

Box 902

aftermarket

ESM

LGB/KB

Clean Air Conference

The Committee staff (primarily major staff of each House) has reached tentative agreement for a recommendation to the conference on a number of most items in the bills. Some of these are quite tentative, and could unravel under the conditions where members begin expressing strong differences over the recommendations. <sup>P</sup>In negotiating these provisions the Senate has given significant ground on a number of the items in order to maximize the chance of having the upper hand on nondegradation, compliance date extensions for stationary sources, and automobiles. Since we have not felt that the staff would be <sup>less</sup> likely to resolve nondegradation or automobiles, we have not attempted a staff recommendation. But in the case of nondegradation, there have been numerous discussions between a small group of ~~key~~ staff members. There has been much less discussion of the automobile standards themselves, though agreement has been reached on all other title II issues.

Without reviewing in this memo all of the compromises ready for staff recommendations on the ~~1978~~ items identified by the staff, we thought it would be useful to provide a few preliminary guideposts and warnings on some of those issues.

1. Nonattainment (Steel amendment) - The Steel, chemical aluminum and petroleum industries are making a strong attempt to broaden the Senate provision. The House has no provision, so a broadening would be beyond the limits of the Conference. However, <sup>an attempt may be made</sup> it would be possible ~~for the House~~ to ask for deletion of certain portions of the Senate language. ~~Apparently that may be an attempt that will be made.~~ Senator Randolph has been approached on this subject, but

the Senate cannot move an initial proposal here. We have told the House staff that the issue is either up or down. It is the Senate provision or no provision at all. 2.

2. Unregulated Pollutants - The House requires EPA to regulate four new pollutants <sup>and establish a clean air standard</sup>. The language requires the Administrator to overcome a negative burden of proof if he decides not to regulate. This ~~will~~ may be an ideological issue for the minority on the Senate side. In practical terms the provision is <sup>too</sup> not onerous, but it may be a red flag.

3. Compliance Date Extensions - The House bill goes a long distance toward overturning the philosophy of the Clean Air Act of 1970 which erased the <sup>previous practice</sup> requirement that controls had to be economically and technologically feasible before emission limitations could be imposed. The ultimate sanction of shutting down a <sup>noncomplying</sup> noncompliance source is almost eliminated under the House bill. The staff proposal <sup>may</sup> need to be scrutinized in this respect.

4. Congressional Veto of EPA Regulations - President Ford has vetoed numerous bills for containing this provision. Unfortunately, both the House and the Senate <sup>provisions</sup> bills on ozone contain a form of Congressional veto. In addition, the House has Congressional veto across the board for all EPA regulations. The staff has done the most we thought possible to reduce this concept in the bill without going beyond the scope of the conference. However, some consideration might be given to finding a way, no matter how convoluted, to essentially remove this concept entirely. That would take some inventive drafting, which the staff will not endeavor to do without instructions. *that will frequently*

5. Administrative Procedures - The House has a very bad provision <sup>virtually</sup> requiring <sup>prevent on</sup> all ~~that virtually~~ adjudicatory hearings and <sup>easy</sup> opportunity for challenge of EPA regulations. We have chopped this back substantially, but remnants remain which are troublesome. The clear intent of this provision was to tie up EPA so that it could not be as aggressive as the law requires. The <sup>+</sup>worse parts have been removed, but a requirement that hearings be on the record with cross-examination

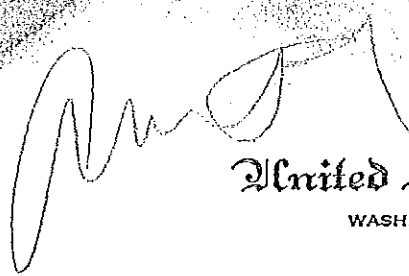
of EPA employees whenever a regulation is challenged still remains in the staff recommendation. ~~This is one of the issues we gave on in order to preserve our negotiating strength for other major issues.~~

A Final Note

The Senate minority members have been cooperative in developing positive amendments, particularly in remaining with the Committee on the Nondegradation issue. This has not been true for the House minority. Particularly on non-degradation, the majority has ~~simply~~ had to vote down the minority and out-manuever <sup>and</sup> delaying and obstructionist tactics on the part of the minority. This would seem to maximize the strength of the Senate Republican conferees on the non-degradation issue, a fact which may not be immediately apparent to Congressman Rogers. ~~On all other issues we have negotiated directly with the House staff, sometimes responding to minority staff comments, and sometimes merely noting them.~~ In nondegradation, it may be necessary to negotiate with the Senate minority first to determine how much of the House bill they are willing to accept, and then present that to the House as a complete package.

1. Aftermarket (50,000 mile warranty). The staff recommendation recedes very far from the Senate position. The House feels strongly on this issue. The House feels for the first <sup>three</sup> years, then goes back to 50,000 miles 5 years. ~~18 months~~ The recommendation gives 18,000 miles / 18 months.

Box 74-6



United States Senate

WASHINGTON, D.C. 20510

STANDING COMMITTEES:  
AGRICULTURE AND FORESTRY  
PUBLIC WORKS

SELECT AND SPECIAL COMMITTEES:  
SMALL BUSINESS  
NUTRITION AND HUMAN NEEDS

January 11, 1971

Senator Edmund Muskie  
Room 221  
Senate Office Building  
Washington, D. C.

Dear Ed:

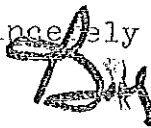
Thank you for your letter concerning the Clean Air Act and requesting my recommendation for specific areas that should be the subject of hearings this year.

