is even more surprising and unanticipated than the third. People wanted even stronger federal regulations and control of the flood plains. This was found among private citizens, community officials, and even organizations. This finding was the opposite of what one would have expected from Habermas's analysis of advanced capitalism and its problems.

Chapter Five

SUMMARY AND CONCLUSIONS

This last chapter is divided into four parts. The first part consists of a summary of the four major themes found in the development of the social historical case study and that were subject to further investigation and analysis with the collection of the primary data. The second section is a summary of Habermas's ideas on late capitalism and its crises. The third section presents a summary of the connections between Habermas's ideas and the NFIP. The fourth section contains some brief comments concerning the future of the NFIP, advanced capitalism, Habermas's work, and possibilities for further research.

I. Themes From the Historical Case and the Primary Data

A. Economic problems

Billions of dollars of flood damage occur each year and the dollar value of this damage has grown almost every year. In simple terms the damage and subsequent economic losses have occurred because people have built houses, apartments, offices, industry, and farms on the flood plains. A flood plain will flood. The only questions are when, how big the flood event will be, how much damage will be done, and what the dollar and social costs will be.

Throughout the last two centuries the U.S. government has provided economic relief to those who have been flooded. The federal response came about as people continued to build on the flood plains

and suffered the inevitable damage. Many people could have been economically devastated by the magnitude of these losses. Private insurance companies have not provided insurance to cover such losses. In the early 1960s flood insurance in the U.S. was sold only through Lloyd's of London and they had only a handful of policies in force.

People had to take care of themselves if they were flooded or depend on the government. Federal agencies provided disaster relief and low interest loans for starting over. Yet such measures were only stopgaps at best. Most people did not appear to learn their lessons very well as they frequently returned to the flood plains to rebuild their homes and businesses.

Thus even the direct empirical evidence that flooding would occur and homes and businesses would be damaged or lost did not prevent people from attempting to rebuild on the flood plains. In a way, remaining on the flood plain was rational. The federal government has a remarkable record of coming to people's aid who have been flooded. People can (or least could) count on the federal government to help solve their economic problems in case of flooding.

Until the NFIP came into existence some writers such as Gilbert While argued that the federal government had actually encouraged people to live on the flood plains. The government had done so by the economic relief it provided those who were flooded, and it did so by using structural measures that supposedly protected people who were in areas that would have flooded without the dams, dikes, and levees.

As the population of the U.S. grew, so did the demand for houses and businesses. These were developed in areas on the one hundred year flood plains or because of the developments they became part of the one hundred year flood plain. (The flood plain can "grow" as structures are built on it. The new buildings and paving of the streets and parking lots can cause the flood waters not to soak into the soil as fast. They take up space causing the flood waters to spread out even further than they normally would. The speed of the water is altered as is the pattern of flooding up- and down-stream.)

The NFIP was intended to change the federal government's indirect encouragement of flood plain occupancy. This program was designed to eventually stop almost all development of the flood plains. It had the further goals of providing affordable flood insurance to those who were currently occupying the flood plains and to subsidize this insurance. The plan has been to eventually make the insurance premiums for flood insurance one of the incentives (along with local zoning regulations) to not develop the flood plains.

If the NFIP stopped the development of the flood plains, private insurance companies could begin to offer flood insurance at affordable rates. The rates of insurance would no longer need to be subsidized by the federal government. Thus, one of the frequently reoccurring problems of advanced capitalism in the U.S. will have been administratively controlled.

B. Problems in the rational administration of the state

In the late 1960s the federal government created the NFIP to address the flooding problems with non-structural solutions to this increasingly taxing economic problem. The NFIP had a goal of putting into place a cooperative program between the federal government and a group of private insurance companies.

People in the private sector could then purchase flood insurance at rates vastly less expensive than any that had been previously available (although there was an upper limit on the amount that could be insured in the emergency phase of the Program). At the same time the Program was attempting to completely map the flood plains. The data from the mapping studies would be used to phase in actuarial rates (real cost rates) as the old owners moved out of the flood plains, either voluntarily or because of flooding.

The initial response to the Program was remarkably apathetic. Few purchased the flood insurance, not even those who lived in extremely high risk flood plains. This prompted the administration of President Nixon to change the Program from a voluntary one to a more mandatory one. This was the second of many major changes that were to come (the first major change was the addition of the emergency phase).

Over the years the NFIP changed its rules and regulations on what seemed like a daily basis to many of the people working with the Program. Some of the changes were minor, but others were major, such as the change in the Program back to voluntary participation or

the ruling that basements must be counted as the lowest level (floor) which put many structures in the one hundred year flood plains that would not have been included had the ground level floor been considered the lowest floor.

The NFIP's role was further complicated by its position within the federal government. The NFIP began as part of the Federal Insurance Administration (which was part of Housing and Urban Development) but it was eventually put into the newly created part of the federal government, the Federal Emergency Management Agency (FEMA). FEMA was much more concerned with disaster anticipation and management than it was with flood insurance. Flooding had a low priority after such things as Civil Defense, tornadoes, and hurricanes. FEMA was made up of many different agencies and there were continual problems of coordinating them. These agencies frequently had rules and regulations that were not complementary to those of other agencies, and in some cases they were contradictory. This can be seen in the case of the NFIP prohibiting construction on the flood plains and some federal agencies promoting such construction.

Problems of rational administration occurred not only at the federal level, such as between the NFIP, U.S. Corps of Engineers, USGS, and the Soil Conservation Service, who were supposed to be working with the NFIP, but between the federal, state, and local levels of government. There was clear evidence of problems among these three levels of government. Coordination was not what many felt it should be nor what was mandated by law.

The General Accounting Office and other federal agencies made reports criticizing the NFIP's lack of coordination with government agencies. The NFIP was trying to stop the development on the flood plains but it had not successfully worked with the other agencies within the original time frame to prevent the continued development of the flood plains from taking place.

C. The roles of science and technology

Science and technology have been a vital part of the Program since it began and they were even part of the stages leading up to the Program's beginning. Science and technology have been used as the sources for determining where flooding will occur, how often it will occur, and how deep the flood waters will be. Past data is important if and only if it was scientifically gathered. The knowledge of the people in the public has been considered nonvalid unless it was corroborated by scientific data. This was true for personal observations, if the observations were supported by other people's data and testimony, and when there have been photographs to support the people's contentions.

The federal government has a large number of scientists and technologists working for it in the NFIP and for other federal agencies which subcontract the work for the flood plain studies. The number of communities that needed to have studies done was so great the NFIP had to turn to private engineering firms and some state agencies because the federal government did not have enough engineers and technologists to do all of the studies in a timely

manner. The studies required such tasks as surveys, computer simulations, and mapping of the flood plains.

The end of their work was the crucial flood insurance rate maps (FIRMs) which designated what areas were in what flood plains. The maps were the basis for determining how much money people would have to pay if they purchased flood insurance. The FIRMs were also the basis for determining whether or not people could get federal money to help them rebuild after they were flooded. These maps were the official maps, the definitions of truth concerning potential flooding of an area. Once the maps were completed they were presented to the community at a series of public meetings. It was possible for a community to challenge the FIRMs and successfully have them changed. For this to happen the people in the community must file a letter of amendment and support their objections with scientific data.

Most communities are too small to have their own engineering departments or architects to analyze and mount a challenge to the NFIP's FIRMs. Even those cities large enough to have such people and departments on their staff usually found their personnel too busy with other work. Thus, if a community was to challenge the FIRMs they were often forced to hire people (engineers, scientists, and/or technologists) from the private sector. This was an extremely costly and time consuming task.

The NFIP was challenged in some cases by communities. Some of the communities had the professional personnel and others hired such people to gather data to challenge the Program's findings. The NFIP officials frequently took a position of trying to discourage

challenges and to convince the community officials to accept the FIRMs, pass zoning ordinances, and move into the regular phase of the NFIP. This would allow the citizens of the community to receive the accompanying benefits of being in the regular phase of the Program. The communities could then file for amendments to the FIRMs although there was no certainty when or if the maps would be corrected to the communities' satisfaction.

It should be pointed out that there were relatively few challenges and even fewer successful ones. One reason for the few number of challenges was the reluctance of most communities to spend their money to hire private architects, engineers, or geologists to try and find better data to oppose the maps of the NFIP. This problem was an on-going one for almost all communities in the Program. Each year the communities must mail information about changes in the communities that could affect the flood plains. Such changes would include annexation, new roads, new parking lots, housing developments, or other construction. For some communities, especially the rapidly growing ones, this would mean new studies were needed almost every year.

In the 1980s the federal government has allocated money for only five to seven re-studies each year for each of the federal districts. The lack of money for re-studies has a two-fold result. First, it means that most communities have to accept the FIRMs as presented to them by the NFIP because of their own lack of or inadequate scientific and technical staff. Another reason could be their lack of money to hire a private firm to generate the necessary scientific data

which would be accepted by the NFIP officials. A second result means that the communities have great difficulty getting their maps updated because of the lack of funds. The communities are stuck with older, inaccurate maps, which means among other things people are paying the incorrect insurance premiums. Some people and their property are in greater or occasionally less danger of being flooded.

The insufficient numbers of scientists and technologists have even forced the NFIP and the agencies it subcontracted to not do completely new studies for the NFIP. They have relied on older studies in many cases. These studies were obviously inaccurate in virtually every case yet the lack of scientific personnel in the federal government and its lack of money to hire more scientists from the private sector administratively forced the reliance upon what was generally recognized within the Program as bad or inaccurate data. The administrative regulations of the Program have structured the NFIP so only scientific and technical data can be accepted as truth, defining where the flood plains are, and what the insurance premiums should be. The regulations do not permit any other evidence to be accepted.

It was ironic that in some cases the people wanted areas labeled flood plain in spite of the NFIP's official scientific labeling of these areas as non-flood plain. The NFIP refused to change their labeling of these areas based on non-scientific data. There were some cases where scientific data was presented that contradicted the findings of the NFIP studies and maps, and the NFIP consented to making changes for the communities.

On the other hand, there were numerous cases where the NFIP studies produced maps indicating land and property were on the flood plains when it was not. People had to produce scientific data to get this designation removed. Individual pieces of property could be removed from their flood plain designation but the owner or renter had to provide scientific data to demonstrate the property was above the one hundred year flood plain.

Thus the NFIP had a hard and fast policy of relying on scientific data to justify (legitimate) virtually the entire workings of the Program. There were only a small minority of people in the general public who did not accept the scientific and technical legitimation of the NFIP. On the whole the Program was largely unchallenged in this area. People appeared to believe that the data generated by the scientists were not completely accurate but it was generally the best available and had to be accepted. It seems fair to conclude that a large part of the legitimation of the NFIP was grounded in its reliance on science and technology.

Science and technology have a public image of being objective, fair, and impartial. This was and is important in the public accepting the federal government and the NFIP's maps. The use of science and technology create(d) an image that no one is favored or unfairly being discriminated against. The regulations of the Program do not distinguish between those working for the government, communities, or private citizens. The NFIP recognizes only scientific data as valid and if there are discrepancies then there are formal

channels to decide which set of data is accurate. This was done by other qualified professionals not connected to the original data gathering processes of the Program.

There were and are obvious economic factors favoring the federal government and class biases against the lower classes despite the apparent impartiality in the roles of science and technology. Science and technology have been used to generate the findings for the NFIP maps. These crafts are not respectors of class nor government(s). Yet it would be foolish to state the Program affects everyone equally. Smaller communities and communities with economic hardships do not have the scientific and technical personnel nor the money to hire these people to challenge the findings of the NFIP. The same can be said of private citizens, many of whom do not have the money to hire engineers to survey their land and technically show it is not in the flood plain and that they should be able to buy flood insurance at lower rates.

The use of science and technology is crucial to the workings of the National Flood Insurance Program not only for their obvious role in providing data but as a legitimator of the fairness of the Program.

D. Opposition and legitimation problems

There was definite opposition to the idea of the NFIP although very little opposition to the Program once it had actually begun. Congress had refused to allocate money for a flood insurance program in the 1940s, 1950s, and most of the 1960s in spite of strong support of the presidents during this time. The Program was finally

created in the latter part of 1968. Part of the reason for the Program was the demand by governors, and professionals in the area of flooding.

There was little early opposition to the Program and this was undoubtedly because the Program was not well-known (and it has never been very well-known). There were very few participants in the first years of the Program's existence. Probably the most important reason for this was the NFIP was not mandatory. The NFIP was small during its early stages. Government officials did not foresee the great amount of flood plain mapping needed in the thousands of flood-prone communities. They did not anticipate the growing number and complexity of the Program regulations as it expanded, became mandatory, then voluntary again.

There were no protests from the insurance companies as the government set up the Program and put it into action. As previously mentioned, the insurance companies did not carry flood insurance (with one minor exception). The flood insurance Program was generally seen as an extremely low profit-generating enterprise but an acceptable one. However, the insurance companies made major protests when the federal government took control of the Program and dissolved its association with the private insurance sector. This led to a series of major confrontations with the federal government eventually winning the legal battle. The major issue was money and who was to control how much money was charged for the premiums and paid out for the losses. Did the NFIP have the right to set the premium rates? Who determined if the insurance companies should pay

for a loss and how much should they pay? The federal government won on all of these issues. It also succeeded in not renewing its contract with the NFIA despite the latter's opposition to ending their association with the government.

The change from a voluntary participation Program to one with mandatory participation brought about the most vocal opposition and legal challenges to the Program. Local, state, and regional coalitions protested the Program, especially land-use controls, the zoning designed to prevent further development of the one hundred year flood plain that resulted from the communities' participation in the Program.

It should be emphasized that these protests were only a small minority of instances but they were a vocal number of people. Nevertheless, these protest groups were powerful when coupled with the complaints of bankers, savings and loans associations, real estate and insurance agents who objected to the high cost of flood insurance for homes and buildings on the flood plains. The mandatory phase made it almost impossible for loans to be made to people to buy or build on the flood plains.

Coalitions filed law suits against the NFIP and were focal points for organizing campaigns to contact federal legislators to express their opposition to the Program's mandatory participation. The opposition led Congress to pass legislation which did away with the mandatory phase of the NFIP and returned it to the less restrictive voluntary phase.

During the mandatory phase there were complaints about the NFIP. Some of the questioning came from people who were associated with the NFIP. There was specific questioning of the Program's legitimacy. They rarely objected to the government expansion in the area of flood insurance but the subsequent land-use control was a topic frequently questioned by some federal officials.

There were numerous complaints voiced at the public meetings held by the local governments and the NFIP. The general tenor of these complaints was that the NFIP was either too strict in trying to control the flood plains or too lenient and not really concerned with all of the areas that frequently flooded. One could not really say that there was anything approaching a widespread questioning of the legitimacy of the federal government's expansion into these areas.

Many people who attended the public meetings were disgruntled about the NFIP. Their unhappiness with the NFIP was usually the result of its direct affects on them. It should be emphasized that only a small minority of private citizens came to these meetings and many meetings had less than five or ten people who did not work for the federal, state, or city governments. Some meetings had no one from the public in attendance.

The impression I received is that people expect the federal government to be big and to be active in many parts of their lives. People have become accustomed and even expecting dams, dikes, and levees to be built. They expect disaster assistance, and federal and local rules and regulations telling them where they can live,

conduct business, and develop. People may not always like this intervention but they generally accept it in a fairly passive way. The NFIP does not appear to have raised legitimation difficulties that Habermas wrote could occur with the planning by government agencies. Thus the legitimacy of the state does not seem to be weakened as far as could be determined by the research conducted for this study.

II. Habermas and the Crises of Advanced Capitalism

Jürgen Habermas has developed some of the more sophisticated ideas on advanced (late) capitalism, how it functions, and how it continues to cope with the problems and crises it faces without being overthrown by revolution. He has argued that capitalism is an incredibly viable and adaptive economic system.

Capitalism has not proved to be a simple rigid system of pure exploitation of the worker's labor for the capitalists' profits, ending with the workers living in poverty and turning to revolution with their rising class consciousness. It has adapted itself in remarkable ways in the past one hundred years since Marx's death.

Habermas agreed with Marx's analysis that capitalism would frequently be plagued by crises. However, capitalism, especially in the United States and Western European countries underwent radical changes during the twentieth century resulting in potentially different types of crises than Marx wrote about. Habermas and other historians argue that the economic crises of the late nineteenth and early twentieth centuries were ameliorated by the expansion of state activities. The

national governments took actions to spread their spheres of influence and this spreading has continued relatively unabated up to the present. In the U.S. one can easily see this during the 1930s when president F.D. Roosevelt's administration rapidly expanded the government with programs such as Social Security, the Civilian Conservation Corps (CCC), and the Work Progress Administration (WPA).

Habermas wrote that as the state expands problems of rationality of administration occur. New agencies are created within the government. The government's roles become increasingly complex and overlapping as it expands into the economic sphere attempting to administratively solve these problems. While the growth of the government is designed in large part to handle the economically generated problems Habermas argued that the state's expansion generates new problems. The numerous agencies within the state fabricate regulations often without fully knowing what the other parts of the government are doing. This can produce conflicts among the different government agencies creating problems of rationality of administration.

It is when these problems and conflicts become known to the public that the federal government may move into a third set of problems concerning its legitimacy. However Habermas wrote that what may be even more important in this area is the expansion of the federal government into areas that were previously part of the private sector. The further the state expands into the private sector even when attempting to deal with the economically generated problems

of capitalism, the more likely the state is to raise issues of the legitimacy of its expansion and potentially the legitimacy of the whole political system.

Habermas wrote that if the legitimacy of the system breaks down sufficiently then it could lead to motivational crises. People would not feel sufficiently motivated to work for a state that was no longer perceived as legitimate. If enough people were to lose their motivation then the system would be moving toward a crisis, a potential revolution, the death of the present system, or at least a significant restructuring of it.

Habermas is clear that the just discussed scenario is not a unilinear evolutionary scheme. He is not stating that every state in advanced capitalism will go through these crisis stages. Every advanced capitalist state does have significant economic problems, but the problems are not always manifested in the same empirical way nor are they administratively handled in the same way. In the U.S. one can see the growing complexity of the state with the examples he cites of farm subsidies, urban renewal programs, medical programs, and others which are some of the ways the state has attempted to prevent the economically generated problems of advanced capitalism from developing into a crisis.

The federal government has become involved in these programs as one of two main strategies to insure the people's support. One such tactic is to provide sufficient material conditions so that the people remain placated. The states have tried to do this by controlling (to a limited extent) the economy and providing welfare

programs for a substantial number of people. To bluntly state it, this is a simple tactic of buying off the people with material goods. The second part of the strategy is also important, that of having a formal democracy. A political system can give the appearance of the people having control over how their country is administered.

Habermas wrote that the people do not really have this power. The illusion of this power through a formal democracy lends enormous legitimacy to the state.

Habermas felt that countries in advanced capitalism frequently experience what he called difficulties and problems with the economy, rational administration, and legitimacy. The difficulties and problems do not necessarily lead to a crisis. One cannot tell a crisis has occurred until after the event. He called for extensive empirical research to examine his ideas and this is one of the main reasons for the present study being connected to his ideas. I have attempted to follow his examples of using specific government programs. For a number of reasons I chose to study one program in much greater detail than Habermas did in any of his work.

In the Legitimation Crisis Habermas mentions a number of different federal programs which he said would (or could) raise legitimation difficulties and problems. He cited such things as regional and city planning (which is very close to what the NFIP does and he specifically wrote that this brings into question the issue of private ownership of property), administrative planning of educational curriculum, farm subsidies, urban renewal, and even such things as planning health systems and family planning. He said, "At every

level, administrative planning produces unsettling and publicizing effects. These weaken the justification potential of traditions... These arguments lend support to the assertion that advanced capitalist societies fall into legitimation difficulties" (Habermas 1975:72-3).

The National Flood Insurance Program is on the same basic administrative level as most of the examples he cites. It is analogous to city and regional planning which he gives as one example except the NFIP is not just one city or one region but the whole country. The NFIP does work through city planning so in some ways it is a close fit with one example he gives. It is certainly at a higher level within the federal government than is family planning or planning of educational curriculum (although one could cite examples of Title IX and Affirmative Action programs as roughly the same federal level but these do not directly plan specific educational curricula). One could point out that the NFIP directly affects more people than does the farm subsidies or other examples he mentions.

The NFIP appears to be a reasonable case to examine Habermas's ideas considering the similarity it has with the substantive examples Habermas provides. The main problem with Habermas's examples is that he never goes into detail. He merely mentions the program, makes his point, and moves on. It seems appropriate that someone take seriously his call for an empirical investigation of his ideas, and a historical case study coupled with the gathering of primary data from interviews and observations of the present day workings of a federal program would seem to be a logical step in this process he called for.

The NFIP directly or indirectly affects the lives of almost everyone who lives in the U.S. Its regulations specifically affect almost 25,000 communities in this country that have been identified as flood-prone. The Program is concerned with promoting administrative planning at the city and county level. It requires the local governmental agencies to pass zoning ordinances to control the use of land (including private property) which affects people now and will continue to do so. The broadness of the Program's effects is something that cannot presently be found in the development of nuclear energy, urban renewal, PIK programs, or many of the federal programs.

I will not argue that the NFIP is the best case to examine Habermas's ideas nor should I have to. Habermas wrote that any level of administrative planning raises the issue of legitimacy. Many of his own examples show less administrative planning at the federal level than does the NFIP. None of his examples are concerned with the economic problems of the total system in any direct way. I believe that the NFIP does fit within his discussion as will be discussed in the next section, and the study provides some support for Habermas, but it has demonstrated gaps in his theoretical perspective as well.

I would like to add one more word of caution concerning Habermas and the NFIP. This case study was not intended to be a "test" of Habermas's ideas. I believe his ideas can help one understand the NFIP in a critical way not offered by some other theoretical perspectives and I think the study has shown that Habermas's work was still

in a preliminary stage that can be helped by empirical study to demonstrate possible gaps and ideas for further consideration concerning late capitalism. However I recognize that this is but one case study and that alone is more than sufficient reason for the reader to be cautious in its findings and not judge it as proving or disproving Habermas's theory.

III. The Bearing of Habermas on the NIFP and the Fit of the NFIP to Habermas

How closely do Habermas's ideas concerning the problems of advanced capitalism, especially as found in the Legitimation Crisis, fit the National Flood Insurance Program? Habermas wrote that late capitalism is characterized by growing state intervention, and over the last few decades that has certainly been true in the U.S. Late capitalism is also characterized by the rise of national and international corporations and the state filling functional gaps left by the market. The NFIP is a national organization created by the federal government. It is designed to provide flood insurance which the market had done in only an extremely limited manner.

If the U.S. is in late capitalism is it experiencing a crisis? Habermas wrote that the system is not a subject. In other words, only the individual members of a society can feel their social identity threatened, and when this occurs one can speak of a crisis (Habermas 1975:3). From the data gathered in the interviews and the observations made at the public and private meetings the only conclusion that I can reach is that the people did not experience any significant threats to their social identities; there is no crisis.

The NFIP did not appear to produce anomie nor a disintegration of social institutions that are indicative of crisis according to Habermas. In fact, these could not be found anywhere in the research.

Habermas did not write that one would necessarily find anomie or the disintegration of institutions, but he did expect that administrative planning similar to the NFIP would produce legitimation difficulties which could turn into problems and a crisis. This is one of the reasons he argued for the need to look at both (sub-) systems of the social structure and the life-world. I have attempted to do so by examining the parts of the federal, state, and local governments as well as groups and individuals who have been connected to the NFIP.

In terms of the systems approach Habermas wrote that the administrative concern with steering leads the system to extend its boundaries into nature, controlling outer nature and integrating inner nature. Social systems try to gain this control to help production and consumption. The research found evidence that the state had expanded its sphere. More and more effort and money had been spent to control flooding which is analogous to Habermas's control over outer nature. This included the structural approaches of dams, dikes, and levees, as well as the NFIP's regulations to control where people can live and do business which relates to production and consumption.

Habermas wrote that the increased control of inner and outer nature implied the use of validity claims. The work and instrumental

action used to control outer nature are guided by technical rules based on empirical assumptions that imply truth claims. This was definitely a position taken by the NFIP officials, as well as many of the people in the public sphere. However, the NFIP officials could not be said to agree with Habermas when he wrote that these truth claims could be discursively redeemed, nor were they fundamentally criticizable. Habermas wrote that truth could only be attained by people communicating with each other. All claims of truth can be evaluated by people coming together and criticizing the claims. The NFIP officials felt their studies and maps (truth claims) were based on scientific evidence and science was the arbitrator. No other type of evidence or claim was acceptable to them or the Program. It should be pointed out that when the scientists were in disagreement that they were forced to turn to a judicial process where the judges decided which set of scientific data was more correct. Nevertheless, the decision was always based on which set of scientific data was correct, not on the personal testimony of private citizens, photographs, or anything else.

Habermas felt that the truth claims were important parts of each sector of advanced capitalist societies. Habermas divided advanced capitalist societies into three sectors: economic, administrative, and legitimative. The economic system is divided into a private sector where production is market oriented with one sub-sector regulated by competition while the other is determined by the market-orienting strategies of oligopolies that tolerate a "competitive fringe." The public sector invests almost without regard to

the market. The NFIP falls into the public sector but not as cleanly as Habermas's scheme delineates. It is organized by the federal government with no real competition, nor can it be said to be in a competitive fringe. Yet the federal government worked with private parts of the economy such as banks, savings and loans, insurance companies, and real estate agencies.

I think this offers solid evidence that the economic and political systems are once again coupled as Habermas said they were. He went on to say this coupling meant that tradition was being undermined and there was an increased need for legitimation. The case study of the NFIP does not provide conclusive evidence that tradition has been undermined. It could easily be argued the opposite is true. The U.S. government has been actively involved in flood control for over one hundred-fifty years. The government increased its involvement in the economic sphere and this was especially true in the 1930s as the historical case demonstrated with the creation of employment programs. For decades it has been active in providing insurance deposits in the financial institutions. One could argue that there has been a tradition of growing federal involvement in the economic sphere. It is true the U.S. government has not been previously involved in flood insurance but this part of the economic sphere has not been filled by private insurance companies either.

The case study provided no evidence that traditions were undermined to such a point that there was a need for more legitimation.

Habermas's own ideas can help further explain why legitimation has been maintained. An important point for him is that the state does not totally regulate the system in late capitalism. Its political planning takes place as a consequence of the secondary effects of strategies of private enterprise. These strategies often have little regard for the best interests of the society as a whole. One can see this in the present case where developers were somewhat rational to seek profits without regard to the later costs of the federal government. One could even argue that the business people and home owners were rational given the government's tendency to help victims of flood disasters. The actions were not rational when one considers the citizens must pay taxes to pay for the damages nor were they rational for endangering people's lives and property. The NFIP came about in part because of the lack of completely rational planning.

The decision to build on the flood plains was made by the private enterprise sector and the state attempting to correct the market mechanism and its dysfunctional secondary effects. The state was actually replacing the market mechanism whenever it creates or improved conditions for the realization of capital, and Habermas listed seven ways the state improves these conditions for capital realization and several apply to the present case of the NFIP. His second point is that the government has unproductive consumption. This is somewhat limited in the case of the NFIP but there were instances where the government bought flood plain land or structures on the flood plains. This has helped people move off the flood

plains. Habermas's third point is the government sets up policies (planning) which guide the flow of capital into sectors neglected by an autonomous market. The federal government has obviously done this when it moved into the insurance arena subsidizing flood insurance and the insurance companies. Previous to this intervention there was virtually no flood insurance available in this country. A fourth point is the government improves the material infrastructure. The NFIP has affected all types of construction on the flood plains and indirectly off the flood plains. In particular, it has helped make sure new construction will be less susceptible to flood damage and therefore more productive. A fifth point is the government improves the immaterial infrastructure. Habermas wrote this means the general promotion of science and investments in research. This is an indirect consequence of the Program but it has promoted science and technology as the definers of the empirical situation. It has required people to submit to this interpretation of reality. His sixth point is that the government relieves the social and material costs resulting from private production. It is clear that the NFIP is designed to do this by controlling the development on the flood plains and to provide economic relief for those already there and experiencing damage (Habermas 1975:35).

Habermas wrote of still other ways the government can prevent legitimation problems. He suggested that there has come about a "universalistic value system of bourgeois ideology" which includes the idea of civil rights, especially the right to participate in

political elections (formal democracy). He wrote that formal democracy allows decisions to be made independently of the specific motives of the citizens. It elicits diffuse mass loyalty and avoids direct participation. He discussed this particular point under his concept of civic privatism which was one of two residual requirements of the system that reduced the need for legitimation. Civic privatism is the lack of political activity combined with an orientation to career, leisure, and consumption, that people expect suitable rewards such as money. While this concept could not be completely evaluated in the present study, the evidence available does support this point. There was little public meeting participation, and when there was participation it generally concerned individual interests or groups that represented individual interests. People were afraid they would lose money or their property. However the point should also be made that people in the U.S. have a long history of the right to participate in elections. This was true well before the country had moved into advanced capitalism (although it should also be noted that the right to participate in elections has been true for some parts of the population longer than others). Habermas wrote that legitimation can only be temporarily disassociated from elections and this has not yet happened in the U.S.

Habermas wrote that a second justification of the system comes from technocratic and/or democratic elite theories. There is evidence that both of these can be found in the case but this is especially true in the reliance on science and technology. A few

citizens and city officials objected to the idea of elites and the reliance on scientists to provide the only acceptable data. I think this may be partially explained because the ideas and data of the non-scientific people in the public were not considered valid information by the Program officials. On the other hand the majority of those interviewed and observed appeared to readily accept the data presented to them by the government.

Habermas suggested the lack of legitimation crises after World War II was the latent form of class conflict. The conflict was latent because of the extended business cycle, devaluation of capital resulting in permanent inflation, and milder business fluctuations. These have dysfunctional secondary effects on quasi-groups and other natural groups of little organization. In other words, the effects are not class specific. They cut across classes which prevents the development of class consciousness from coming about. Again the data from the case cannot completely examine this idea, but it does provide some support for it. The real negative consequences of the development of the flood plains has not been limited to the lower classes nor any one specific group of people. It included businesses and wealthy people as well as the poor. The commonality these people had (and not all of them saw this) was that they had property or lived on areas that flooded or were designated as flood plains.

Habermas asked a series of questions about late capitalism and if an economic crisis can be permanently avoided or whether it has been displaced into another sphere. He suggested these questions

cannot be completely answered at this time and went on to write that it is possible capitalism has changed so much it may not experience an economic crisis, a point he repeated in several places in the Legitimation Crisis. The present study found nothing to indicate the individuals felt the U.S. was in a crisis nor had it recently been in one. Habermas wrote that there is at present no way to anticipate a crisis in the future and nothing found in the social historical case would lead to the conclusion that a crisis was near. No crisis could be said to be coming because of the NFIP which attempted to shore up part of the U.S. economic problems. The administration has taken over economic problems of the system to a large extent but has not totally done so. Class structures are unclear and there is no indication in the present data of much class consciousness.

It was found that groups had formed around a specific problem or issue such as flooding or the effects the Program might have. Neighborhood organizations were found that chose to take a position either for or against the NFIP. A small minority of people did say they felt the lower class people (not their exact words) were being discriminated against. These outspoken people were speaking as individuals or representatives of relatives. There was no group organized to represent lower class interests. They expressed the opinion that they were not receiving the structural protection that some of the wealthier people were receiving. They also questioned why some people (the poor) had to sell their property and others who were economically better off than they were did not have to sell.

(There were perfectly legal explanations for this which relate to the proportionate amount of damage done to the structures. The regulations worked against the restoration of less expensive structures and the poorer people.)

The NFIP was attempting to deal with the problem Habermas called ecological balance. The problem of growing population and its exploitation of nature. The Program was trying to administratively control some of the secondary dysfunctions of this growth and exploitation by limiting where people could develop. The NFIP is a shift away from unplanned development Habermas said is typical of capitalism.¹³

The growth of administrative planning and state intervention in late capitalism have bolstered the crisis tendencies of the economic system according to Habermas. The economic system has inputs of work and capital which he felt almost never cause crises. The output of the economic system is use values and the distribution could cause a crisis, and the state intervenes to prevent this.

The state intervention can lead to a political crisis or tendencies toward such a crisis. The input to the political system is mass loyalty, and the case study found that the people were loyal to the U.S. government. The outputs are administrative decisions. The decisions can be complicated and contradictory as the administration grows in complexity with advanced capitalism. The state is definitely not well organized and coordinated. Reports frequently criticized the NFIP and other federal agencies on these specific points. Yet this has not resulted in a rationality or

legitimation crisis. The people interviewed almost never questioned the government's legitimacy. Only a very few could even be said to question the legitimacy of the NFIP, and Habermas indicated one should expect this.

Habermas wrote there has been increased administrative planning to secure capital growth. However the NFIP's planning is not done to help any particular capitalists. There was evidence that some capitalists have been economically hurt by this planning and intervention, and more could be economically hurt in the coming years if the Program were to be strongly enforced or strengthened. One could make a strong argument that the NFIP came about not so much to help the capitalists but to help the government with its own fiscal problems. The federal government was having to pay out more money each year for flood damage and disaster assistance. The development of the flood plains was becoming an increasing heavy financial burden to the government. This is a point that Habermas does not consider as an explanation for government expansion. He also did not consider the intervention could be easily interpreted as designed to help the people, not just the capitalists nor those living on the flood plains. One could almost argue the intervention was designed to support a generalized need given the historical development of the U.S. (and many other societies which have developed on the flood plains).

The state intervention into the economic and socio-cultural subsystems results in the state doing four things according to Habermas. It provides and protects the system of civil law needed

to maintain the subsystems. It is obvious the state does this in the case of the NFIP and throughout the system. Two, it complements the market by adapting to the market processes. Again the response must be that the NFIP does this. The NFIP complements the market by filling a void. The federal government created the Program to work with private insurance companies to make flood insurance available, affordable, and purchased by the people on the flood plains (and anyone else who might desire it). The Program's regulations make insurance available to protect past flood plain development. At the same time the regulations attempt to control present and future development which potentially will permit the private insurance companies to make flood insurance available and affordable without continued federal intervention and support.

Habermas's third point is that the state will take market-replacing actions in some cases. The NFIP does not directly fit this point but the government has used the Program to bring about services and promote consumption that the market did not. The government regulates what the flood insurance costs, who can purchase it, how much they can purchase, and how much profit can be made by selling the insurance.

His fourth point is that the state compensates for the dysfunctional consequences of the accumulation process that have elicited politically effective reactions on the part of individual capitalist groups, organized labor, or other organized groups. There can be no question that the NFIP was a response to some people's demands that there be affordable flood insurance and land-use control of the

flood plains. One organized group was the state insurance commissioners who met and put together a proposal for legislation which eventually led to the founding of the NFIP. It is questionable how organized the other people were who demanded the development of an insurance program but they were definitely heard. Presidents, governors, national environmental groups, and professionals in the academic world called for non-structural solutions and flood insurance to be used to cope with the problem of increased flood losses. One could cite the professional organization of insurance companies that put together committees to evaluate the problem of providing flood insurance. Their conclusions were that the private insurance companies could not afford to provide flood insurance without government restricting development of the flood plains.

Habermas wrote that what the government has done is to organize scientific-technical progress and systematically manage the expansion of the system by continuing education and increasing productivity. The state now uses the productive labor power of scientists, engineers, teachers, etc. to transform the products of their labor into cutting the cost of commodities. The NFIP does not directly fit this because it was not cutting the cost of commodities. It may indirectly do so by lowering flood damage and the subsequent costs to businesses and to the government.

Habermas wrote that the form of administrative planning in advanced capitalism is reactive to avoid crises. It is not an active planning to carry out a centralized economic strategy to further any one group's interests. This seems to hold true for the

NFIP where no one class appeared to clearly benefit. In fact, it could be argued that the majority of the people benefit by the NFIP even if it is only partially successful. It could lower the amount of flood damage, decrease subsequent government funding needed for disaster assistance, and thus, lower taxes for all taxpayers.

Habermas continued by writing that the various bureaucracies are incompletely coordinated and are deficient in their planning capacity thus they are dependent on the influences of their clients. This can definitely be seen in this study. The NFIP was inadequately coordinated with the other parts of the bureaucracies it was supposed to work with, such as the Corps, USGS, SCS, and NOAA. The NFIP did not really have good information when it began concerning how many communities were flood-prone, and the Program officials had to search for information. It was forced to turn to other parts of the bureaucracy for information. It frequently did not receive all of the needed information from these agencies. The Program officials were then forced to turn to the communities to help provide information about the flood plains and to hire private contractors such as engineers, architects, and geologists to help them do the studies. The number of known flood-prone communities continued to increase as knowledge increased in the early years of the Program and the need to turn to others for information also increased. With all of the other federal agencies supposedly helping the NFIP it was still dependent upon private technical firms and community assistance to provide the needed scientific-technical information and planning.

Habermas wrote that science and technology had been able to increase the control over nature. The historical case offers support for this with all of the structural measures taken to control flooding, but it also clearly points out that the control was far from totally successful. He continued by writing that science has established a monopoly on the interpretation of outer nature. Faith has become a faith in an objectivating science. Contingencies are recognized and mastered to a large extent technically and this makes their consequences more bearable. "Natural catastrophes are defined as world-wide social events, and their effects are blunted by large scale administrative operations" (Habermas 1975:119). At the same time there is an increased complexity in the social world. New contingencies are being produced without a similar growth in the ability to control these contingencies. The new contingencies are more uncontrolled societal processes than those of other nature such as the growth in different parts of the economy, the government, and the number of social groups.

The case study fits most of these ideas very well. The federal government has attempted to use science and technology for well over one hundred fifty years to solve the problems related to flooding. The results have been successful to only a limited degree. Flooding continues, and the NFIP is a direct response to the failures of science and technology in the form of structural measures to prevent flood damage. While no one can dispute that science and technology are powerful, the study of the NFIP suggests Habermas has given them too much credit.

He is essentially correct when he wrote that science has established a monopoly on the interpretation of outer nature. The evidence found in the case study definitely supports this. Only scientific and technical data were admissible as adequately defining the flood potential of a given piece of property. The NFIP itself is an example of a large-scale administrative operation to deal with natural catastrophes and to control the social growth that takes place on the flood plains. The NFIP is a direct attempt to cope with the growing ecological imbalance that has come about with the continued development of the flood plains. The Program is one part of FEMA which is concerned with natural and man-made disasters. The NFIP has been designed so that it affects tens of thousands of communities, almost all of the counties, and all of the states in the U.S. Without the NFIP or a similar federal program the development of the flood plains will continue. The costs to the federal government will also continue to increase with this development. The population will grow placing greater demands for development and consumption of finite resources, and the flood plain is one of the places this would occur. Without some form of administrative control the flood plains will continue to be developed, and the problems will become worse.

The administrative planning found in the NFIP is what Habermas has called incrementalist, participatory planning. It is limited participation but the possibilities of participating were enough to supplement the mass loyalty needed to provide more legitimation for the system. Habermas made the point that the state relies on formal

democracy for purpose of supporting its legitimation. Because of the limited participation of the formal democracy the state has a limited planning capacity. (If there were no participation he felt there could be comprehensive planning. The lack of participation does not necessitate the state use comprehensive planning.) The study of the NFIP supports these ideas. The federal government made limited rules regulating the development of the flood plains. These rules did not require the communities to pass zoning ordinances that totally restricted the development of the flood plains, nor did the federal government require the communities to control the development outside of the flood plains. In other words, the federal government developed regulations that had to be followed but there was considerable flexibility on the part of the local governments concerning how they implemented the regulations. Private citizens had the opportunity to influence their local government as the flood plain zoning regulations were proposed in each community or county.

With all of these ways to avoid crisis potentials Habermas asked if this meant the economic crisis had been mastered. He answered by writing that it depended on whether or not capital spent to increase productivity will successfully do so and if the distribution of growth in productivity will function to guarantee mass loyalty and keep the accumulation process moving at the same time. He wrote that the administrative planning and actions will produce inflation and a permanent crisis in public finances. The U.S. has been experiencing inflation for many years although it is currently lower than it has been for several decades. The government

does have substantial deficit spending, and many would say this indicates severe economic problems. Yet, as previously noted, mass loyalty has been maintained.

How does Habermas explain this paradox? He listed a number of costs the government must bear, including such things as the costs of social consumption indirectly related to production and the externalized costs of environmental strain from private production. In the first case it could easily be argued that the NFIP came about to specifically reduce the damages that have resulted from the development of the flood plains. The federal government has had to bear these costs for years and the costs have continued to increase into the billions of dollars. The flood insurance program is an effort to control those escalating costs.

The second aspect is concerned with such things as pollution which he briefly mentions. I believe that limiting this aspect to pollution would be insufficient. Flood damage could certainly be said to be part of the environmental strain that has come about with private production. The federal government has tried to modify the environment with the construction of dams and other structural measures designed to control flooding and by the social oriented programs such as the NFIP. This has been largely paid for by taxes. The taxes have paid for the surveys, construction, the purchasing of land in the cities and counties, and the removal of structures. It is true that the insurance premiums help defray some of these costs, but taxes account for over ninety percent of the money spent according to the NFIP.