Pollution of our water by agriculture sources is one of the biggest environmental problems in Kansas. One particular area of concern has been the pollution potential of the growing concentration of animal feedlots. As a result, problems have arisen in the implementation of water quality standards in Kansas. I believe it would be beneficial for the Subcommittee to review existing statutes and ask that several days be set aside to explore agriculture pollution. There are a number of witnesses from Kansas familiar with this problem who I would like to recommend.

In addition, field hearings often appear to be an unnecessary drain on the members' time. However, because certain subjects require full investigation, I recommend that staff members, both of the Committee and interested Senators, be authorized to conduct necessary field investigations. Such an investigation might be valuable in understanding the problem I outlined above.

I look forward to the year ahead and hope much will be accomplished.

Sincerely yours,



BOB DOLE  
U. S. Senate

BD:cd

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## United States Senate

COMMITTEE ON PUBLIC WORKS  
WASHINGTON, D.C. 20510

RICHARD B. ROYCE, CHIEF CLERK AND STAFF DIRECTOR  
J. B. HUYETT, JR., ASSISTANT CHIEF CLERK  
M. BARRY MEYER, COUNSEL

January 18, 1971

Honorable Edmund S. Muskie  
United States Senate  
Room 221  
Washington, D. C. 20510

Dear Ed:

Thank you for your letter of January 4. It was a great pleasure for me to work with you and other members of the committee on environmental legislation. Although we have referred so often to the bipartisan nature of our efforts as to be inured to it, I do think it is remarkable that, under increasing pressure from various sources on each of us to be more aggressively partisan, we have maintained a basic respect for the merits of our subject matter. Much of the credit for that must go to you.

With respect to the schedule of the subcommittee during the first session of the next Congress, I do hope that you will join with me again in introducing the National Environmental Laboratory proposal (S. 3410 in the 91st) and that the subcommittee might have some five or six days of hearings on the bill during the early part of the year.

I intend to make a couple of modifications in the bill prior to its reintroduction in an effort to minimize some of Congressman Holifield's most strenuous objections. In light of the heavy load that Leon and the rest of the staff will be carrying, I want to offer the services of my personal staff and the minority staff for the greater part of the work in putting together and staffing the NEL hearings.

Leon, Tom Jorling, and Jim Jordan should be able to work out details, if the idea of early hearings suits your purposes.

Best wishes for a good new year.

Sincerely,

Howard H. Baker, Jr.

HHBJr:ja

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M. BARRY MEYER, COUNSEL

## United States Senate

COMMITTEE ON PUBLIC WORKS  
WASHINGTON, D.C. 20510

January 6, 1971

The Honorable Edmund S. Muskie  
Chairman  
Subcommittee on Air and Water  
Pollution of the  
United States Senate  
Washington, D.C.

Dear Mr. Chairman:

Your letter of January 4 was a most kind and thoughtful one. I appreciate most sincerely your comments on our work together during the past Congress. As always, it has been a great honor and pleasure to work with you on these very important subjects.

An environmental question of increasing concern to me has been the problem of ocean dumping. Five major ocean disposal sites exist within a few miles of the shores of Delaware. For example, the City of Philadelphia dumps its sewage sludge eleven miles off Rehoboth Beach.

Citizens of Delaware and New Jersey are greatly concerned over this environmental threat. It is my thought that field hearings in Rehoboth could add considerably to the Subcommittee's knowledge of industrial and governmental dumping into the ocean.

Rehoboth has many advantages for such a hearing. Delaware State personnel have been interested in this situation and could provide helpful testimony to the Subcommittee. The various industrial and governmental

Page Two  
Chairman Muskie  
January 6, 1971.

polluters could also be asked to testify to discuss their problems and suggested solutions. Rehoboth is easily accessible for any other Federal or scientific witnesses whose testimony would benefit the Subcommittee.


Our Subcommittee has been most effective, I believe, in developing public knowledge on the issue of ocean dumping during the past year. An on-site hearing of the nature I suggest would broaden our base for any legislation the Subcommittee may write this session as an amendment to the Federal Water Pollution Control Act.

It would be my hope that if you see the need for a Rehoboth hearing that you could schedule it on a date when you would have the opportunity to attend.

Again, my thanks for your letter and my thanks for your excellent leadership and cooperation in our Subcommittee work. I look forward to continuing our cooperation to create even more effective programs for environmental enhancement during the 92nd Congress.

With high personal regards and best wishes, I am

Sincerely,

  
J. Caleb Boggs

JCB:hbi



SUBCOMMITTEE ON AIR AND WATER POLLUTION

SENATE COMMITTEE ON PUBLIC WORKS

MEMORANDUM

TO : Mr. Royce  
FROM : Leon Billings  
SUBJECT: Subcommittee activities

Pursuant to your request, the following is a list of legislative and other matters in which the Subcommittee may be involved this year:

1. water pollution legislation: 6-10 days
2. field hearings on same: 3-5 days
3. national environmental labs: 5-8 days
4. water pollution oversight: 1-2 days
5. product component regulation: 3-5 days
6. air and solid waste oversight: 2-3 days
7. Hilton Head investigation: 1-2 days
8. environmental radiation: 1-3 days  
(field hearings)
9. coast zone legislation: 1 day

Also, at this time, the Subcommittee has an immense backlog of material which requires action. In addition to 350 letters which have gone to the Muskie robo today, we have 250 letters for which draft responses have been prepared but which have not been typed, and 1350 letters which require response. This means that an additional typist is needed urgently and a better telephone system is needed to lessen the number of idiot calls presently referred. (Idiot calls are those seeking generally available

information and publications which could be handled by the person answering the phone).

There are, of course, other matters but these are at the top of the list.