Habermas continued by writing that taxing must be done in a rational manner to avoid the crisis-ridden disturbances of growth, and collection must be done selectively to satisfy legitimation needs. Failure leads to a deficit of administrative rationality or deficits in legitimation. People complain about taxes but rarely did I hear this directly connected to the NFIP. Yet if the NFIP were to become increasingly successful this could reduce taxes. Most of the people would not be aware of this reduction just as they currently not consciously aware of how much of their taxes support the NFIP.¹⁴

He followed up this point by saying the contradictions in the economic system are seen in bankruptcy and unemployment but administrative system contradictions are expressed in irrational decisions and in social consequences of administrative failure which result in disorganization of areas of life. The U.S. definitely has the economic problems Habermas discusses but these cannot be directly attributed to the NFIP, nor can the disorganization of life. The vast majority of people continue to live more or less as they have in flood-prone communities before the NFIP came into existence. Certainly, a few people have been forced to purchase flood insurance, some people have been forced to move, and others have had to deal with less public assistance when they have been flooded because their community was not in the regular phase of the NFIP.

The state is intervening in many different areas of life and the NFIP is only one program in which the state does this. Habermas wrote that the state intervenes in the economic sector, but does

not have to optimize profits when it does so. It is compromise oriented because it has intervened in so many areas. It is working along a legitimation gradient in reconciling the differences within the economic sphere. The NFIP can serve as an example (out of many possible ones) demonstrating these points. It guarantees a small profit to the insurance companies and their agents who sell flood insurance. The small profit was a sore point for many of the agents handling flood insurance but they have little control over this and must accept it if they continue to sell flood insurance. The NFIP was challenged on these points in the past and it was legally agreed that the government had the right to control these factors.

Habermas wrote that the rationality crisis tendencies bring about administrative actions in a conscious way (not unplanned and nature-like as in liberal capitalism). There is more planning as crisis avoidance becomes thematized as a goal of action. The NFIP was a conscious response to economically generated problems. The NFIP has goals (plans) to control much of the development on the flood plains and to control what the government was having to pay for disaster assistance.

Habermas felt the state must create a facade to hide behind in order to minimize the costs from compensating victims of the accumulation process. If the state is too overt with its planning then people can make demands on it to be compensated. This point is not clearly supported by the case study. Demands have been made on the state well prior to the existence of the NFIP. The state has provided structural measures for some protection from flooding, and

it has been providing disaster assistance for decades. Yet the NFIP is another response on the part of the federal government to control the re-occurring problems related to flooding. The federal government has done only limited local and regional planning before the NFIP, and this was not well coordinated. Gilbert White and others have argued that the lack of planning and control was a major part of the problem. Habermas did not feel that people might want more planning, but would normally want less planning.

When the state takes administrative actions to alter the economically conditioned fiscal crisis, Habermas felt that it makes class oppositions fragmented and less clear. Scattered secondary conflicts become more expected and do not appear as objective systems crises.¹⁵ They do not provoke questions of legitimation. The case study did find some secondary conflicts in regards to the NFIP with some people and organizations filing lawsuits against the Program, the communities refusing to participate in the Program, the conflict between the government agencies, and within the communities. Also some banks refused to follow the NFIP regulations, and some communities that tried to avoid the intent of the Program regulations.

However, even citing the above examples it is clear that I did not find very much conflict associated with the NFIP, and none of the conflict approached crisis proportions just as Habermas wrote that it might not. Habermas suggested some reasons for the lack of conflict or the lack of the severity of the conflicts. The state in late capitalism often pursued the following strategies to prevent its legitimation from being questioned: personalization of sub-

stantive issues, symbolic use of hearings, expert judgments, juridical rulings, and advertising. All of these strategies were found in the case study. Although whether a community participated in the Program was not an individual decision, the purchasing of flood insurance was an individual decision if the community was participating in the Program. Each case of flood damage was individually handled thus keeping the people from uniting in any particular cause. Individuals could separately file for letters of amendments to have their property removed from its flood plain designation.

There was the obvious use of the public hearings. Three such hearings were required before a community could move into the regular phase of the Program. Not very many people attended these meetings, but the opportunity was there if the people wanted to attend and voice an opinion.

If the private citizens or local community officials disagreed with the NFIP they had the option of using the legal system to challenge the Program. There were a small number of cases where groups did turn to the courts to oppose the Program, but they lost.

The case study also provided evidence that a limited amount of advertising was done to encourage participation in the Program. This was done by the NFIP as well as some of the states and insurance companies that were selling flood insurance. Thus the case documented the use of all the strategies Habermas discussed that the government might use to reduce the potential for conflict and maintain its legitimacy.

Yet another way the state can attempt to deal with legitimation problems is by turning people's expectations to use values (commodities). Habermas wrote that a rising level of demand for goods and services could balance a growing need for legitimation. He continued by writing that it is possible that demands will stay within the boundaries of the operating capacity of the political-economic system.¹⁶ The welfare-state programs have joined with people's concern with consumption, leisure time activities, and formal democracy so that legitimation deficits do not have to end in a crisis. In fact, he argued that only a rigid socio-cultural system would explain a sharpening of legitimation difficulties into a legitimation crisis (Habermas 1975:74).

This last point is related to what he called a motivational syndrome that he labeled civil privatism. It denotes an interest in steering and maintaining performance of the administrative system but little participation in the legitimizing process. In other words, this is formal democracy providing an allegiance to the system without the people feeling the need to participate in the planning or steering. This permits the administration to handle the many different economic problems it faces without undue interference from the private citizens. Crisis tendencies will appear but not develop into a crisis because they are administratively processed. He repeatedly took the position that "...a system crisis is not to be expected in advanced capitalism" (Habermas 1975:93).

He wrote that as the economic crisis tendencies are shifted into the political system through reactive-avoidance activity of the

government the supplies of legitimation can compensate for deficits in rationality. Extensions of organizational rationality can compensate for legitimation deficits that appear. This is a somewhat circular argument where the crisis tendencies are shifted from the economic to the political to the socio-cultural systems but handled administratively. These tendencies can be avoided by providing more use values or more motivation. Less motivation means there has to be more consumable values (products), and he states he does not believe there is presently any shortage of these.

The use values are not equally distributed but Habermas felt this is not a problem because of the norms that justify inequality. The norms are directly and indirectly threatening sanctions making the individual feel powerless. Habermas is critical of this inequality and proposes that it can and should be overcome. He does this by referring to the possibility of making people conscious of what the world could be like. Yet it is here that I sympathize with Habermas and at the same time found his position less defensible. He chooses to ignore that inequality is a fact of the real world. Many writers in the field of social stratification such as Davis and Moore (1945) have pointed that the social inequality is virtually universal. This situation is not just a normative claim supported by sanctions. If I may use Habermas's own terms it is he who is making a counter-factual claim that inequality is not immanently truthbound. He is making a questionable assertion, especially for a modern society. He wrote of legitimacy having an immanent relation to truth and not just a psychological basis. Yet it is his assertion

that appears to be psychologically based and out of touch with reality. It may be that the state does not have to create facades and strategies to justify inequalities of the system and support its legitimation if social inequality is based on a truth rather than an injustice of the system.

Habermas has chosen to be critical of the norms that justify social inequality and that are used to legitimate the system. He disagreed with the position that focused on rational authority, positive norms, and legality as a basis for legitimation. He did not believe one can have an adequate legitimation based on the constitutionality of a system. Instead he called for a position grounded in the discursive redemption of norms, norms that can be justified and defended against critique. It is norms so justified that can truly legitimate a system.

The people interviewed in the case study and those observed knew that inequality existed. Some even made a point of this in their comments at the public meetings. Fewer than five people called for the government to correct the unequal treatment that the poor were receiving. Their points were not questioning the legitimacy of the system nor the rationality of the administration although they complained about these. The essence of their comments was not complaints about the system as much as trying to get something done to help themselves. The personalization of substantive issues that Habermas wrote about seemed to apply.

There are many points found in the ideas of Habermas that correspond to the National Flood Insurance Program. The fit is not

a perfect one nor had such an isomorphism been anticipated. Habermas's ideas can be used to help understand the roles played by the NFIP, other governmental agencies, communities, private citizens, organizations, and others affected by this part of the federal government in late capitalism.

There is another side to the question of the fit between Habermas's ideas and the NFIP and that is what can the NFIP tell us about the scope of his ideas. Perhaps the first significant point should be that the historical case clearly demonstrated that federal intervention is hardly new. The government has been involved in the economic consequences of flooding well back into the 1800s, a time when Marx was alive and late capitalism had not been conceived as an idea. State intervention is not the sole criteria for late capitalism but the fact that there is a long history of government action in the economic sphere perhaps makes such intervention more legitimate and maybe even expected or desired by some. The massive intervention of the federal government with the great depression of the 1930s set up federal programs that have been in existence longer than most of the people in the U.S. have been alive so it may be difficult for people to think of the state not intervening in the economic subsystem. This may have become part of our tradition.

It would be difficult to quarrel with Habermas's contention that the federal government has expanded into the economic subsystem. The examples are too numerous to cite more than a few such as insuring financial institutions controlling stocks and bonds, granting mammoth defense contracts, providing loans to private industry, subsidizing the air lines, and making available flood, riot, and crime insurance. In this light it should be kept in mind that some people

actually demanded some of these programs including the flood insurance program.

A related point can also be made. The state intervention could be said to have positive results, not just negative ones. Granted these issues are never black or white, but people are now able to buy affordable flood insurance. In some cases people can sell their property and move off the flood plain which would have been almost impossible in the past. Development of the flood plains may eventually be stopped which would save money and suffering. People also have social security, medicare, and other welfare programs. These are not all that everyone might hope them to be (and they are more than some others would like), but they do provide a welfare net that has seldom been there before the recent historical period.

Another point concerns the issue of democracy. Habermas made an issue of formal democracy legitimating the system. His point is a valid one but does not go far enough. The U.S. is a society where people tend not to participate. People wrote letters to the government and to publications as the NFIP case showed. They filed lawsuits and participated at some of the public meetings. True only a few did this, but the opportunity was there. It should not be forgotten that the NFIP went from mandatory to voluntary participation in large part because people contacted their representatives and had the Program changed. The state was responsive to some of the people in this case.

Habermas also emphasized the role of science and technology. He has indicated in his writings that these are controlled by the

government. The present case study provided evidence that the state directly employs many scientists, engineers, geologists, and other technical people. These people are a permanent part of the governments' various agencies and programs. It was also clearly shown that the state hired similar specialists in the private sector. Yet the private citizens and local officials were not left helplessly subject to the "objectivity" of the state employed scientists and technologists. Some communities (although a definite minority of the ones studied) had their own scientists, engineers, architects, and geologists. These people were able to gather data that was used to refute (parts of) the NFIP studies. In one case the NFIP officials immediately accepted the city data over data presented by the engineers working for the NFIP.

Communities also had the option of hiring private engineering, geological, or architectural firms to do studies to challenge the NFIP findings. These studies were not always successful in providing evidence to refute the government findings, but they could be used as a means for communities to either confirm or refute the NFIP studies used for the Flood Insurance Rate Maps. The difficulty with hiring outside specialists to do the studies is that they cost a considerable amount of money. Most communities could not afford the tens of thousands or hundreds of thousands of dollars needed to hire these people. Nor do many communities employ enough skilled personnel to be able to assign them the task of re-doing the NFIP studies because of the time and money involved. These times of fiscal austerity mean that most community budgets are lean. Virtually

none can afford to hire scientists or technologists to completely re-do their studies. They may select the land for re-study that has the most immediate promise of financial benefit to some community members. This may introduce a class bias, but the point is that some control is retained by the communities and even the individuals. If they have money they can hire scientists or technologists to generate data to challenge the government. The government does not hold a monopoly on these people who define the "truth" concerning outer nature.

Habermas ends the Legitimation Crisis arguing that the end of the individual has not taken place. This is a complex topic which revolves around the issue of planning, political participation, and rationality. The present study was not directed at this issue yet has some relevance to it. The NFIP did not demonstrate anything close to the comprehensive planning that would characterize the end of the individual. People can and do act rationally in some instances if one considers the system, tradition, and where they are in the class structure. Individuals can and did fight the government and the NFIP. In some cases they won. If they were challenging flood plain designations they needed scientific support, but there were some who made the effort to get this support and succeeded in their challenges. We may be approaching the end of the individual, but it has not yet happened.

A few comments should be made about the fit of the case of the NFIP to Habermas's ideas. In the Legitimation Crisis Habermas is working at many different levels of analysis. Frequently he

worked at the most macro level, a world systems level (although he did not use this term). At other times he has moved all the way down to the micro level of the individual and small group interactions.

When he wrote about crisis it would be at the systems level in some cases, subsystems level in other cases, and even the agency level or lower at other times. He wrote, "At every level, administrative planning produces unintended, unsettling, and publicizing effects..." which he argued weaken tradition and weaken the legitimation of the system (Habermas 1975:72). This may lead to legitimation difficulties and insoluble legitimation problems which produce a legitimation crisis. "These arguments lend support to the assertion that advanced capitalist societies fall into legitimation difficulties" (Habermas 1975:73).

A legitimation crisis is not something that will necessarily come about. Yet advanced capitalism will be plagued by legitimation difficulties. He wrote, "Administrative planning produces a universal pressure for legitimation in a sphere that was once distinguished precisely for its power of self-legitimation" (Habermas 1975:71). His own examples were such things as city and regional planning, curriculum planning for school administrations, farm policies, and family planning. The NFIP would appear to fit in with any of his examples or it might be even higher in the administrative hierarchy than some of his examples.

It would be unrealistic to expect any one federal program to be representative of all of Habermas's ideas in the Legitimation

Crisis, nor could one piece of research be reasonably expected to do more than examine a few of his ideas. The breadth and complexity of his work make this impossible. The NFIP is only one of many government programs. It does affect almost everyone in the United States although in many cases this effect is indirect. Most of the people are unaware of the Program and its effects. Only a few people give the NFIP any significant time, thought, much less action. Lest the reader think this is a reason for not studying the NFIP or not using Habermas's theoretical scheme to understand the Program I would ask him/her to think about any government program. Ask yourself how much time or energy the average person devotes to it. The answer will almost definitely be very little to none. This is true for nuclear energy, social security, urban renewal, or any of the other federal programs.

It is exceedingly unlikely that any one program currently in the federal government's structure would cause a legitimation crisis. This is not to say that some would not cause a major public outcry if the government did away with them. Social security might be one example, but even this has been publicly discussed by members of the Reagan administration.

Many of these federal programs have come about in some degree as a response to the economic problems of the system as can be seen in their origination in the 1930s and 1940s. The government has definitely expanded further into the economic and socio-cultural systems. With its expansion it has run into problems of rational administration with all their conflicts, the notorious problems of

federal bureaucracies.

IV. Considerations of the Future

A. The future of the NFIP

In 1984 flood insurance continued to be sold through commercial insurance firms. There are one hundred ninety-nine (199) commercial insurance firms participating in the Program. There are over 17,000 communities certified by the Program where flood insurance can be sold. This includes both emergency and regular phase participation. These communities were required to be moving toward (or have already established) flood plain zoning regulations and a program designed to monitor enforcement of these regulations. If the communities do not strongly enforce the regulations, they can be put on probation and they can have their insurance rates raised, or they can be removed from the Program.

The federal government has continued to promote the sales of flood insurance. This is important because it indicates a commitment to the NFIP in spite of the government's phasing out of other types of insurance such as crime and riot insurance according to Federal Insurance Administrator Jeffrey S. Bragg (1984:18).

As of October 1984 an estimated two million people had purchased flood insurance and have policies in force. The FIA Administrator said this number represented about one fourth of the homes and structures of people living on the flood plains. This number is a drastic drop (almost twenty-five percent) compared to figures that had been previously released.

This decrease can be partially explained by changes in the Program which have resulted in flood insurance being less attractive to the insuree. Basements are considered the lowest floor for purposes of determining the flood insurance rate. Another significant change is that the contents of basements is no longer covered by flood insurance. The deductibles on all the insurance policies has been raised to \$500 for the contents of the building and \$500 to the structure which means the person experiencing a flood will have to pay the first \$1000 damage. Flood insurance policies continue to be an additional purchase to people's ordinary insurance for their property. A typical cost is two hundred dollars for a house valued at \$60,000 in the areas least likely to flood in addition to the increased deductibles.

The drop in policies and the continued slow movement of communities and counties into the regular phase of the Program make the outlook questionable for the NFIP. It has not succeeded in accomplishing its goal of moving all of the flood-prone communities into the regular phase of the Program, and NFIP officials privately admit that they are not sure this will ever come about.

Literally thousands of studies needed for the FIRMs are not completed so communities cannot move into the regular phase of the Program. The federal government continues not to allocate enough money to finish the studies in the near future, and more communities need re-studies.

Without the communities and counties having flood plain zoning regulations at least as strong as those suggested by the NFIP the

prospect for private insurance companies being able to take over the Program are unlikely. These companies could possibly do so on a local level where communities have enacted strong zoning ordinances for the flood plains, but several insurance agents indicated the risks associated with a company not being able to spread the possibility of a flood event over millions of policy holders and their premiums would be too great for most companies. I was told that if the government turned the flood insurance program over to private companies it would almost definitely cease to exist in a matter of years, months, or even immediately expire. It presently appears that the government will need to continue its involvement in the NFIP if the public is to continue to have flood insurance available. Without federal involvement the people would be not much better off than they were prior to the NFIP except for the approximately 2000 communities in the regular phase of the Program which currently have zoning preventing flood plain development. Without the Program even these communities could revise their zoning ordinances and permit full development of the flood plains.

If the government acts in an economically rational fashion, it will continue to support the NFIP. Without the NFIP the government can expect to see continued development of the flood plains, and this would mean pressure on the government for more disaster assistance, an increasing economic pressure it does not need.

The Reagan administration has openly proclaimed its intentions of cutting the size of the federal government and limiting the government's intervention into people's lives. This would fit

nicely with the NFIP's goal of turning flood insurance over to the private insurance industry. What will actually happen is difficult to foresee. The federal government will almost certainly stay involved in many parts of the economic sphere and there will continue to be national and international corporations so, according to these two criteria, we will remain in late capitalism for some time. The NFIP will continue to exist for some time yet, but the NFIP officials are not sure how long. One thing is certain. Flooding will continue to occur and people will experience the subsequent damages.

B. Some comments on Habermas

I would like to take a small amount of space to make some observations and comments about what the best and worst of Habermas's ideas. He should be given credit for the enormous task he has undertaken. The breadth of his knowledge is remarkable. He has attempted to use this to develop what is close to a grand theory (which is something that many people would not necessarily find desirable, as Merton has pointed out, 1968).

One of Habermas's best contributions has been his focus on late capitalism. He has probably received the most attention in Europe and the U.S. This is especially important for those involved in Marxist studies and critical theory. A discussion of late capitalism such as Habermas provides can help move past some of the inadequacies of Marx's work on capitalism. Habermas has been able to move past the reliance on the proletariat and the analysis of the economic system which was relatively free of state intervention. Capitalism

has changed since Marx wrote. Critical theorists are aware of this, but many have produced almost a fog of despair with the loss of the worker as the agent of history.

Habermas has not provided a substitute for the worker and class consciousness. What he has done is provide an analysis of some of the changes of capitalism and why it has been successful in avoiding an economic crisis that Marx wrote about. Habermas's insights into administrative problems, legitimation, and motivation problems may prove useful for late capitalism, and they might prove useful for the analysis of Eastern block countries as well, perhaps even more so than late capitalism in the West. (Poland might prove to be an interesting case to apply his ideas.)

A significant point for Habermas is that an economic crisis cannot be assumed to be the certainty that many Marxists have written about. Habermas provided an understanding how the crisis tendencies have been administratively handled with growing state intervention. This analysis provides numerous insights about why crises in late capitalism have been avoided. In particular he pointed to the complex administrative programs and government actions, the use of science and technology, expert witnesses, judicial hearings, public meetings, formal democracy, the importance of family and tradition, and satisfactions with sufficient material goods. Not many of these ideas are new, but he has put them together with some of his own insights to give a penetrating analysis of late capitalism. By doing so and by calling for research, he has helped move away from overly naive criticism based more on ideology

rather than true critique. It has provided people with some justification for trying to do research connecting ideas in critical theory to the real world and not dwelling in literature of hundreds of years ago or forms of music that the average person on the street has never heard and has no feel for as seen in Horkheimer, Adorno, and Benjamin's writings.

His detailed analysis of government actions bolstering the economic system is more insightful than many writers in critical theory. Habermas writes at a highly abstract level much too often and could easily be accused of elitist ideas. One can see this in his efforts in the Legitimation Crisis to recapture political economy as a subject for critical theory, as well as attempting to integrate many other dimensions of the social world.

His argument with Luhmann on the end of the individual is an important one. It relates to the second point of a search for truth and a grounding for theory, therefore a grounding for action. Habermas wants to retain the individual as a creature with the potential for rational action and who can pursue truth, taking a positive step.

On the other hand, there are a number of problems with Habermas's ideas. One of the biggest problems is his lack of precision. He is concerned with crisis yet he does not give a precise definition of what one is nor even how one would know if it came about. He wrote that there can be difficulties, perturbations, tendencies, (secondary) problems, and crises without ever giving a precise definition to any of these. He said that administrative

planning at every level produces legitimation difficulties. He cited examples of city planning, health care systems, urban renewal, and others which may lead to a legitimation crisis. Yet, it seems almost impossible to believe any one of these would cause a crisis. None of his examples were in any detail nor were they at high administrative levels within a national government.

In some ways Habermas has gone too far from a Marxist position. Marx saw the economic crisis coming from over-production. Habermas never really discusses the significance of this point. It might be especially fruitful to take some of Habermas's better ideas, especially his concern with the cultural side of crisis, and combine those with the insights of Mandel's more traditional Marxist approach to crisis. The combination of their ideas might lead to a better understanding of late capitalism than either one's ideas have done separately.

Habermas was concerned with the administrative control of economic problems and the subsequent administrative problems, but he superficially described the consequences of such control. The NFIP is an example demonstrating the government's administrative response to economic problems of uncontrolled development on the flood plains. However, it is also a response to the government's own financial problems. Paying for structural measures and disaster assistance had become an increasing financial burden to the government. The NFIP can be seen as a direct administrative response to the federal government's financial problems. It would be interesting to do further research on other federal programs and see how many are the

government responding to its own financial pressures.

There was some demand for the NFIP, and Habermas anticipated demands would be placed on the government. However, the primary data revealed that some of the local citizens and professionals wanted stronger regulations to prevent development of the flood plains and they sometimes wanted more land officially labeled as flood plain. These people were usually not successful, but the point is both theoretically and realistically important. Government intervention and regulations do not necessarily lead to opposition or legitimation problems.

This may be partially explained by tradition, a key concept in Habermas's ideas. He felt government intervention led to the breakdown of tradition, but the U.S. has a long history of the government being involved in various parts of the economic and socio-cultural systems. It may well be that this has become traditional.

Habermas down-played the importance of a legal system and constitutions providing legitimation. He cited Weber, Luhmann, and others in an effort to suggest these were not enough to justify a system's legitimacy. On the abstract level which Habermas was frequently working this may be true, but in the real world, such as in the U.S., they may be sufficient. Our political system is over two hundred years old which makes the authority of the system rational-legal and traditional. It has a constitution which Habermas felt was important for providing legitimation. It can be suggested that these are much more important to the average person than whether or not a norm can be discursively justified, which is the grounding

Habermas believes is most important.

The latter points provide some of the reasons why the NFIP was largely unchallenged and why the government's legitimacy may not be seriously questioned by the vast majority of the people. Specific programs and actions may have opposition, but the government remains above most of this. Science and technology were also used to provide legitimacy for the NFIP, but the case clearly demonstrated they were acting within the NFIP regulations and definition of the problems. This caused certain areas known to flood to be not included as officially part of the flood plains. It may well be that the administrative sphere is more powerful and more immune to legislation problems than Habermas gave it credit.

Another point the NFIP study demonstrated was that the Program was not responding to the demands of capitalists. The Program definitely cost some of the developers and investors millions of dollars by curtailing development and officially labeling lands as flood plains. The labeling of the lands may reduce the property values. Certainly many of the actions taken by the government benefit the capitalists, but not all of them do as this case showed.

An argument could be made using the history of the NFIP as evidence that the administrative actions may actually worsen the economic problems. White (1969), Peterson (1954), and Hoyt and Langbein (1955) suggested the government's structural approach encouraged flood plain development. NFIP, Corps, and state officials said they felt their regulations were not strong enough to prevent

development of the flood plains. The subsidized insurance of the emergency phase was also seen as indirect encouragement to develop there. This is another possibility that Habermas seems to have overlooked.

And one last point, he wrote (Habermas 1975:119) that today's contingencies are not so much related to outer nature as "uncontrolled societal processes." This point is certainly open to debate, and not just referring to flood control, but to pollution and the great impact the social world is having on the environment. Unless we take seriously our impact on the environment the discussion of late capitalism may be of little consequence for future generations.

C. Research considerations

I have already mentioned several ideas for future research considerations, but will propose a few more. One could certainly find it profitable to continue to follow the workings of the NFIP and its connections to the other parts of the governments, economic sphere, and private citizens. One could continue to work from Habermas's ideas or choose others to integrate into his perspective.

It could also be extremely interesting to pick one of the examples Habermas mentioned in the Legitimation Crisis and attempt to use his ideas to see how well they correspond. He did not go into a detailed analysis of any of his examples, so the research might be particularly insightful.

It could also be interesting to try and work at the highest level of the political sphere in the U.S. by examining the economic

problems of the government. One could focus on the budget process, the federal deficit spending, and the creation and death of programs and agencies. This could provide some insight into the overall economic and administrative problems of the government, but it would lack the connection to the private citizens which are the ones who experience the crisis according to Habermas. These people could be interviewed by methods similar to the ones used in the present study, or one could try specialized surveys and questionnaires to sample the population. It would be an interesting research project and an incredibly large undertaking.

ENDNOTES

- 1) I spent approximately one hundred fifty hours in the government documents section of the library examining and taking notes on approximately two hundred documents. I spent approximately fifty hours in the law libraries, another fifty hours in the special collections section of a research library, and forty hours in engineering libraries. The total number of documents I examined in these parts of the libraries exceeded four hundred.
- 2) I would like to briefly remind the reader at the beginning of this chapter that the primary data presented in this chapter were not gathered using any type of statistical sampling technique. Generalizations cannot safely be made to the whole U.S. population. Future research may find it profitable to select a representative sample and further evaluate the findings of the present study.
- 3) It is ironic that the economic justifications of the projects have not held up. Professionals such as Walter Kollmorgen, retired professor emeritus of geography at the University of Kansas, pointed to the inability of the Pick-Sloan Plan to control flooding even if all the proposed dams were constructed. He wrote that more land would be destroyed. The dams would take 450,000 acres of Kansas' best river basin land out of production. This would involve hundreds of farms which use land that is two-four times as productive as non-river bottom land. This type of removal of highly productive land could be multiplied through many of the states and indicated a major loss of farm productive potential. Kollmorgen's position was supported by Peterson 1954, White 1969 and others.
- 4) Flooding proofing consists in adjustments made to structures so that they will be impervious to the waters during a flood. This is a very difficult architectural task. Some architects say it is not possible to totally flood proof a building.
- 5) Class consciousness is a Marxian concept that refers to people in a given social class consciously recognizing the social inequalities of classes in capitalism.
- 6) One could argue that flooding would be seen as a much more important economic problem in a town such as Johnstown, Pa., where flooding is a severe, and almost regular occurrence. However, the data indicate that it is not perceived that way in the midwest even in communities that have recently experienced 500 year floods, and tens of millions of dollars in damages.
- 7) The mayor did not file the law suit, although he did consult lawyers. The issue was discussed at a city council meeting,

but the city did not pursue the matter. The power plants were built, and the danger still exists according to the geologists.

- 8) These funds were cut from the federal budget in 1982, and the program was called "not very successful" by some of the state officials who had been involved.
- 9) I found out that the studies frequently relied on data gathered by the Corps or other agencies, and this data could be over twenty years old, obviously out of date. One can find what studies were used to put together the maps from the bibliography at the end of each study. Unfortunately, this does not tell which studies were used for the official data. Some data might be decades old and still used. Other data superceded old data. As one engineer said, "You have to know or guess."
- 10) The communities could help work on a solution to this problem by passing stronger flood plain zoning ordinances than required by the NFIP. They could control the development in these areas. However, this would still not be a legal reason for the NFIP to charge higher premiums for these areas. People living or doing business in these areas could be regularly flooded and still pay the lowest rates.
- 11) It would appear unlikely that this will happen because the number of policies is going down nation-wide.
- 12) The reason for this community dropping out of the Program was the whole town lay on the flood plain, and no loans could be made if they joined the Program in the regular phase.
- 13) The NFIP is not a program that is concerned with total planning (of the flood plain). It attempts to limit development of the flood plains but its regulations will not completely eliminate such development. A second point related to this is the questionable assumption by many that there was a period of capitalism where there was no government intervention, control of development, a completely natural unplanned development as Habermas refers to it.
- 14) The degree to which taxes could be reduced even with the total success of the NFIP would be significant but would not be large in terms of the potential reductions that could come about with cuts in such programs as defense or social security. If the Program were totally successful and flood damage paid for by the government was completely stopped, this could lower taxes about \$20 per person per year.
- 15) Primary conflict would be seen in class conflict in the sense that Marx used the concept.

- 16) This statement could lend itself to an empirically testable hypothesis where one could measure the demand for goods and see the relationship to people's view of the legitimacy of the state. Habermas is arguing that demand for goods will increase if the legitimacy of the state is questionable. If people are able to satisfy their demands, then there should be no legitimation problem. If the demands remain unsatisfied, then the problems may develop into a crisis.
- 17) This would appear to be a questionable assumption on Habermas's part. If one agrees with this idea, this would mean that a crisis would occur only if the system would be destroyed or totally changed from its past state. It seems plausible that the system could face a crisis and still deal with it (the crisis) without necessarily succumbing to destruction or total change.
- 18) Habermas defines the socio-cultural system as including the cultural tradition (cultural value systems), as well as the institutions that give these traditions normative power through processes of socialization and professionalization (Habermas 1975:149).
- 19) Habermas's reliance on the tendency of the rate of profit to fall is both interesting and questionable. In his work, Knowledge and Human Interests, Habermas denied that this was always the case in capitalism. Also see Dick Howards' (1977) comments on this matter.
- 20) The others are: a) disparate wage developments and/or a sharpening of wage disputes in the public service sector; b) permanent inflation, with corresponding temporary redistribution of income to the disadvantage of unorganized labor, and other marginal groups; c) permanent crisis in government finances, together with public poverty (that is, impoverishment of public transportation, education, housing and health care.) Virtually all of these can be found in the U.S. today.
- 21) This last point may give Habermas an opening that traditions can be used, even administratively, if they are hermeneutically understood.

APPENDIX A

The theoretical ideas used in this dissertation are largely found in Jürgen Habermas's Legitimation Crisis. Habermas's book is intended as a "clarification of very general structures of hypotheses.." relating to the dynamics and development of contemporary capitalism. He surveys much of the important literature on advanced capitalist society, and presents a complex argument. As Thomas McCarthy wrote in his translator's preface to Habermas's work, "it is extremely important that the reader take Habermas at his word on the status of the argument--it is meant to a preparatory clarification of the enormously complex issues involved, preparatory, that is, to the empirical research required for their further resolution" (Habermas 1975:viii).

The purpose of this appendix is to explicate the major ideas and arguments Habermas presents in the Legitimation Crisis, especially as they relate to the dissertation topic. In this work Habermas focuses much of his attention on the present historical period that he calls late capitalism, (Habermas 1975:1). He also calls this period advanced capitalism, organized capitalism, and state-regulated capitalism. Late capitalism is characterized by an increased organization of life due to the growing intervention of the state into all areas of life. Late capitalism has come about due to the advanced stage of the accumulation process. Habermas wrote that this refers to two related processes:

- 1) the process of economic concentration, which includes the rise of national and international corporations, and the organization of

markets for goods, capital, and labor; 2) it refers to the fact that the state intervenes in the market as functional gaps develop (Habermas 1975:33).

Late capitalism has seen the spread of oligopolistic market structures that have meant the end of competitive capitalism. Even though companies have broadened their control, the steering mechanism of the market remained in force as long as investment decisions were made according to criteria of company profits. However, the supplementation and partial replacement of the market mechanism by state intervention indicates the end of liberal (competitive) capitalism, and the beginning of late capitalism (Habermas 1975:33-4). Thus one of the main characteristics of late capitalism is an increasingly controlled and manipulated market (Howard 1977:121). The present dissertation will focus especially on the increased control and manipulation of the market as it has taken place in late capitalism.

In order to examine late capitalism one needs to have a clear idea of what this concept means. According to Habermas, when one uses the expression "late capitalism" one puts forth the hypothesis that even in state-regulated capitalism social developments involve "contradictions" or crises. The concept of crisis is common from medical usage where it refers to the phase of an illness in which one is ill and must rely on self-healing powers for recovery. The illness is a critical process that appears as something objective. An illness or crisis means that the organism has changed from its goal state, the normal or healthy state, and this can be observed and measured with the aid of empirical measures and parameters. The term crisis cannot be

used unless one also includes the subjective aspect of the illness. "The crisis cannot be separated from the viewpoint of the one who is undergoing it..." (Habermas 1975:1). According to Habermas, the concept of crisis is associated with an idea of an objective force that deprives a subject of some part of its normal sovereignty. "To conceive of a process as a crisis effects a liberation of the subject caught up in it" (Habermas 1975:1).

The concept of crisis has not been restricted to medical use, but can also be found in literature, evolutionary theories, and with the work of Karl Marx it was developed into a social-scientific concept of system crisis. One often finds a systems-theoretic concept of crisis frequently used in the social sciences today. According to the systems approach, crises arise when the structure of a social system allows fewer possibilities for problem-solving than are necessary to the continued existence of the system (Habermas 1975:2).¹⁷

In the systems-theoretic perspective crises are seen as persistent disturbances of system integration. Habermas finds fault with this perspective for not taking into account the internal causes of a "systematic overloading of control capacities." Crises are not produced in social systems through accidental changes in the environment, but through "structurally inherent system-imperatives" that are inherent system-imperatives" that are incompatible and not hierarchically integrated. This creates a real problem for the social scientist since one must be able to identify structures that are essential or at least important for the system's continued existence. This is particularly difficult in the language of systems theory (Habermas 1975:2-3).

Using the systems theoretical approach leads to the difficulty of having to distinguish the essential structures from other systems elements that are necessary for the system to maintain its identity, and which would result in a change in system identity if these elements were to change. Habermas recognizes the difficulty of this for social systems and questions the utility of systems theory in dealing with the concept of social crisis (Habermas 1975:3). Biological organisms have clear spatial and temporal boundaries, (at least in comparison to social systems.) Their continued existence is limited by states that can vary only within empirically specifiable limits. Social systems differ since they assert themselves in a "hyper-complex environment" by altering system elements or goal values, or both in order to maintain themselves at a new level of control. Social systems create problems of analysis for they alter both boundaries and structural continuity, thus blurring their identity (Habermas 1975:3). "It cannot be unambiguously determined whether a new system has been formed or the old system has merely regenerated itself." He continues by noting that not all system alterations are crises, but "problems."

How then does one know if a system is involved in a crisis?

Habermas wrote that systems are not presented as subject; but only subjects can be involved in crises. "Thus, only when members of a society experience structural alterations as critical for continued existence and feel their social identity threatened can we speak of crises. Disturbances of system integration endanger continued existence only to the extent that social integration is at stake, that is, when the consensual foundations of normative structures are so much impaired that

the society becomes anomic. Crisis states assume the form of a disintegration of social institutions" (Habermas 1985:3).

The objectivity of a crisis situation comes from their origin in unresolved steering problems. Identity crises are related to steering problems, although the subjects are not usually conscious of them. The steering problems can create secondary problems that will affect consciousness in specific ways, most notably in a way to endanger social integration. According to Habermas, to appropriately develop a socially scientific concept of crisis one must understand the connection between system integration and social integration. (These come from two different theoretical traditions.) Social integration is concerned with the relation of the systems of institutions in which speaking and acting subjects are socially related. Social systems are seen as life-worlds that are symbolically structured. System integration is concerned with the specific steering performances of a self-regulating system (Habermas 1975:4).

The concepts of life-world and systems are important, and one problem for Habermas is to show their interconnectedness. Using the life-world perspective one thematizes the normative structure, values, and institutions of a society. Events are analyzed from the point of view of their dependency on functions of social integration. The non-normative (empirical parameters) components of the system serve as limiting conditions. On the other hand, using the system perspective one thematizes the society's steering mechanisms, and the extension of their boundaries. It is important to use both life-world, and systems perspectives since one has problems by focusing only on a social system

by leaving out counter-factual validity claims. If one only looks at systems as life-worlds, then the steering aspect is left out (Habermas 1975:4-5).

The use of systems theory does include normative structures within its language; but it conceptualizes every social system from the point of view of its control center. In societies that have differentiated themselves the political system gains a superordinate position of control in terms of the socio-cultural, and economic systems.¹⁸ Thus Habermas sees a number of problems if one chooses to work only within the systems theory framework. Social evolution, which Habermas saw taking place in three dimensions: development of productive forces; increase in system autonomy-power; and change in normative structures, is limited to a single plane of the expansion of power through the reduction of environmental complexity (Habermas 1975:5). "Systems theory can allow only empirical events and states into its object domain and must transform questions of validity into questions of behavior" (Habermas 1975:6).

In place of the systems perspective one could use action theory and avoid the former's weaknesses. However, if one does so a dichotomy is produced between normative structures and limiting material conditions. At an abstract level one has a rank order of subsystems of socio-cultural, political, and economic systems, but Habermas argues that within each of these systems the normative structures have to be distinguished from the limiting substratum.

Subsystems	Normative structures	Substratum categories
Socio-cultural	status system; subcultural forms of life	distribution of privately available rewards and rights of disposition
Political	political institutions (state)	distribution of legitimate power (and structural force;) available organ- izational rationality
Economic	economic institutions (relations of produc- tion	distribution of economic power (and structural force); available forces of production (Habermas 1975:6).

Habermas prefers the use of action theory with its analysis of normative structures with the additional analysis of limitations and capacities relevant to steering, that is, systems theory (Habermas 1975:7). He argues that one can examine the range of variation for structural changes only within the framework of a theory of social evolution. To do this he chooses a Marxian concept of social formation that is determined by a fundamental principle of organization. The principle of organization delimits the possibilities for alterations of social states. He defines principles of organization as highly abstract regulations arising as emergent properties coming about in improbable evolutionary steps and characterizing a new level of development at each stage (Habermas 1975:7).

Using this definition of principles of organization, steering problems can have crisis effects if, and only if they cannot be resolved within the range of possibility that is dictated by the organizational principle of the society. The principles of organization determine three things: 1) the learning mechanism on which the

development of productive forces depends; 2) the range of variation for the interpretive systems that secure identity; and 3) they fix the institutional boundaries for the possible expansion of steering capacity (Habermas 1975:7-8).

Habermas's concern with steering leads to the conclusion that as a social system develops its steering capacities it will extend its boundaries into nature. Control over outer nature and integration of inner nature increase with the "power" of the system. Social systems gain control over outer nature for society with the help of production by organizing and training labor power and by developing technologies and strategies. Social systems also adapt inner nature to society with the implementation of normative structures in which needs are interpreted and actions are made obligatory (Habermas 1975:9-10).

The increased control of inner and outer nature implies the use of validity claims. The work and instrumental action used to control outer nature are guided by technical rules based on empirical assumptions that imply truth claims, discursively redeemable and fundamentally criticizable claims. The increased control of inner nature is accomplished by integrating inner nature on the basis of norms that have need of justification. These imply a validity claim that can be affirmed discursively and only discursively (Habermas 1975:9-10).

What has happened in late capitalism is the growing control of outer nature and the development of the productive forces, but this does not mean that similar advances in the structures of the interpretive systems offers similar advantages of selection. This may put enough pressure on the existing normative structures that they become

dysfunctional from the point of view of control.

"...the mechanisms which cause developmental advances in the normative structures are independent of the logic of their development, there exists a fortiori no guarantee that a development of the forces of production and an increase in steering capacity will release exactly those normative alterations that correspond to the steering imperatives of the social system" (Habermas 1975: 12-13).

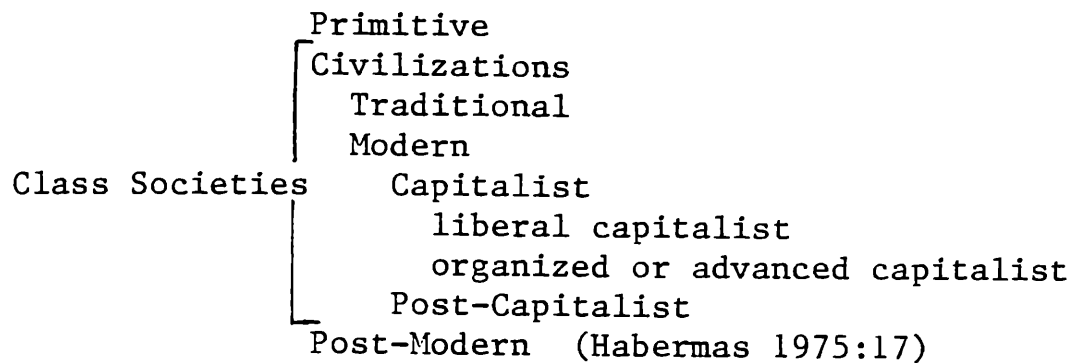
Habermas notes the possibility that a strengthening of productive forces, which heightens the power of the system, can lead to changes in normative structures that simultaneously restrict the autonomy of the system because they bring forth new legitimacy claims and thereby constrict the range of variation of the goal values.

The above discussion has been from a systems level looking at societies but the development of societies does not follow only the logic of the expansion of system autonomy and power, but it also follows a social evolution within the boundaries of a logic of a life-world. The life-world is composed of structures that are determined by linguistically produced intersubjectivity and are based on criticizable validity claims.

II. Historical account of social formations

Habermas wanted to examine subsystems and which subsystem assumes primacy in a society and thus guides social evolution and this is determined by the principle of organization. He distinguishes four social formations: primitive, traditional, capitalist, and post capitalist. All except the primitive and post-modern are class societies.

Social Formations



In primitive social formations the primary roles of age and sex form the principle of organization. The institutional core is the kinship system, which represents a total institution, family structures determine the totality of social intercourse (Habermas 1975:18). The family both secures the social and system integration. World-views and norms are almost identical. According to his analysis there are no contradictory imperatives in this principle of organization so it is from external change that an overload occurs limiting the steering capacity of societies organized along kinship lines. The usual source of change is demographic growth in combination with ecological factors found in such things as economic exchange, war, and conquest (Habermas 1975:18).

Traditional social formations have class domination in a political form as the principle of organization. A control center is differentiated out of the kinship system giving rise to a bureaucratic apparatus of authority. The production and distribution of goods and social wealth are transferred from the family to ownership of the means of production. The kinship system is no longer the institutional nucleus of the whole system, but has given way to the central functions of

power and control to the state. The family thus begins its loss of economic functions and to some extent its socializing functions. At this stage of development, subsystems arise that are not directly related to either system or social integration. They are interconnected in the legal order concerning the distribution of the means of production and the exercise of power, which requires legitimation.

The new principle of organization allows a significant strengthening of system autonomy. This presupposes functional differentiation and makes possible the formation of generalized media such as power and money as well as reflexive mechanisms such as positive law. However, this increased ability in steering capacity comes about at the cost of a fundamentally unstable class structure. A power relationship is institutionalized in class societies with the development of the private ownership of the means of production. In the long run Habermas feels this will threaten social integration for the opposition of interests established in class relationships represents a conflict potential always inherent in such structures. The key to keeping this potential conflict latent and integrated is the presence of a legitimate order of authority. The authority maintains its legitimacy by use of world-views or what is commonly called ideologies. These ideologies rest on traditional world-views and the prevailing civic ethic so that counterfactual validity claims of the normative structures are not thematized in the public sphere for testing (Habermas 1975:19).

In traditional societies the political class rules through a mediation of tribal morals represented in civic ethics, thus they are still dependent on tradition and are particularistic. In traditional

societies the type of crisis that arises comes about from internal contradictions. The contradictions exists between validity claims of systems of norms and justifications that cannot explicitly permit exploitation, and a class structure in which privileged appropriation of socially produced wealth is the rule. The problem occurs when socially produced wealth is inequitably distributed. This can be solved by ideological protection of counter-factual validity claims that provide legitimation.

Traditional societies will face crises when critical situations come about that necessitate the heightened exploitation of labor power. This is done by physical force or indirectly through generalization of forced payments. Thus crises come from steering problems that necessitate a strengthening of the system autonomy through heightened repression or exploitation. This in turn leads to losses of legitimation which may result in class struggle that threaten social integration and may lead to an overthrow of the political system. The outcome of this would be a new group identity and new foundations for legitimation (Habermas 1975:20).

Following the traditional stage is the capitalist period. The capitalist principle of organization (which is also a class society) is extraordinary according to Habermas since it not only frees the economic system from the political system, but also from the legitimations of the socially integrative subsystems. It enables the systems to contribute to social integration. This achievement leads to a growing susceptibility of the social system to crisis and steering problems which can directly threaten the system identity. This is a system crisis (Habermas 1975:

23).

The principle of organization transposes the conflict potential of class opposition into the steering dimension where it is expressed in the form of economic crises. There occurs a cycle of fluctuation of prosperity, crisis, and depression typifying liberal capitalism. The conflicts of interests found in the relation of wage labor and capital are not found directly in class conflicts, but in the interruption of the process of accumulation, in the form of steering problems. Habermas wrote, "A general concept of system crisis can be gained from the logic of the economic crisis" (Habermas 1975:23).

Habermas brings together the ideas he discussed by relating the possibilities for social evolution in each of its three dimensions, production, steering, and socialization, to the principle of organization that will determine: 1) how system and social integration can be functionally differentiated; 2) when dangers to system integration must result in dangers to social integration, crisis; 3) and, in what way are steering problems transformed into dangers to identity; what type of crisis predominates (Habermas 1975:23).

Habermas uses these ideas to help understand both liberal capitalism, and late capitalism. Liberal-capitalism is a social formation which has a relationship of wage labor and capital based in a system of bourgeois civil law as the principle of organization. At this point in history "civil society" is a sphere free from the state, and is made up of commerce between private autonomous owners of commodities. The state and the politically constituted systems of social labor are no longer the institutional nucleus of the system as a whole.

Class relationships have become depoliticized and there occurs an anonymization of class domination.

The state still insures and protects the politically defined territory that is used in the economy, but it now uses its legitimate power to maintain the general conditions for production. The state secures the structural prerequisites of the production process as capitalistic by the following: 1) protection of bourgeois commerce in accord with civil law; 2) shielding of the market mechanism from self destructive side effects; 3) satisfaction of the prerequisites of production of the economy as a whole (such as education, transportation, etc.); 4) the adaptation of the system of civil law to the needs that arise from the process of accumulation (Habermas 1975:21).

What Habermas is saying is that liberal-capitalist social formations have extended the institutional differentiation found in traditional societies. In traditional societies the spheres of system integration and social integration had already been differentiated, but the economic system remained dependent on the legitimation supplied by the socio-cultural system. In liberal-capitalism the economic system was uncoupled from the political system and was thus freed from the traditional ties and given over to the strategic-utilitarian action orientation of those active in the market. The market participants made their decisions according to maximizing profits, and not with the value orientation found in traditional societies.

The new organizational principle opened a broad scope for the development of productive forces and of normative structures. This social formation rapidly approaches the limits of physical exploita-

tion of labor in terms of raising surplus value thus necessitating the development of technical productive forces. At the same time the economic system was no longer tied to the political order, and this took the pressure of legitimation off the political order. A self-regulated market developed that required rational state administration, and abstract law, but also a strategic-utilitarian morality. Bourgeois ideologies assumed a universalistic structure and appealed to generalizable interests since the property order had shed its political form and been converted into a relation of production that was self-legitimizing. The institution of the market was founded on the justice inherent in the exchange of equivalents. Thus the economic system was freed from the political system.

In liberal capitalism crises appeared in the form of unresolved economic steering problems. Dangers to system integration were direct threats to social integration. Unlike previous periods in history, liberal capitalism had crises that were endemic because temporarily unresolved steering problems occurred at more or less regular intervals and these endangered social integration. Social change became a permanent characteristic of this period, and social disintegrating steering problems produced the conditions for a crisis consciousness in the bourgeoisie class and for revolutionary hopes among wage laborers (Habermas 1975:25).

Liberal capitalism saw the transfer of socially integrative functions to the economic subsystem that had previously fulfilled system integrative functions since the class relationships were institutionalized through the labor market, and were therefore depoliticized.

The economic system (or market) performed a dual function of serving as a steering mechanism in the system of social labor, which was controlled by money, and it institutionalized a power relation between owners of the means of production and wage laborers.

Marx used this dual approach to uncover the steering principle in the market and also to examine the ideology of the bourgeois class society. His theory of value permitted an analysis of the economic system, and a critique of ideology of a class dominated society. He did this by proving that equivalents were not exchanged in the market place. It was here that Habermas turned to the idea of a "fundamental contradiction" of a social formation. This occurred only when a society's social organizational principle necessitated that individuals and groups repeatedly confronted one another with claims and intentions that were incompatible in the long run. This was true of any class society where there were claims and intentions that were incompatible, yet this incompatibility was not recognized by the members of the society, thus the conflict remained latent. There occurred an ideological justification of the unequal chances for the legitimate satisfaction of needs and the repression of needs in these forcefully integrated action systems. This further indicated that communication between participants was systematically distorted. The contradictions were between the ideological form of the intentions of the participants and their unconscious motives or fundamental interests. When these incompatibilities became conscious conflict will become manifest and the irreconcilable interests are recognized as antagonistic interests (Habermas 1975:27).

Habermas placed these just discussed ideas in terms of systems theory, and a theory of communications. When there are more problems in a given environment than a system's steering capacity can solve, logical contradictions appear that require change in system structures or the system will cease to exist. These are seen as system maintenance problems, and not as dialectical contradictions related to communicative relations between subjects or groups of subjects. A conflict that is not described in terms of the latter perspective (that is, not in terms of either communications theory or systems theory) is without relation to truth according to Habermas.

The class structure determines which contradictions follow from the privileged appropriation of socially produced wealth. In traditional societies, these contradictions were manifested directly at the level of opposition of the interests of the acting parties. In liberal capitalism the class antagonism is reflected at the level of steering problems. In capitalism the society develops the forces of production relatively constantly. The pattern is one of a crisis-ridden economic growth (Habermas 1975:28). In order to deal with the economic crisis, Habermas turned to a Marxian analysis based on the tendency of the rate of profit to fall. This argument entails the idea that for there to be continued economic growth there must be an increase in surplus value. For there to be a continuation of the growth of capital the masses must increase their power of consumption, and this means that the owners of capital must give up corresponding amounts of their own surplus value so the masses can continue to purchase. The process of accumulation must come to a standstill because of the lack of

possibilities of realization or because of the lack of incentives to invest (Habermas 1975: 29).¹⁹ This brings about an economic crisis and threatens social integration. "It is, at the same time, a social crisis in which the interests of acting groups collide and place in question the social integration of the society" (Habermas 1975:29-30).

The economic crisis is the first (and perhaps only) example in world history of a system crisis characterized in the following way; namely, that the dialectical contradiction between members of an interaction context comes to pass in terms of structurally insoluble system contradictions or steering problems. Through this displacement of conflicts of interest to the level of system steering, systems crises gain an objectivity rich in contrast. They have the appearance of natural catastrophes that break forth from the center of a system of purposive rational action (Habermas 1975:30).

This is the difference between traditional societies, and liberal capitalism, for in traditional societies the antagonisms between social classes were mediated through ideological forms of consciousness, while in liberal capitalism the class antagonisms were shifted from the intersubjectivity of the life-world into the (economic) substratum of this world. Economic crises are no longer seen as accessible to self-reflection but acquire the "objectivity of inexplicable, contingent, natural events." What has taken place is a shift from that of the individual to the ground level of economics. The crises can no longer be destroyed by reflection, but must have an objective examination of system processes. This need is seen in the Marxian critique of political economy.

The Marxian analysis of political economy was an inciteful examination of liberal capitalism, but many would argue that the

present historical period has seen changes in the capitalist system, often designated by the terms late, advanced or state-regulated capitalism. Habermas's argument is that with the spread of oligopolistic market structures the end of competitive capitalism took place. Furthermore, as the state intervened in supplementing and partially replacing the market mechanism the end of liberal capitalism took place (Habermas 1975:33). Habermas was careful to point out that the state still does not totally regulate the system since political planning of the distribution of limited resources takes place in a relatively unplanned manner, as secondary effects of the strategies of private enterprise, with little regard for the priorities of the society.

Habermas looked at advanced capitalist societies by examining three sectors of these societies: economic system, administrative system, and legitimation system. The economic system is divided into public and private sectors. The private sector is production or market-oriented, with one sub-sector regulated by competition while the other is determined by the market strategies of the oligopolies that tolerate a "competitive fringe." The public sector has large concerns whose investment decisions can be made almost without regard for the market, (such as the space and arms industries.) These concerns are either enterprises directly controlled by the state or private firms living on government contracts.

The administrative system uses the state apparatus to carry out the various demands of the economic system. These are ordered by means of global planning where the whole economic cycle is regulated,

and by creating and improving the condition for using excess accumulated capital. The global planning is limited by the privately controlled means of production which cannot be restricted, and by the avoidance of economic instabilities. Global planning controls the boundary conditions of decisions made by the private enterprise sector in order to correct the market mechanism and its dysfunctional secondary effects, thus the state actually replaces the market mechanism whenever it creates or improves conditions for the realization of capital. Habermas lists seven ways the state improves conditions for the realization of capital:

- 1) through strengthening the competitive capability of the nation by organizing supranational economic blocks, securing international stratification by imperialist means, etc.
- 2) through unproductive government consumption (for example, armaments and space exploration;
- 3) through building, in accord with structural policy, the flow of capital into sectors neglected by an autonomous market;
- 4) through improvement of the material infrastructure (transportation, education, health, recreation, urban and regional planning, housing construction, etc.);
- 5) through improvement of the immaterial infrastructure (general promotion of science, investments in research and development, provision of patents, etc.);
- 6) through heightening the productivity of human labor (general system of education, vocational schools, programs for training and reeducation, etc.);
- 7) through relieving the social and material costs resulting from private production (unemployment compensation, welfare, repair of ecological damage) (Habermas 1975:35-6).

The goal of these activities is to increase the productivity of labor

and thereby the "use value" of capital (Habermas 1975:35-6).

(Numbers 3, 4, and 7 will be of special importance in the social historical case study and numbers 2, 5, and 6 will indirectly also be explored.)

What has happened in late capitalism is the re-coupling of the economic system to the political system, which repoliticizes the relations of production and creates an increased need for legitimation. A change has occurred in the transition from liberal capitalism to late capitalism with the state apparatus no longer merely securing the general conditions of production in the sense of the prerequisites for the continued existence of the production process. In late capitalism it is actively engaged in it. Therefore like the pre-capitalist state it must be legitimated for it can no longer rely on tradition that has been undermined and shoved out of the development of capitalism. In place of tradition new values have arisen, those of the universalistic value systems of bourgeois ideology, civil rights, which include the right to participate in political elections. Legitimation can be dissociated from the mechanism of elections only temporarily and under extraordinary circumstances. This problem has been at least temporarily solved by using a system of formal democracy. Habermas wrote that genuine substantive democracy would bring to consciousness the contradictions of administratively socialized production and the continued private appropriation and use of surplus values.

To keep these problems from arising the administrative system must be sufficiently independent of the legitimating will-formation. The arrangement of formal democratic institutions and procedures

permits administrative decisions to be made largely independently from the specific motives of the citizens. This takes place through a legitimation process that elicits generalized motives of diffuse mass loyalty, but avoids direct participation.

With this structurally depoliticized public realm the need for legitimation is reduced to two residual requirements: 1) civic privatism, which means the lack of political activity combined with an orientation to career, leisure, and consumption that promotes the expectation of suitable rewards within the system such as money, leisure time, and security 2) the structurally depoliticized realm requires justification which is supplied either by technocratic systems theories (which go back to the institutions of the twenties,) or democratic elite theories (such as Schumpeter and Weber.) All of these theories suggest the "naturalness" of the capitalist economic society (Habermas 1975:37).

The interrelations of these three systems, economic, administrative, and legitimation lead to a class structure in late capitalism that is unlike the past. The political form of the relations of production in traditional societies permitted easy identification of ruling groups, in liberal capitalism the domination (overt) was replaced by the politically anonymous power of civil subjects.

In advanced capitalism the relations of production have been repoliticized to some extent, but the political form of the class relationship has not been restored. The political anonymity of class domination has been taken over by social anonymity. The structures of advanced capitalism can be seen as a reaction formation to endemic

crisis. Advanced capitalism societies focus all of their forces of social integration at the point of the structurally most probable conflict in order to keep it latent and to ward off possible systemic crises (Habermas 1975:37-8).

One of the major ways this has been done is the development of quasipolitical wage structure. "Price setting" replaces price competition in the oligopolistic markets, and has its counterpart in the labor market. "In those branches of industry belonging to the monopolistic and the public sectors, which are central to economic development, the commodity called labor power receives a 'political price'," (Habermas 1975:38). The outcome of this is an immunization of the original conflict zone. Habermas lists four consequences of this immunization, the last of which is most applicable to the present study: an inadequate adjustment of disproportional economic developments, sectoral (agriculture) as well as regional (marginal areas.)²⁰

In the period after World War II the most advanced capitalist countries have succeeded in keeping class conflict latent in its decisive area. This has been done by extending the business cycle and transforming periodic phases of capital devaluation into a permanent inflationary crisis with milder business fluctuations. It has spread the dysfunctional secondary effects of the averted economic crisis over quasi-groups (such as consumers, school children and their parents, transportation users, the sick, the elderly, etc.) and over natural groups with little organization. This has been an effective way to break down the social identity of classes and the class consciousness is kept in a fragmented state. "The class compromise that

has become part of the structure of advanced capitalism makes (almost) everyone at the same time both a participant and a victim" (Habermas 1975:39). One outcome of this is clearly increasing unequal distribution of wealth and power.

In this discussion of advanced capitalism the question can be raised, if (and how) the class structure and the principle of organization that developed in liberal capitalism have been altered through class compromise. Habermas suggests that this cannot be examined from the point of view of what role the principle of scarcity and the mechanism of money play at the level of the social system.

For the monetization of landed property and of labor, and the 'progressive monetization of use values and areas of life that were heretofore closed off to money form,' do not indicate conclusively that exchange has remained the dominant medium of control over social relations. Politically advanced claims to use values shed the commodity form, even if they are met with monetary rewards. What is decisive for class structure is whether the real income of the dependent worker is still based on an exchange relation, or whether production and appropriation of surplus value are limited and modified by relations of political power instead of depending on the market mechanism alone (Habermas 1975:39).

The possible change in class structure and the principle of organization led Habermas to ask the following questions. In order to adequately develop a theory of advanced capitalism:

- 1) do the structures of advanced capitalism provide space for an evolutionary self-transformation of the contradiction of socialized production for non-generalizable goals?
- 2) if so, what developmental dynamic leads in this direction?

- 3) if not, in what crisis tendencies does the temporarily suppressed, but unresolved class antagonism express itself?
- 4) do the structures of advanced capitalism suffice to ward off economic crisis permanently?
- 5) if not, does economic crisis lead, as Marx expected, through social crisis to political crisis; in other words, can there be a revolutionary struggle on a world scale?
- 6) if not, whither is economic crisis displaced?
- 7) does the displaced crisis retain the form of a system crisis, or must we reckon with different crisis tendencies that work together?
- 8) if the latter is the case, which crisis tendencies are transformed into deviant behavior, and in which social groups?
- 9) does the expected anomic potential permit directed political action, or does it lead rather to undirected dysfunctionalization of subsystems? (Habermas 1975: 39-40).

At the present time Habermas does not see any possibility of deciding the question about the chances for a self-transformation of advanced capitalism. He specifically does not exclude the possibility of the economic crisis being permanently averted, although this would be in such a way that contradictory steering imperatives assert themselves in the pressure for capital realization and would produce a series of other crisis tendencies.

What happens in advanced capitalism is that the continuing tendency toward disturbance of capitalist growth can be administratively processed and transferred by stages through the political system and into the socio-cultural system. This means that the contradiction of socialized production for particular ends once again takes

on a political form, but not that of political class warfare. In advanced capitalism politics takes place on the basis of a processed and repressed system crisis, there are constant disputes with shifting coalitions and fragmented class consciousness that alter the terms of class compromise. The class structure becomes unclear and the contradictions grounded in the capitalist principle of organization is affected in various ways depending on the power arrangement (Habermas 1975:40).

Advanced capitalist societies have experienced rapid growth processes previously unknown in the history of the world. These have confronted the world with problems that are not just crisis phenomena specific to the systems although the possibilities of dealing with these crises are specifically limited by the system. In particular Habermas mentioned ecological problems, alienation, and potentially explosive international relations. The problems associated with the ecological balance set absolute limits to the growth. The anthropological balance (where alienation is located) has another set of limits that can be overstepped only by altering the socio-cultural identity of the social systems. The self-destructive dangers of the international situation have resulted from the growth of forces of production that can be used for massive, perhaps even global destruction (Habermas 1975:41).

In terms of the ecological balance, Habermas wrote that capitalism had established mechanisms of growth that are forcing an increase in both population and production on a worldwide scale. Economic needs require a growing population, and increasing production which exploits

nature. This exploitation faces two important material limitations: the supply of finite resources, and non-regenerating raw materials. A second limitation is the capacity of the irreplaceable ecological systems to absorb pollution. The limitation hold true for all complex social systems. The means of averting ecological crises are specific to systems. A capitalist system cannot follow the imperatives of growth limitation without abandoning its principle of organization, a shift from unplanned, nature-like capitalist growth to qualitative growth would require that production be planned in terms of use values. The development of productive forces cannot be separated from the production of exchange values without violating the logic of the system (Habermas 1975:42-3).

The anthropological balance is of special interest. Habermas does not feel that one can set up any psychological constants of human nature that limit the socializing process, but he does see a limit in the kind of socialization through which a system can produce motivations for action. The process of socialization takes place within structures of linguistic intersubjectivity. It develops an organization of behaviors tied to norms that require justification and to interpretive structures that give identity. This communicative organization of behavior can become an obstacle to complex decision making systems, such as advanced capitalism. The steering capacity at the social systems level presumably increases as decision-making authorities become functionally independent of the motivations of the members. In highly complex systems the choice and realization of organizational goals have been made independent of the narrowly circumscribed motives.

This has been done by gaining a generalized readiness of consent to the political system in the form of mass loyalty. The consent is based on the expectation that power will be used according to legitimate norms. Habermas feels that the ultimate motive for the people's acquiescence is their conviction that they can be discursively convinced in case of doubt (Habermas 1985:43).

The anthropological limits are fixed by the need for the legitimation of norms and by the dependence of citizens' motives on convincing interpretations. This could be changed if the legitimation were no longer connected to a communicative structure of action. Only if the motives for action are no longer operating through norms requiring justification, and if the personality systems no longer had to find their unity in identity-securing interpretive systems, could the acceptance of decisions without reasons become routine, and the readiness to conform be absolutely produced to any desired degree (Habermas 1975:44).

The international balance rests on the danger of the self-destruction of the world system through the use of nuclear weapons (or perhaps other weapon systems, such as bio-chemical ones.) This is the result of the high state of development of productive forces that have "technically neutral foundations." For the first time these systems have a technical potential to bring death to "the natural substratum of world society." Consequently, international commerce is subject to a historically new imperative of self-limitation. Habermas writes that real disarmament is improbable, yet the regulation of the arms race is not incompatible with the structure of advanced

capitalist societies as long as the government demand for unproductive goods is balanced with an increase in the use value of capital (Habermas 1975:44).

III. Possible crisis tendencies

What Habermas has done in the Legitimation Crisis is to leave aside the global dangers that are the result of capitalist growth and limit himself to crisis tendencies specific to the system. Crises can come about at different points in the system. The forms in which a crisis tendency manifests itself, the point at which the existing system is delegitimized, are diverse. He sees four possible crisis tendencies: economic, rationality, legitimation, and motivation (Habermas 1975:45).

The economic system requires inputs of work and capital. The output is made up of use values that are distributed over time according to quantity and type among the classes. It is atypical of the capitalist mode of production for a crisis to come about due to inadequate input. What may produce a crisis is the distribution of values in conformity with the system (the legitimating value system.) If economic crisis tendencies continue in advanced capitalism this is an indication that the action taken by the government intervening in the production process obeys spontaneously working economic laws. The logic of this crisis can be expressed in the law of the tendency of the rate of profit to fall. According to this idea, the state continues the politics of capital by other means. The appearance of the economic change such as crises in government finances, permanent

inflation, growing disparities between public poverty and private wealth, are explained by the fact that self-regulation of the capital realization process now operates through legitimate power as a medium of control. However, the crisis tendency is still determined by the law of value which states that there is a structurally necessary asymmetry in the exchange of wage labor for capital. The activities of the state cannot compensate for the tendency of the falling rate of profit. The best the state can do is to mediate this crisis. As a result, the economic crisis tendency will also assert itself as a social crisis and lead to political struggles in which class opposition between owners of capital and masses dependent on wages again becomes manifest. Another theory, called the agency theory, has the state not obeying the law of value in an unplanned, nature-like manner, but consciously looking after the interests of united monopoly capitalists. This theory sees the state as a potent collective capitalist that makes the accumulation of capital the substance of political planning (Habermas 1975:46).

The second type of crisis is the political crisis. The political system requires an input of mass loyalty that is as diffuse as possible. The output consists in sovereignly executed administrative decisions. Output crises have the form of a rationality crisis in which the administrative system does not succeed in reconciling and fulfilling the imperatives received from the economic system. Input crises have the form of a legitimation crisis since the legitimizing system does not succeed in maintaining the requisite level of mass loyalty while the steering imperatives taken over from the economic system are carried

through.

Both rationality and legitimation crises come about in the political system, but a rationality crisis is a displaced systemic crisis since it is like the economic crisis, expressing the contradiction between socialized production for non-generalizable interest and steering imperatives. This may manifest itself in the withdrawal of legitimation by way of a disorganization of the state apparatus. On the other hand, the legitimation crisis is an identity crisis. It does not endanger system integration, but is the result of the governmental planning tasks placing in question the structure of the depoliticized public realm and the formally democratic securing of the private means of production.

The rationality crisis is strictly a replacement of the economic crisis. The logic of problems of capital realization is not merely reflected in another steering medium, that of legitimate power, but the crisis logic is changed by the displacement of the contradictory steering imperatives from market commerce into the administrative system. There are two versions of this contradiction theory. One version begins with the thesis of the anarchy of commodity production that is built into the market commerce. This is contradicted by the need of administrative planning for securing the realization of capital growth. This is contradicted by the private means of production demanding a limitation to state intervention and prohibiting planned coordination of the contradictory interests of individual capitalists. A second version is offered by Klaus Offe. The state compensates for the weaknesses of a self-blocking economic system and takes over tasks

complementary to the market. It is forced by the logic of its means of control to admit more and more foreign elements into the system. The contradictions are that the problems of an economic system controlled by imperatives of capital realization cannot be taken over into the administratively controlled domain and processed there without the spread of orientations alien to the structure (Habermas 1975:46-7).

As capitalism develops the political system shifts its boundaries into the economic system and also into the socio-cultural system. This spreads organizational rationality which weakens cultural traditions. It is important that the cultural traditions not be weakened too much for these cannot be regenerated by state administration. While the administration is manipulating cultural matters an unintended side effect occurs. The meanings and norms that had previously been fixed by the traditions and belonging to the boundary conditions of the political system become publicly thematized. This could lead to a deficit of legitimation making it impossible for the administration to maintain or establish effective norm structures to the extent required. It is also possible for rationality deficits to come about. This would mean that the public administration cannot adequately steer the economic system given the present boundary conditions.

The third sphere in which crises can occur is the socio-cultural one. The socio-cultural system receives its input from the economic and political systems in the form of purchasable and collectively demandable goods and services, legal and administrative acts, public and social security, etc. Output crises in both of the other systems are also input disturbances in the socio-cultural system and may lead to

the withdrawal of legitimation, which is manifested in the socio-cultural system. The social integration of the society is dependent on the output of this system. The output of the socio-cultural system is found in terms of the legitimation for the political system and the indirect motivations to perform in the educational and occupational systems. The socio-cultural system does not organize its own input like the economic system so there can be no socio-culturally produced input crisis. Crises that arise at this point are always output crises.

Cultural crisis tendencies come about when the normative structures change in such a way that the requirements of the state administration and occupational system no longer complement each other, the interpreted needs and legitimation expectations of the members of the society. A legitimation crisis results from a need for legitimation that comes from changes in the political system (even when normative structures remain unchanged) and cannot be met by the existing supply of legitimation. Motivational crises are a result of changes in the socio-cultural system itself.

According to Habermas, what is happening in advanced capitalism is the residue of tradition that the state and the system of social labor depends is eroding. The core components of the bourgeois ideology become questionable endangering civil and familial-professional privatism. At the same time, the remains of the bourgeois ideologies such as the belief in science, postauratic art, and the universalistic value systems form a normative framework that is dysfunctional. Advanced capitalism has created demands it cannot satisfy. This leads Habermas to the conclusion that advanced capitalism is in danger from

at least one of these possible crisis tendencies, assuming that they have not overcome their susceptibility to the crises intrinsic to capitalism.

Habermas thus sees four consequences of the fundamental contradictions of the capitalist system, assuming all other factors being equal:

- 1) the economic system does not produce the requisite quantity of consumable values, or;
- 2) the administrative system does not produce the requisite quantity of rational decisions, or;
- 3) the legitimation system does not provide the requisite quantity of generalized motivations, or;
- 4) the socio-cultural system does not generate the requisite quantity of action-motivating meaning (Habermas 1975:49).

The term "requisite quantity" refers to the extent, quality, and temporal dimension of the specific system performances such as value, administrative decision, legitimation, and meaning.

In his discussion of the economic sphere Habermas notes that the state not only supplements the economy, but in late capitalism as well as liberal capitalism the state helps fulfill the general conditions of production. While it intervenes in the production process, it must also create conditions for utilizing unused capital, improve the use value of capital, curb externalized costs, and consequences of capitalist production, adjust disproportionalities that restrict growth, regulate the overall economic cycle through social, tax, and business policies, etc. Thus the state is acting as the collective-capitalist will (Habermas 1975:51).

Engels represented the so-called orthodox position that the

advanced-capitalist state remains an "ideal collective capitalist" insofar as it in no way suspends the nature-like development of anarchical commodity production. It limits capitalist production but does not control it like a collective-capitalist planning authority. The interventionist state of late capitalism can be contrasted to the liberal-capitalist state, because now it is concerned with the process of production. It maintains the general conditions of production, and it also becomes a kind of executive organ of the law of value. Thus in the long run administrative activity must even intensify economic crisis.

A change has come about with the unpolitical form of the exchange of wage labor for capital. The socially integrative functions of maintaining legitimacy can no longer be fulfilled through system-integrative functions of the market and the greatly weakened remains of the pre-capitalist traditions. These functions now pass over into the political system. The government now actively follows the declared goal of steering the system so that crises can be avoided. One result of this is that class relationships have lost their unpolitical form. The government has enlarged its control over the distribution of increases in the social product thus effecting class structure when political disputes arise. Given these conditions, the economic processes can no longer be thought of as immanent movements of a self-regulating economic system (Habermas 1975:52).

This raises the issue of government activity in late capitalism. He discussed four categories of governmental activity as they relate to the imperatives of the economic system. 1) the state provides and

protects the system of civil law needed to maintain the subsystems.

2) It complements the market by adapting to the market processes.

3) In some cases the state takes market-replacing actions. These are in reaction to the weaknesses of the economic driving forces. 4) And the state compensates for dysfunctional consequences of accumulation process that have elicited politically effective reactions on the part of the individual capital groupings, organized labor or other organized groups. The last two types of governmental activity are typical of organized capitalism (Habermas 1975:53-4).

These categories show a similarity of functions of governmental activity in liberal capitalism and late capitalism. They both secure the prerequisites for the continued existence of the mode of production, supplementing the market mechanism. However, an advanced capitalist state is more active with more efficient techniques. It fulfills these tasks only as it simultaneously fills functional gaps in the market, intervening in the accumulation process, and compensating for its politically intolerable consequences (Habermas 1975:55).

Out of this three developments can be said to characterize the change in the relations of production in advanced capitalism: 1) an altered form of the production of surplus value, which effects the principle of societal organization; 2) a quasi-political wage structure, which expresses a class compromise; and 3) the growing need for legitimation of the political system, which brings into play the demands oriented to use values (Habermas 1975:55).

What the government has done is to organize scientific-technical progress and systematically manage the expansion of the system of

continuing education thus increasing productivity. The state now uses capital to purchase the indirectly productive labor power of scientists, engineers, teachers, etc., and to transform the products of their labor into cost-cutting commodities.

An important related point is that the legitimation problems cannot be reduced to problems of capital realization. The state must fulfill its tasks in the economic system under the limiting condition that mass loyalty be simultaneously secured by formal democracy and with a ruling universalistic value system. The pressures of legitimation can be eased only through structures of a depoliticized public realm. Thus, structurally secured civil privatism becomes a necessity for continued existence since there are no functional equivalents for it (Habermas 1975: 58-9).

There is a revisionist version of the economic crisis theory of state monopolistic capitalism that is not subject to some of the just mentioned problems. It assumes that state monopolistic planning has replaced the unplanned, nature-like development of capitalism. There is a centralized steering of the production apparatus. The socialization of production brings about a convergence of individual interests of large corporations and the collective capitalists' interests. The goal is still one of capital realization and results in the open repoliticizing of the class relationship. It also renders state-monopoly capitalism susceptible to democratic forces. The fundamental contradiction of capitalist production is not solved, but sharpened in the new form of organization. The economic crisis takes on a directly political form.

Habermas raises two objections to this theory of the states as a

united form of monopoly capital. First, the assumption that the state apparatus can actively plan and carry out a central economic strategy in anyone's interest cannot be empirically verified, (although he does not say why this cannot be done). Many do not understand the limits of administrative planning in advanced capitalism. The form of planning of the bureaucracies in advanced capitalism is reactive avoidance of crisis. Furthermore, the various bureaucracies are incompletely coordinated and are deficient in their capacity for perceiving and planning thus making them dependent on the influence of their clients. This dependency makes the success of the organized special interest all the more likely, in fact Habermas says it guarantees this success. Contradictions are displaced into the state apparatus (Habermas 1975:60).

Second, the assumption that the state acts as the agent of united monopolists cannot be supported. This theory overestimates the importance of personal contacts and direct regulation of transactions. Investigations into requirement, composition, and interaction of various power elites cannot adequately explain the functional connections between economic and administrative systems. As an alternative, Habermas proposes the model by Offe, a systems-theoretic orientation. What Offe did was to distinguish between the structure of an administrative system and the processes of conflict resolution and consensus formation, and of decision and implementation. Structure is seen as a set of selection rules that predetermine what requires regulation, what is thematized, and what is actually publicly regulated. The relatively stable administrative patterns of helping and hindering are objectively functional for capital realization, they are independent of the professed intentions

of the administration. They can be explained with the aid of selection rules that predetermine the consideration or suppression of problems, themes, arguments, and interests (Habermas 1975:60).

The conclusions from the discussion of the economic crisis for Habermas is that the functioning of the advanced-capitalist state cannot be adequately conceived through a model of an unconsciously acting executive organ of economic laws that are still spontaneously effective, nor through the model of an agent of the united monopoly capitalists that acts according to a plan. The state is involved in the realization process of capital, and it has altered the determinants of the realization process. The administrative system has gained a limited planning capacity which can be used within the framework of a formally democratic means of gaining legitimation for purposes of avoiding crisis. Does this mean that the economic crisis has been mastered? The answer depends on whether capital expended to indirectly increase productivity will do so and whether the distribution of the growth in productivity is in line with the functional requirements of the system is sufficient to guarantee mass loyalty and keep the accumulation process moving at the same time (Habermas 1975:61). This will produce inflation and a permanent crisis in public finances.

The government takes on the costs of more and more socialized production. The government bears the costs of imperialistic market strategies, demand for unproductive commodities, infrastructural costs directly related to production, costs of social consumption indirectly related to production (such as flood insurance), social welfare, and especially unemployment, and finally the externalized costs of

environmental strain coming from private production. In the end these are financed through taxes.

To deal with these tasks the state is simultaneously faced with two tasks. First, it is suppose to finance these activities by taxing the profits and incomes in a rational manner so that crisis-ridden disturbances of growth can be avoided. Second, the collection of taxes in a selective manner must be coupled with a pattern of priorities in their use which necessitates that the administrative performances be constituted so that the need for legitimation be satisfied as it raised. If the state fails in the first task there is a deficit in administrative rationality, if it fails in the second task there is a deficit in legitimation (Habermas 1975:61-2).

Rationality problems come about due to contradictory steering imperatives resulting in unplanned, nature-like development of commodity production and its crisis-ridden growth become operative within the administrative system. Habermas feels this is the description of what happens when the administrators have little informational and planning capacity and there is insufficient coordination among themselves thus they become dependent on their clients for information. One outcome of this is that individual private sectors of the economy can privatize parts of the public administration, thus displacing the competition between individual social interests into the state apparatus. The rationality crisis theorem is based on the growing socialization of production still being linked to private interests and bringing with it unfulfillable and sometimes paradoxical demands on the state apparatus. The state is supposed to act as the collective capitalist, yet

competing capitals cannot form or carry through a collective will as long as freedom to invest is not eliminated. Contradictory imperatives of expanding the planning capacity of the state with the aim of a collective-capitalist planning and the blocking of this expansion would threaten the continued existence of capitalism. The state is expected to intervene, yet it must not do so for it will represent the will of only one particular interest and not the general interest. This is unavoidable (Habermas 1975:62-3).

Habermas noted three objections to the above discussion. First, when the fundamental contradiction of capitalism is displaced from the economic system into the administrative system, the terms in which it can be resolved also change. In the economic system the contradictions are expressed directly in the relations of the values and indirectly in the social consequences of capital loss (bankruptcy) and deprivation of the means of subsistence (unemployment.) In the administrative system the contradictions are expressed in irrational decisions and in the social consequences of administrative failure which result in disorganization of areas of life (socio-cultural crises).

A second objection is that the economic system has set rules of strategic action. The controlling principle of maximization of gain is not one that can be set aside. The administrative system can be contrasted with this since it enters into compromise-oriented negotiations with the sectors of the society that it depends on. The state can work along a legitimation gradient as it reconciles the different interests (Habermas 1975:64).

Third, rationality crisis tendencies cannot assert themselves

through collective administrative action unconsciously in the same way as they can through the particularized behavior of individual market participants. What has occurred is a change from unplanned-nature-like processes to planning growing more and more common. Crisis avoidance becomes thematized as a goal of action. Habermas noted the possibility that the administrative system might open a compromise path between competing claims that would allow a sufficient amount of organization rationality.

Habermas suggested that the crisis theorem can be reformulated in the following way: the form of secondary unconsciousness builds a facade behind which the state apparatus must withdraw in order to minimize costs that arise from compensations to dispossed victims of the accumulation process. Once the state takes on the role of a responsible planning authority then those who are affected by capitalist growth in a negative way can confront the state with demands for compensation and prevention of these activities. Habermas felt that for the state to guarantee the continuation of the accumulation process, it must assume ever clearer planning functions. The state must attempt to disguise these activities for if they are recognizable as administrative performances then the state is accountable and liable for compensation which in turn would slow accumulation of capital. However, one must be careful in that not every type of planning reflects rationality deficits of an overloaded administration.

A summary of the rationality crisis is that it is modelled after the economic crisis. The contradictory steering imperatives assert themselves not through the purposive-rational actions of the market-

participants, but of the members of the administration. They manifest themselves in contradictions that directly threaten system integration and thus endanger social integration.

Late capitalism is also characterized by other events. The class relationships have been repoliticized with the state taking over the market-place as well as market-supplementing tasks. Class domination no longer takes the anonymous form of the law of value. Domination now depends on real constellations of power, and attempts to guarantee the production of surplus value through the public sector. The economic crisis has shifted into the administrative system. The state attempts to maintain an unconsciousness in order for it to have no responsibilities because of its planning functions. Governmental activity finds a necessary limit only in the available legitimation.

If governmental crisis management fails it suffers the withdrawal of legitimation since it cannot meet the demands that it has placed on itself (Habermas 1975:69). The scope of action contracts exactly at those moments in which it needs to be drastically expanded. This legitimation crisis theorem is based on the idea that social identity is determined indirectly through the capability of the securing-system integration, and is constantly vulnerable on the basis of class structures. Two consequences can be seen as a result. First, the administration alters the economically conditioned fiscal crisis tendencies making the class oppositions fragmented and less clear. Class compromises weaken the organizational capacity of the latently continuing classes. Second, the scattered secondary conflicts become more expected because they do not appear as objective systemic crises. They do provoke questions of

legitimation. This in turn necessitates the administrative system making itself as much as possible independent of the legitimating system (Habermas 1975:69).

The separation of the legitimation system and the administrative system is accomplished by the following familiar strategies: personalization of substantive issues, symbolic use of hearings, expert judgments, juridical incantations, and also the advertising techniques that confirm and exploit existing structures of prejudice (Habermas 1975:70). The public realm helps make this effective by pushing other themes, problems, and arguments below the threshold of attention, and thereby withholding them from opinion-formation. The political systems at the same time takes over the tasks of ideology planning. It has only a limited maneuvering room since the cultural sphere is peculiarly resistant to administrative control. Habermas wrote that there is no administrative production of meaning. Any attempt to gain legitimation by administrative planning of symbols will exhaust the normative force of counter-factual validity claims and endanger the legitimation as soon as the attempt is seen for what it is. In other words, the cultural traditions have their own meaning and continue as "living" as long as they take shape in an unplanned, nature-like manner, or are shaped with hermeneutic consciousness.²¹

Habermas developed his crisis argument along the above lines. There occurs structural differences between the areas of administrative action and the areas of cultural tradition which make a systematic limit to attempts to compensate for the legitimation deficits. The crisis may come about due to the expanded state activity producing the side effect

of a disproportionate increase in the need for legitimation. He wrote that it is probable, not only because of the expansion of administratively processed matters making necessary mass loyalty for new functions of state activity, but because the boundaries of the political system vis-a-vis the cultural system shift as a result of the expansion. When this occurs, cultural affairs that were once taken for granted and were previously boundary conditions for the systems are now brought into question. They are now being placed in the political system and being administratively processed. The increase in administrative planning produces a universal pressure for legitimation in a sphere that was once distinguished for its power of self-legitimation. Habermas illustrates this by citing examples of regional and city planning which limit the private ownership of land (Habermas 1975:71).

Administrative planning produces unintended and unsettling effects. These effects can weaken the justification potential of traditions that are no longer seen as nature-like course of development. They are no longer unquestionable and the stabilization of validity claims can now succeed only through discourse. Cultural affairs have been altered and things once taken for granted are now politicized, areas of life that were previously in the private sphere. This change means a danger for civil privatism that has informally secured the structures of the public realm. Citizens are taking more initiative in participation, especially in the cultural spheres (Habermas 1975:72).

This also explains the demands and attempts at participatory planning. The increased use of participation and the consensus-formation that is often employed in planning processes puts a strain on the

planners which comes from two contrary motives: increased demands resulting from legitimation claims that the administration cannot satisfy under the conditions of unequal class compromise and a conservative resistance to planning that contracts the horizon of planning and lowers the degree of innovation possible (Habermas 1975:72-3). This would support the thesis that advanced-capitalist societies fall into legitimation difficulties, but it does not necessarily mean that a legitimation crisis will come about. Habermas noted that in the final analysis it is the class structure that is the source of legitimation deficits.

Since the state cannot simply take over the cultural system, it must turn to a source other than the meaning that is found in the traditions of the society. This is done by turning the people's expectations to use values. Habermas wrote that the rising level of demand for goods and services should be proportional to the growing need for legitimation for the society to remain stable. Thus fiscal rewards take the place of the decreasing supply of meaning. Missing legitimation is offset by rewards for conforming to the system. A legitimation crisis comes about as soon as the demands for such rewards increase faster than the available quantity of value, or when expectations increase that cannot be satisfied with such rewards. It is clearly possible that the levels of demands will stay within the boundaries of the operating capacity of the political-economic system as Habermas pointed out has occurred after World War II. The welfare state program has been joined with technocratic common consciousness maintaining the sufficient degree of civil privatism indicating that legitimation needs do not have to end in a crisis (Habermas 1975:73-4).

Offe noted the possibility that competing parties may try to outbid one another in their programs and thus raise expectations of the people higher than the system can deal with resulting in an unavoidable gap between the level of pretension and the level of success. Out of this Habermas reached the conclusion that only a rigid socio-cultural system that was incapable of being randomly functionalized for the needs of the administrative system could explain a sharpening of legitimation difficulties into a legitimation crisis. A legitimation crisis must be based on a motivation crisis when there is a discrepancy between the need for motives declared by the state, educational system, and the occupational system and the motivation supplied by the socio-cultural system on the other side.

A motivation crisis occurs when the socio-cultural system changes in such a way that its output becomes dysfunctional for the state and for the system of social labor. The most important motivation contributed by the socio-cultural system in advanced-capitalist societies consists in civil and familial-vocational privatism. Civil privatism is the interest in steering and maintenance performance of the administrative system, but with little participation in the legitimizing process. Civil privatism corresponds to the structures of a depoliticized public realm found in formal democracy. Familial-vocational privatism complements civil privatism. It consists in a family orientation with developed interests in consumption, leisure, and an orientation suitable for status competition. This privatism corresponds to structures of education and occupational systems that are regulated by competition through achievement.

Habermas believed that both patterns of motivation are important to the continued existence of the political and economic systems. To defend that statement he felt he must demonstrate the erosion of traditions in the context of which attitudes are previously produced and he must show that there are not functional equivalents for the spent traditions. According to Habermas, capitalist societies are always dependent on cultural boundary conditions that they cannot reproduce. They feed off the remains of tradition. This is especially true for civil privatism.

Habermas wanted to develop an argument that the socio-cultural system will not be able to reproduce the privatisms necessary for the continued existence of the system. He did this by making four steps. The first is that the remains of pre-bourgeois traditions in which civil and familial-vocational privatism are based are being destroyed and these are not renewable by administrative activities. This weakening has come about due to the course of the capitalist development. Traditional world-views are incompatible with the social-structural forces of the economic and administrative systems and with the attitudes coming from the system of science. This follows the type of analysis that has continued since the time of Weber, the rationalization of life once regulated by tradition. Habermas suggested that advanced-capitalist societies develop sub-systems of purposive-rational action that are a consequence of the scientization of professional practice, the expansion of the service sector by more interactions subsumed under commodity form, the administrative regulation and legalization of political and social intercourse that were previously regulated informally,

the commercialization of culture and politics, and the scientizing and psychologizing processes of childbearing. Thus a trend appears that the dominant elements of the cultural traditions are losing the character of world-views, of interpretations of the world, nature, and history as a whole (Habermas 1975:79-80).

Second, the core components of bourgeois ideology, such as possessive individualism and achievement orientation are being undermined by changes in the social structure. The achievement ideology has been modified so that occupational success, and the formal schooling that is necessary for occupational success has replaced success in the market. What Habermas called possessive individualism, the private attainment of wealth is changing to increasingly socialized production. Conditions of urban life in complex societies are becoming more and more dependent on an infrastructure (transportation, leisure, health care, education, etc.) that increasingly discard the forms of differential demand and private appropriation. In addition, the orientation to exchange values has changed with the weakening of the socialization effects of the market. There are growing segments of the market that do not reproduce their lives through income for labor, but depend more and more on abstract labor, such as students, welfare recipients, and teachers (Habermas 1975:83-4).

Third, the residues of tradition are eroded, the exposed normative structures allow no functional equivalents for the destroyed motivational patterns of privatism. Cultural traditions today are based on scientism, post-auratic art, and universalistic morality. Scientism is one of the most important. The political consequences of authority

enjoyed by the scientific system in developed societies is two sided. Traditional attitudes cannot withstand the demand for discursive justification established by modern science. Yet short-lived popular syntheses of isolated pieces of information which have taken on global interpretations rest on the authority of science. A scientific justification of the sciences leads to a positivistic common consciousness that supports the public realm. At the same time scientism also sets standards by which it can itself be criticized (Habermas 1975:84).

A third part of the erosion of tradition is the rise of a universalistic morality. This occurred as a civic ethic emerged and the norms became formalized (legalized.) As traditional societies modernized their control problems became increasingly complex. The speed that social norms changed was also increased much beyond the previous (nature-like) tempo. When bourgeois formal law came about it made possible the release of the norms from tradition.

Liberal capitalism strongly leaned toward a universalistic value system to regulate economic exchange and this freed the state from tradition. The formality of the laws means no specific obligations, such as those in traditional natural law, or ethics, but abstract permissions subject to formal laws. Ethics, and legitimation became defined by the formal laws.

Four, today there exists no functionally adequate agreement between the normative structures that still have imperative force and the political-economic system. Motivation crises could still be avoided by uncoupling the cultural system from them. Culture would still exist as an object of private enjoyment or of professional interest, but it would

be separated from the socialization processes (Habermas 1975:89-90).

What Habermas has done in these steps is show that the growing administrative actions are breaking down traditions that go back to the pre-bourgeois era. The administrative system cannot renew tradition, but relies on among other things, positivistic science. This would appear to lead to a system crisis, except the last point indicates that it may be possible for the cultural system to be separated from the political and economic systems. If this is possible, a motivational crisis may not occur.

This led Habermas to make some global statements concerning the interrelationship of the systems and the potential crises. The first statement suggests that the economic system has lost its functional autonomy to the state; the crisis manifestations in advanced capitalism have also lost their nature-like character. In fact, given the way that he has used the term system crisis he does not expect one to occur in advanced capitalism. Crisis tendencies will appear and these can be traced back to structures that have resulted from the suppression of system crisis, a successful suppression, at least for a period. These show themselves in the moderate economic crises with a somewhat permanent nature that have already been administratively processes, but not yet adequately controlled.

Second, the economic crises have shifted into the political system through the reactive-avoidance activity of the government in such a way that supplies of legitimation can compensate for deficits in rationality and extensions of organizational rationality can compensate for those legitimation deficits that do appear. These crises are handled by the

fiscally available quantity of values and by the supplies of motivation from the socio-cultural system. The relation between scarce resources, value, and meaning is decisive for the prediction of a crisis, but a shortage of these cannot be validly predicted with the crisis theory (Habermas 1975:93).

Third, "(T)he less the cultural system is capable of producing adequate motivations for politics, the educational system, and the occupational system, the more scarce meaning must be replaced by consumerable values" (Habermas 1975:93). At the same time the patterns of distribution of socialized production for non-generalizable interests are endangered. The limits to providing legitimation are inflexible normative structures that no longer provide the economic-political system with the ideological resources, but place exorbitant demands on it. If this analysis is correct, a legitimation crisis can be avoided in the long run only if the latent class structures of advanced capitalist societies are transformed or if the pressure for legitimation that the administrative system is subject to can be removed.

To make sense of these three global statements Habermas turned to an analysis of motivation and legitimation. He began by stating that the theorems of the motivation crisis are based on two suppositions. The first is similar to ideas of Freud, Durkheim, and Mead in that motivations are shaped through the internalization of symbolically represented structures of expectations. The second supposition and the one Habermas is more concerned with is that the values and norms in which motives are formed have an immanent relation to truth. Habermas then links this to the development of moral consciousness and a system

of concepts ordered sequentially in terms of norm systems and behavioral controls. The highest stage of moral consciousness corresponds to a universal morality that can be traced back to fundamental norms of rational speech. Universal morality makes a claim not only to empirical superiority, but to systematic superiority as well. The latter, the systematic aspect of the claimed truth relation of factually valid norms and values is of special interest to Habermas.

Habermas presented an examination of the relation of norms and values by using the concept of legitimate authority. He did so by exploring the connection between the belief in the legitimacy of orders and their potential for justification, and their factual validity. Habermas cited Max Weber, stating that the basis of legitimacy reveals "...the ultimate grounds of the 'validity' of a domination, in other words...those grounds upon which there are based the claims of obedience made by the master against the 'officials' and of both against the ruled" (Weber 1968:953 cited in Habermas 1975:96). This he linked to the idea that reproduction in class societies is based on the privileged appropriation of socially produced wealth. All such societies must solve the problem of distributing the surplus social product inequitably and yet legitimately. This is done by structural force, fixing system norms to legitimate the asymmetrical distribution of changes to satisfy needs. Obeying the norms is not due just in the belief of their legitimacy, but it is also based on fear of direct and indirectly threatened sanctions, and in addition, the individual's feelings of powerlessness and lack of alternatives.

What Habermas saw as important in this discussion is not the various types of legitimate authority that Weber was concerned with (although he wrote that these are important concepts.) What is controversial is the relation of legitimation to truth. This relationship must be presumed to exist if one thinks it is possible for a motivation crisis to come about from a systematic scarcity of the resource of "meaning" (Habermas 1975:96). For one to have non-contingent grounds for a disappearance of legitimacy one needs an "independent," truth-dependent, evolution of interpretive system that systematically restricts the adaptive capacity of society (Habermas 1975:97).

In part III of the Legitimation Crisis Habermas presents a discussion of Max Weber's concept of legitimation. According to Habermas, it is with Weber that the controversy concerning the truth-dependency of legitimations was first discussed at a sociological level. Weber wrote that there is a "...generally observable need of any power, or even of any advantage of life, to justify itself" (Weber 1968:953 cited in Habermas 1975:97). What this means is that if the belief in legitimacy is conceived only as an empirical phenomenon without an immanent relation to truth, the grounds upon which it is based have only psychological significance. The question as to whether these grounds are sufficiently stable to support a belief in legitimacy depends on the institutionalized prejudices and observable behavioral dispositions of the group in question. However, if every effective belief in legitimacy is assumed to have an immanent relation to truth, the grounds on which it is based contain a rational validity claim that can be tested

and criticized independently of the psychological effect of these grounds. In the case of having only a psychological base, the motivational function of the justifying grounds can be the object of investigation. In the latter case, their motivational function cannot be considered independently of their logical status, of their claim to motivate rationally (Habermas 1975:97-8).

Using the case of rational authority with a psychological base, the authority can be viewed as legitimate if at least two conditions are fulfilled: 1) the normative order is established positively; 2) those legally associated must believe in its legality, in the formally correct procedure for the creation and application of laws. What this means is the belief in legitimacy shrinks to a belief in legality. The appeal to the legal manner in which a decision is made suffices to support the legality and thus the legitimacy.

In the second case, where legitimacy is dependent on truth of the belief in legality, the appeal to the state's monopoly on the creation and application of laws is insufficient. The procedure is under pressure for legitimation. At least one other condition must be fulfilled: grounds for legitimizing force of this formal procedure must be given. Habermas gives the example of the procedural competency lying with a constitutionally constituted state authority (Habermas 1975:98).

The former position is one taken by Niklas Luhmann, and Carl Schmitt who developed the decisionistic legal theory. What is being said is that the formal rules of procedure suffice as legitimizing premises of decisions and require no further legitimation. They fulfill their function by removing uncertainty. They connect the

uncertainty as to which decision will come about with the certainty that some decision will come about according to specific rules. The norms are assumed to be valid without any material justification beyond following the correct procedures and this serves to stabilize the structure and guard expectations against disappointment. The normative validity claims can fulfill their function as long as they remain implicit and do not enter explicitly into the sense of what ought to be. Luhmann wrote that it would be meaningless to probe behind the factual belief in legitimacy and the validity claim of norms for criticizable grounds of validity. He argued that it is a fiction that one could do so by reliable counter-factual expectations (a position dissimilar to Habermas.) These could only be comprehended from a functionalist point of view, in other words, by treating the validity claims as functionally necessary deceptions. These deceptions will remain hidden if the belief in legality is not shaken (Habermas paraphrasing Luhmann 1975: 98-9).

The second position is represented by Johannes Winckelmann. He considers formal rationality in the Weberian sense an insufficient foundation for legitimation, the belief in legality does not per se legitimize. Legal positivism requires a general consensus grounded in a rational orientation to value. Legality can bring about legitimation only when the grounds can be provided to show that certain formal procedures fulfill material claims to justice under certain institutional boundary conditions. There is a problem with this point of view, if one works from a hermeneutic perspective it leads systematically to the conclusion that the rational value-oriented

foundations of the belief in legitimacy can be justified and criticized. Rather than go through an elaborate and somewhat questionable examination of competing value systems and beliefs, Habermas felt that all that is necessary is to realize that turning to the fundamental norms of rational speech that are presupposed in every discourse, including practical discourse is sufficient to demonstrate the criticizability of claims of appropriateness.

Habermas's own position is somewhat dissimilar to those above. The administrators are part of a system of authority that must be legitimized as a whole if pure legality is to be counted as an indication of legitimacy. The technical legal form in the pure sense cannot guarantee recognition in the long run if the system of authority cannot be legitimized independently of the legal form of exercising authority. In the positions such as the one taken by Luhmann, a procedure can legitimize only indirectly through reference to authorities which must be recognized. The written bourgeois constitutions contain a catalogue of basic human rights that are strongly immunized against alteration. These can be a legitimizing force only in so far as it is understood in conjunction with an ideology of the system of authority. The parts of the state that make and apply the laws are in no way legitimated by the legality of their mode of procedure, but by a general interpretation that supports the system of authority as a whole. Habermas criticized the position of decisionistic legal theory since naive validity claims of norms of action refer in each case to the possibility of discursive foundation. A legitimate norm is one that could be made independently of the concrete exercise of force and of the manifest threat of sanctions.

This unconstrained normative validity is based on the supposition that the norm could if necessary be justified and defended against critique (Habermas 1975:100-1).

Habermas's discussion of norms was a complicated one that revolved around the idea of their validity being based on rationally motivated agreement or at least the conviction that consensus on a recommended norm could be brought about with reasons. Habermas argued that the appropriate model for this is one of a communicative community whose participants in a practical discourse test the validity claims of norms. The validity claims of the norms are grounded in the rationally motivated recognition of norms that may be questioned at any time and not in some form of irrational contract of parties (Habermas 1975:102-105).

The ideas in the last paragraph were a brief discussion of Habermas's attempt to support the assertion that practical questions are related to truth. If this is so then justifiable norms can be distinguished from norms that merely stabilize relations of force. Norms that express generalizable interests are based on a rational consensus or the possibility that such a consensus would occur if practical discourse were to take place. The norms that are not regulated to generalizable interests are based on force, which Habermas called normative power.

Habermas saw this possibility in the case of normative power that is indirectly justifiable: compromise. A normed adjustment between particular interests is called a compromise if it takes place under conditions of a balance of power between the parties involved.

The separation of powers is an ordering principle intended to guarantee such a balance of power in the domain of particular interests in order to make compromises possible. Another ordering principle is realized in bourgeois civil law, which delimits autonomous domains of action for the strategic pursuit of individual interests. It presupposes a balance of power between private persons and makes compromises on non-generalizable interest unnecessary (Habermas 1975:111).

What one finds is that the separation of powers and democracy are not of equal rank as political-ordering principles. The use of democracy for will-formation turns into repression if it is not kept within limits by the freedom-guaranteeing principle of the separation of powers. This is a theme that comes out of the counter-Enlightenment (Habermas 1975:111).

These ideas are brought forth anew in the work of Schelsky where he suggested that the principle of freedom is prior to that of democracy. He argued that more democracy may lead to less freedom. Habermas countered that this is true only if the following two conditions do not exist: 1) separation of powers may legitimately be introduced only where domains of interests to be regulated cannot be justified discursively and thus required compromises; 2) demarcating particular from generalizable interests in a manner that admit of consensus is possible only by means of discursive will-formation. Thus even if a "class-compromise" came about in advanced capitalism under conditions of a balance of power, the justifiability of the compromise would remain questionable as long as it excluded the possibility of discursively testing whether it was in an interest to both sides that did not permit the use of rational will and thus accessible only to a compromise

(Habermas 1975:112).

One can have a justifiable compromise if there is a balance of power among the parties involved and the non-generalizability of the negotiated interests exists. If one of these general conditions of compromise formation does not exist, then what comes about is pseudo-compromise. In complex societies pseudo-compromises are an important form of legitimation. However, historically these are not the common form. In the traditional and liberal-capitalist societies, it is the ideological form of justification that asserted or counter-factually supposed a generalizability of interests. Legitimations in these cases consist in interpretations, of narrative presentations or of systematized explanations and chains of arguments. These have the double function of proving that the validity claims of norm systems are legitimate and of avoiding thematization and testing of discursive-validity claims. The achievement of these ideologies consists in the way in which communication is systematically limited (Habermas 1975:112-3).

Habermas proposed a social theory that is critical of ideology and that can identify the normative power built into the institutional system of a society only if it starts from the model of the suppression of generalizable interests and compares normative structures existing at a given time with the hypothetical state of a system of norms discursively formed. P. Lorenzen proposed a procedure of "normative genesis" whereby one is guided by the question of how would the members of a social system at a given stage in the development of productive forces have collectively and bindingly interpreted their needs, and which norms they could and would have accepted as justified if they

could and would have decided on the organization of social intercourse through discursive will-formation, and with adequate knowledge of the limiting conditions and functional imperatives of their society. The model employed is one of the suppression of generalizable interests, one which explains the functional necessity of the apparent legitimation of domination and the logical possibility of undermining normative-validity claims by a critique of ideology. He suggested that this can be useful for social theory only by making certain empirical assumptions.

Habermas began with the idea that there is no problem with the people's action orientation as long as the institutional values provide norms that the distribution of opportunities for the (legitimate) satisfaction of needs is founded on actual consensus. However, as soon as a difference of opinion comes about, the "injustice" of the repression of generalizable interests is generally sufficient motive for replacing value-oriented action with interest-guided action. The pattern of communicative action gives way to the type of behavior for which the competition for scarce goods supplies the model, strategic action.

This model led Habermas to make an assumption that the empirical interest constellations of the parties involved in conflict will be revealed as the conflict arises. These coincide sufficiently with the interests that would have found expression among those involved if they were to enter into practical discourse. He went further and made the methodological assumption that it is meaningful and possible to reconstruct the hidden interest positions of involved individuals

or groups by counterfactually imagining the limit case of a conflict between the involved parties in which they would be forced to consciously perceive their interests and strategically assert them, instead of satisfying basic interests simply by actualizing institutional values as is normally the case.

The social scientist can only hypothetically project this ascription of interests; indeed a direct confirmation of this hypothesis would be possible only in the form of a practical discourse among the very individuals or groups involved. An indirect confirmation on the basis of observable conflicts is possible to the extent that the ascribed interest positions can be connected with predictions about conflict motivations (Habermas 1975:114).

Habermas turned once again to the work of Offe to provide a survey of alternative attempts to establish a "critical standard for determining the selectivity of a political system and thereby to avoid the complementary difficulties of system-theoretic and of behavioristic procedures..." (cited in Habermas 1975:114). Offe mentioned three alternatives: First, anthropologically defined needs. This implied an invariant need structure in human beings, one that is meaningful and empirically testable. However, it is Habermas's conclusion that it is not possible to theoretically predict the range of variation of various drive potentials. Second, is an objectivistic philosophy of history. This projects the interests on the basis of structural features. The result is teleological historical constructions with circular structure of proof and therefore are not empirically demonstrable. The example used to illustrate this is Marx's somewhat dogmatic view of the role of class. Third, is the normative-analytic approach, which

is employed in systems analysis. It is dependent on the declared options for more or less conventionally introduced goal states. This approach has the real difficulty of not being able to grasp goal states of a social system in a non-arbitrary way. It has weak empirical content because it can only happen upon the causally effective mechanism by chance from arbitrarily chosen functional points of reference (Habermas 1975:115). It has the further difficulty of not being able to distinguish between systematic selectivity of an institutional system and the accidental non-fulfillment of norms.

Offe then offered strategies that can be used in the search for empirical indicators of the suppressed interest. One could begin by immanently looking at the "claims" and "reality" playing them against one another. The problem with this is to prove that the unactualized claim is not only violated, but that the violation is systematic. A second way is to identify the rules of exclusion that have been codified in a political system. These may take the form of procedural rules of administrative law, civil law, and penal laws. This procedure for analyzing structural selectivity is not found to be adequate since it can hardly be supposed that a social system designates in a codified form the totality of restrictions that are effective within it. One last possibility would be to confront the political-administrative processes with the unintended consequences that systematically come about such as misunderstandings and over-interpretations.

Habermas rejected the shortcomings that Offe had found in his search for indicators since this is relatively unimportant as long as the theoretical concept for which these indicators are representative

is lacking. What he thus suggested is the use of an advocacy role of critical theory of society that would consist in ascertaining generalizable, but suppressed interests in a representatively simulated discourse between groups that are differentiated (or that could be non-arbitrarily differentiated) from one another by articulated discourse, or at least the virtual opposition of interests. A discourse carried through as advocacy can lead only to a hypothetical result. This position would allow indicators for testing such hypotheses to be sought in the above mentioned ways that Offe had discussed and will have some hope of success (Habermas 1975:116-7).

What Habermas had tried to do was prove that the practical questions can be treated discursively and that it is possible for social-scientific analysis to methodically take the relation of norm systems to truth into consideration. This did not answer the question of whether or not motive formation is actually still tied to norms that require justification in complex societies or whether the norm systems have lost their relation to truth (Habermas 1975:117).

"The fundamental function of world-maintaining interpretive systems is the avoidance of chaos, that is, the overcoming of contingency. The legitimation of orders of authority and basic norms can be understood as a specialization of this 'meaning giving' function" (Habermas 1975: 118). In the early stages of human social development people experienced contingency in dealing with outer nature, the problems of survival, that were so close to being overwhelming that they counterbalanced this by producing an illusion of order in myth. With the progression of time, people gained increased control over outer nature and secular knowledge

became independent of world-views. World-views became increasingly restricted to functions of social integration. Science eventually established a monopoly on the interpretation of outer nature, at the same time devaluing the inherited global interpretations. Faith became faith in an objectivating science(s). Contingencies are recognized and mastered to a large extent technically, and their consequences are made much more bearable. "Natural catastrophes are defined as world-wide social events, and their effects are blunted by large-scale administrative operations" (Habermas 1975:119). At the same time there has been a growing complexity in the areas of social co-existence, with a growing number of new contingencies being produced, without a proportionate growth in the ability to master contingencies. The contingencies that arise today are not in relation so much to outer nature as in the uncontrolled societal processes.

Social sciences are no longer taking on the functions of world-views. They dissolve the metaphysical illusion of order produced by objectivistic philosophy of history, they contribute to an increase in avoidable contingencies. In their present state they do not produce technical knowledge that society could use for mastering contingency nor do they have confidence in the ability of strong theoretical strategies to penetrate the multiplicity of apparent, nominalistically produced contingencies and make the objective context of social evolution accessible. The individual must live with contingencies related to the body and to moral constitution that can be raised to consciousness only as contingency (Habermas 1975:120).

What Habermas has shown is that the modes of socialization can be

related to truth even in advanced capitalism. However, the steering imperatives of such highly complex societies could necessitate the disconnecting of the formation of motives from norms capable of justification and setting aside of the detached superstructure of normative structures. If this happened then legitimation problems would cease to exist. Habermas presented some historical examination that would support such ideas (1975:122).

The first set of historical ideas that he turned to was what he called the cynicism of a self-denying bourgeois consciousness. This is philosophically based on a Nietzschean nihilism that sees the historical loss of force of normative validity claims as well as the Darwinian impulses to a naturalistic self-destruction of reason. The position taken is that every belief, every taking-for-true position is necessarily false because there is no true world. This means that there can be no real discussion of the admissibility of truth in practical questions, those who want to do this are old fashion at best (Habermas 1975:122).

The second set of historical ideas he examined was the revocation of bourgeois ideals in the retrograde development of democratic theory. There are two groups of ideas here, the first in a reaction to the Marxist critique of bourgeois democracy such as Mosca, Pareto and Michels introduced the elite theory of domination as a realistic, scientific antidote to natural-law idealism. Schumpeter and Max Weber gathered these elements into a theory of mass democracy. Today these ideas have evolved into the shrinking process of democratic rule by elites. This has been empirically documented. Democracy is no longer

determined by a content of a form of life that takes into account the generalizable interests of all individuals. It counts now as only a method for selecting leaders. Democracy is no longer providing the conditions under which all legitimate interests can be fulfilled by way of realizing the fundamental interests in self-determination and participation. It now provides for the distribution of rewards conforming to the system and regulates the satisfaction of private interests. This type of democracy made possible prosperity without freedom, for it is no longer connected to political equality in the sense of an equal distribution of political power, and the chances to exercise that power. Political equality has taken on a new meaning of having only the formal right to equal opportunity for election to positions of power.

Democracy no longer has the goal of rationalizing authority through the participation of citizens in discursive processes of will-formation. It is now intended, instead to make possible compromises between ruling elites. Thus the substance of classical democratic theory is finally surrendered (Habermas 1975:123-4).

Only the decisions of the government are still defined as political and subject to the precepts of democratic will-formation, not all politically consequential decisions as in the past. The result of this is that a pluralism of elites replaces the self-determination of the people making privately exercised social power independent of the pressures of legitimation and immunized it against the principle of rational formation of will. This has resulted in a new theory of authority that suggests the presuppositions of democracy are fulfilled if: 1) the voters can choose between the competing elites; 2) the elites do not succeed in

making their power hereditary or in blocking the access of new social groups to the elite positions; 3) the elites are dependent on the support of shifting coalitions, so that no exclusive form of domination can take over; and 4) the elites which dominate in different social spheres can form no common alliance (Habermas 1975:124).

The third historical set of ideas is the radical interpretation that sees the mode of socialization placed in question and is formulated in the thesis as the end of the individual. In the past there has existed the bourgeois individual that had been reproduced by the highly complex societies. This individual had an autonomous ego-organization within the framework of an independent and rationally founded practice. There was a general socialization through individuation. If this form of reproduction were to no longer continue then the imperatives that are logically within it would cease to exist and the social system could no longer establish its unity through the formation of the identities of socially related individuals. There would be no uniting of particular individuals with the general aggregate state of society. This followed with Schelsky's ideas that the self-interpretation of people in scientific civilization leads to the conclusion that the scientific-technical process of creation induces a complete break with the previous history and a change in the identity of individuals (Habermas 1975:125).

One of the outcomes of these historical changes is that advanced-capitalist societies have changed the concept of alienation from one of the traditional Marxian concept to one where the integrative powers and elasticity of these societies make it into a psychological problem that

can be administratively treated. The different forms of present day alienation are institutionalized as proof of the extended scope of tolerance of the system. Instead of using the normative powers of the institutions in the form of open repression, the degree of tolerance has increased. The result is more and more gray areas in which the social system can live with the non- (and not yet) institutionalized opposition it has brought about without having to solve the problems that are occasion, ground, or cause of the protests (Habermas 1975: 128-9).

This raises some interesting questions that are as yet not clearly answerable according to Habermas. Are the reactions and protests uncontrollable in the long run due to the continued violations of the normative structure that is at odds with the growing steering needs of the political-economic system? Or is it a question of having to deal with a fundamentally new mode of socialization? Or it could be the case that both processes are occurring.

Habermas felt that these questions cannot be directly decided empirically, so he tried to do so indirectly with the help of Luhmann's theory that works from the position of undiscussed presuppositions that the creation of motivation needed by the system is in no way restricted by independent systems of norms that follow a logic of their own, but respond to steering imperatives alone. Luhmann did not begin as Habermas would with a communication theory that analyzes legitimation problems with reference to discursive redemption of normative-validity claims for this would be out of step with social reality according to Luhmann. Luhmann chose to begin with the selection of pressure of

complex systems of action in a world that is contingent, not one with the foundation of norms and opinions that constitute a rational practice. Luhmann wanted to make sure that he did not have a systematic understatement of the problem of world complexity as he saw Habermas doing with the concept of subject. The concept of subject brings up problems of domination and distribution that relate to class structure of a society that does not exist. The problem for Luhmann became one where, "Almost everything could be possible, and I can change almost nothing" (Habermas 1975:130-1). By this he meant that the social systems' drastically extended scope of contingency is based on an increased degree of freedom that places it under increased pressure of problems and decisions. The structures and states of complex social systems have in the domain of organization and politics become non-essential and thus capable of being practically chosen. New problems of how to decide among alternatives relativizes all of the other problems.

What has happened then in advanced capitalism, is that the system has increased its complexity and reduced the complexity of the environment. The environmental complexity has been made more determinable by the environmental projects relative to the social system. However, the social system begins to overload itself due to its own increasing complexity. "Highly complex social systems must wear themselves out on problems resulting from their growing autonomy, that is, on necessities resulting from their freedom" (Habermas 1975:130).

When complex societies reach this point they must be examined by using the concept of system. This entails a number of important points.

1) highly complex societies are no longer held together and integrated through normative structures. The system is integrated by the power and influence of its steering capacities, and is independent of a social integration depending on a life-world perspective. The people's unity is no longer established intersubjectively through communications of socially related individuals. 2) One's understanding of the world can take one of two perspectives, detaching oneself from the system identity and slipping into a provincialism oriented to normative claims. Habermas said that this is a remnant of "old Europe." Or it can detach itself altogether from norm orientations and bring the consciousness of the individual into the same situation as the system. Here the person learns to project and endure an infinitely open and contingent world and to use it as the basis of all selective experience and action. 3) The reproduction of highly complex societies is dependent upon the political sub-system differentiating the steering system. The political system becomes increasingly complex, increasing its capacity to process information and at the same time increasing its indifference to other social systems. It develops a unique autonomy within the society. The legitimation system is separated from the administration making possible the autonomy of decision processes in terms of the generalized motivations, values, and interests. 4) The separation of the political system has resulted in its functions no longer being simply understood from the point of view of the total social system. The social system does not constitute the world and thus gives identity to the subsystems. The functions of the political subsystem cannot be understood as the correct or incorrect policy as demanded by the administrative system by society.

This has the implication that it would be meaningless to want to increase the reflexivity of the administration by linking it to the society through discursive will-formation and participation. Luhmann goes so far as to say that democracy (full, participatory democracy) is incompatible with rationality (cited in Habermas 1975:133). 5) Luhmann proposed a new systems-theoretic approach that brings with it a new linguistic system that claims universality. This new approach transforms fundamental classical concepts such as politics, authority, legitimacy, power, and democracy from the unsuitability of the "old European" concept formation. He saw the world faced with problems of complexity. This is dealt with by the rational organization of society in conjunction with the formation of motives through norms that admit of truth, although he suggested this is no longer the case.

These five points that Luhmann made concerning the state of advanced capitalism leads Habermas to a discussion of planning, and its relationship with complexity and democracy. Habermas comes up with a four-fold typology along the dimensions of incrementalist-comprehensive planning and whether or not the participation of those affected is permitted. The first type (A) of incrementalist planning with participation not permitted has goals and values kept separated with a limited negotiation process that revolved around the purposive-rational realization of goals that admit to consensus. Negotiations are obligatory and depend upon formalistic procedures that are independent of their content. The areas of planning are carefully segmented. Type B is comprehensive planning with participation not permitted. This is characterized by the political questions being interpreted as

technical questions and the specialists are immunized against the latent or suppressed dissent of those affected. Type C is an incrementalist planning style where participation is permitted. This is the opposite of type A. And type D is characterized by comprehensive planning where participation is permitted. It is incompatible with type B (Habermas 1975:133-4).

Luhmann felt that comprehensive non-participatory planning, Habermas's type B, is appropriate for complex societies. This is not so much a recommendation as the lack of choice for highly complex societies. These societies need to be based in an administrative system shielded from the parties and the public instead of a democratically organized public domain. What this meant for Luhmann is that in complex societies the administrative system has been differentiated out as a control center, assuming the commanding position in terms of the other social subsystems. The administration is autonomous, having the general competency to deal with all steering problems that remain unsettled in the society. There are no structures in the society that are not ultimately under the control of the administrative sphere, thus there is no class problems whose solution the administration would not find within its control.

Habermas argued that the administrative planning capacity is forced to its limits again, and again, and that much of its actions are reactions, or withdrawals into avoidance strategies. This would give the appearance that the administrative system is dependent upon the environment and the dynamics of the economic system. Habermas picked up on this idea and suggested that the administrative system

is limited on two sides. First, in steering the economic sector it is limited by the parameters of a property order that it cannot change and second, in creating motivation it must deal with the independent development of normative structures that are irreconcilable with the suppression of generalizable interests (Habermas 1975:134-5). One can easily see that the administration has not yet become independent of politics and developed a completed planning capacity. Luhmann attributes this to a rationality deficit since the administration is not yet sufficiently independent of politics. According to Luhmann these rationality deficits can be eliminated only to the degree that the administration develops an identity independent of the society and understands that it is the authority responsible for the expansion of the horizon of possibility and the collateral thematization of alternatives excluded at that time. The administration will not be as strong and effective as long as it remains dependent on inputs from the public domain, political parties, and from those affected and interested people. Luhmann saw the eventual fusion of science and the administration that permit the non-political differentiation of an administration capable of comprehensive planning. This would suspend the autonomy of science and tie together the previously separated media of power and truth.

Habermas saw this as Luhmann's statement of the end of the individual. The huge complexity makes it necessary for society to give up the differentiation between power and truth in favor of a nature-like development withdrawal from reflection. Habermas found three competing explanations for complex societies. The first comes from

Naschold who traces the problems of administrative planning to too great an independence of the administration from the political will-formation. Naschold believed that the political steering capacity can be increased only through expanded participation in planning by those affected. This may be the salvation of the system, but it also means that the participation processes may not be controllable. Participation in the planning process permits the implementation of unused resources and energies. The administration can manipulate mass loyalty, improve its information, and ease the burdens of the bureaucracy through self-help organizations. These functions of (apparent) participation do expand the administration's control over its environment (Habermas 1975:136-7).

A second view is put forth by Offe when he defends the view that the contradictory steering imperatives of the economic system make an insurmountable limit to the rationality for the state in advanced capitalism. He advocated the use of a prepared participatory planning to remove administrative planning problems since this would end the selective class structures that cause cumulative production of avoidable environmental complexity.

A third view is presented by Scharpf. Scharpf opposed Luhmann's position by suggesting that there is a limit to the increase in complexity that is immanent in administration. One can overcome the problems of a segmented decision structure in favor of a comprehensive planning in a centralized decision-structure. If this is done the policy planning will rapidly arrive at a limit where its capacity for processing information and building a consensus is overloaded by the excessive

complexity of the problem. These problems are distinguished by high interdependency.

These views are in opposition to those of Luhmann's assumptions of an unlimited expansion of the administrative steering capacity that makes the administration independent of politics. When science is incorporated into this system the system loses its ability to self-reflect. If on the other hand, the society is democratized, some of this complexity would be dismantled, particularly those produced by the uncontrolled, inherent dynamics of the economic process. Yet at the same time it would bring the unavoidable complexity of a generalized discursive process of will-formation into play.

What Luhmann desires is a type of non-participatory global planning that has a self-reflective administration that is disconnected from politics. This is a position that Habermas felt cannot be justified in light of what is presently known. Luhmann has made the assumption that only the steering capacity can decide the level of development of a society. This closes off other possible alternatives.

In making a choice for planning theory the concept of rationality is decisive. Planning theories working in a decision-theoretic perspective use a concept of rationality of action that uses a purposive-rational choice of alternative means. This type of rational action is suitable to theories of rational choice and to planning techniques of strategic action. It is limited in an attempt to develop substantive theories of social systems. The resultant theoretical strategy of choosing the concept of subjective rationality of action means a prior decision for a normativistic approach, and for methodological

individualism.

On the other hand, planning theories based in systems-theoretic terms use a concept of objective rationality based in the ideas of self-regulated systems. This has the advantage of a pattern of systems rationality suited for empirically substantive theories about the object domains in which systems are clearly bounded in their environment and can be identified. Stability or instability can be determined on the basis of systems maintenance accessible to experience.

Given these two alternatives Habermas sees three choices. The first is to normativistically set the limits and goal states of the social systems investigated. Second, to proceed in a radically functional manner to search for functional equivalents in a given context from arbitrarily varied points of reference (such as Luhmann's suggestion.) Or third, to make the social-scientific application of systems theory dependent on a required theory of social evolution that allows non-conventional determination of levels of development and of the limit values of the system alterations that threaten its identity (Habermas 1975:139-140).

Planning theories can also be made in communicative-theoretic terms that are based on a concept of practical rationality. This would come from a paradigm of will-formation in discourse and can be developed from a consensus theory of truth. Habermas felt this is suitable for the critical investigation of constellations of interests that are the basis of normative structures. The procedure of looking at the genesis of normative structures is to be connected to a systems-theoretic approach if it is to contribute to a theory of social evolution.

Once one has made the choice of the concept of rationality to be used, then a decision has also been made as to the logical status of the planning theory. A decision-theoretic planning theory is normative-analytic procedure used for techniques of planning. A systems-theoretic planning theory is also normative-analytical. This type of theory aspires neither to technical planning nor to normatively designed theories in which planning is understood as a political process (Habermas 1975:140).

Luhmann has a universal-functionalist planning theory in the form of a system theory. It works on an opportunistic principle and undermines the opposition between empirical-analytic and normative-analytic modes of procedures. It takes pragmatic approach where systems research is part of a life-process subject to the law of increasing selectivity and reducing complexity. This is in some respects similar to Habermas's communicative planning theory. This also transcends mere descriptive statements about valid norms and includes prescriptive statements concerning the choice of norms. It permits the critical evaluation of statements about the justifiability of existing and proposed norms.

If one had to make a methodological choice between a universal-functionalist and a critical reconstructive approach one must decide whether the question of whether the reproduction of social life is still bound to reason and if the generation of motives is still bound to the internalization of norms that have need of justification. If one decides this is not the case then the reconstruction of historically developed institutions and interpretive systems in conjunction with a normative-genetic procedure has lost its object and crisis theorems

can no longer be constructed. Luhmann's systems theoretical approach uses a universal functionalism that presupposes that there has been a change in socialization and that the end of the individual has come to pass. Habermas chooses to argue that this presupposition should not be made (Habermas 1975:141-2).

Habermas's position is that there is still an existence of truth-dependent socialization constituting society. Habermas is desirous of a return, an appeal to rule by reason as it made the object of a rational will-formation dependent on the constituents of the society. Luhmann proposed an alternative moving the interaction that is steered through discursively redeemable validity claims to a systems-rational claim to power and increasing power. An administration takes over with no standard to measure practical rationality (Habermas 1975:142).

Habermas argued that Luhmann's position is a dangerous one for it prejudices in a negative way the possibilities of enlightenment and chooses to try and rationally organize society using a decisionistic start. The results of this decisionistic start will retrospectively be justified after the costs of actions have been discovered.

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