MEMORANDUM

TO: Senator Edmund S. Muskie

FROM: Leon G. Billings

SUBJECT: Format for Preparation of National Water Quality Commission Report

Attached is a memorandum from Joe Moore which sets forth the process for preparation of the "Draft Staff Report" of the National Water Quality Commission. The process outlined by Joe does not comport with that which I understood to be your view or the agreement of the Commission on at least two occasions. You will note that the Commission discussed at length the extent to which the Staff Report would reflect the best judgment of the staff as to the findings of the various studies for which the Commission contracted.

This summary document, entitled "Staff Report", was to be circulated on or about September 1 to the Commission Members and was to be released prior to any conclusions or recommendations by the Commission on or about October 15.

The purpose of the 45-day delay was to provide the Members of the Commission with an adequate opportunity to familiarize themselves with the staff findings before those findings were made available to the public. The delay was not intended to provide an opportunity for Commission Members to revise the Staff Report prior to its publication.

Under the procedure outlined by Joe Moore the "Staff Report" would be subject to Commission review and comment (and assumedly modification before it became public. For practical purposes this means that each Commission Member would have an opportunity to seek modification of the staff output.

It seems to me that the final and not the draft "Staff Report", a summary of information developed from contractors, including an identification of possible alternatives, should be the basis for Commission Members' comment and input, the result of which would be a final Commission Report. A "Staff Report" which represents an unencumbered best professional judgment should be made public for comments of Federal agencies, special interests, and the public prior to issuing findings and conclusions.

The alternative is for you and other Members of Congress who serve on the Commission to compete with the technical staff at Du Pont, Rockefeller's Domestic Council, and other special interests which have access to Commission Members at the stage prior to this becoming a public document.
National Commission on Water Quality

1111 18TH STREET, N.W.
P. O. BOX 19256
WASHINGTON, D. C. 20036

April 21, 1975

MEMORANDUM TO: Assistant to the Chairman and Staff Assistants

SUBJECT: Preparation of Draft Staff Report

1. Attached is a memorandum from the Program Director outlining the process by which the draft staff report is intended to be developed. The described procedure is one that represents the Program Staff's understanding, following discussions with Assistants to Members, House and Senate Public Works Committee staffs and the discussions of the subject at Commission meetings, of a procedure that is generally acceptable to all expressed viewpoints.

2. Should you have any comments, please furnish them to me no later than the close of business on Friday, April 25, 1975. After consideration of any comments and any necessary revision, I intend to furnish a statement of the process to the Commission Members.

Attachment

F. J. CLARKE
Executive Director
MEMORANDUM TO: Executive Director
FROM: Program Director
SUBJECT: Preparation of Draft Staff Report

There is apparently some confusion and apprehension as to how the writing, reviewing and editing of the final draft staff report will proceed. To reduce part of the confusion, the ad hoc committee created by my memorandum of December 5, 1974, is hereby dissolved. To allay whatever further concerns there may be that the report is being developed in a vacuum and to clarify for the staff and Commission Members the actual process as perceived by the Program Staff, following is the strategy for the development of the staff report from its first draft to the final product.

Basically, four processes are involved: the actual writing or drafting phase, the integration or synthesizing phase, the review and revision phase, and the editing phase. All four of these have to interrelate and move forward in a pattern that will result in the final draft version of the report.

I. Drafting. Following the structure and layout of the report outline, the Program Staff will draft the report by sections. These may not be discrete chapters but will, of necessity, correspond to subject material and will progress along a general time frame commensurate with the completion of specific groups or areas of study. Thus, for example, the technology draft will precede the draft of the section on economic impact. Work will begin no later than the first of May on the drafting of the three "descriptive" components of the report (Part Two of the Outline). A detailed timetable will be developed soon for preparation of the remainder of the report. Because of the rather brief time remaining for preparation of the report, these schedules will have to be met.
The Program Staff will be responsible for initial drafting of sections of the report. For example, in the preparation of Part Two, Section III, of the Outline, Chuck Carry and his staff will be responsible for the production of a draft chapter, "The Technologies for Achieving"; Harold Allen and his staff will have the task of describing present water quality and quantity (Part Two, Section I); and Joe Crowley and staff will develop the draft product on what has and is being done institutionally to control water pollution (Part Two, Section II). Assignments for Part Three will follow the same general pattern of primary Program Staff responsibility.

II. Integration and Synthesis. To assure that the draft report has integrity and continuity, i.e., reads as one continuous document rather than several disjointed pieces by different authors covered by an "umbrella" introduction, the Deputy Program Director will have initial responsibility to assure that Program Staff drafts conform to the outline and are integrated and, where necessary, synthesized. He will also be responsible for drafting Part Three, Section IV, with assistance from the Program Coordinator and appropriate Program Staff units. Drafts of his work will be subjected to the same review process as those from other Program Staff and all drafts will be carefully reviewed by the Program Director before formal distribution to the full Commission staff and Members.

III. Review. The review process for each draft product will follow essentially the same pattern developed in the preparation and review of the contract "scopes of work." Review will comply with the following procedure and in the following progression.

A. Program Staff Preparation and Review

1. Preparation and review within the program sector of a draft section of the report.

2. Review by Program Leaders, Deputy Program Director and Program Director. (As with the scopes of work, a copy of the draft will also be provided to the Executive Director at this stage.)

3. Rewrite and revise as necessary by Program Staff.

B. Other Staff Review

1. Referral by the Program Director of an acceptable draft to the Executive Director, Assistant to the Chairman, and Staff Assistants for review and comment,
2. Rewrite and revise as necessary by the Program Staff.

3. Review by the Program Director

C. Commission Review

Referral by the Program Director to the Executive Director for transmission to Commission Members for review and comment. At the same time, referral will also be made to the National Academy of Sciences-National Academy of Engineering and The Institute of Ecology for review and comment.

2. Program Staff review of comments. (If there are substantial comments or criticisms, or if the comments reveal significant conflicts in viewpoint among the Commission Members, a special working session of the Commission and the staff may be required.)

3. Rewrite and revise as necessary by the Program Staff.

IV. Editing. As the component pieces of the draft report emerge from the above process, they will require refinement to assure a continuity of presentation and explanation, and a uniformity and clarity of prose. Otherwise, the product may appear disjointed or uninteresting. Thus, final editing will be necessary; reordering and reorganizing may be desirable; and, in some cases, rewriting may be essential. Some of these steps can proceed simultaneously with the draft review process, but much of it will have to occur as the several sections of the draft are integrated into a completed draft document.

How this editing can best be achieved will evolve as we go forward and will require a high degree of cooperation and a spirit of mutual trust on the part of all those involved in the writing and review process. Knowledge and understanding of the Commission's charge, studies and staff activities are essential to the editing process.

Comment: Staff Assistants with specific program assignments will participate in the preparation and review of Program Staff products within their particular organizational units in the same manner as other Program Staff. They should feel the same freedom to inquire about draft reports being prepared in other organizational units as do other Program Staff. No attempt will be made to restrict the availability of any Program Staff draft to the Assistant to the Chairman or Staff Assistants so long as all Commission Staff understand that
MEMORANDUM

TO: Senator Edmund S. Muskie

FROM: Leon G. Billings

SUBJECT: National Water Quality Commission Proposal to Study Effluent Taxes

May 7, 1975

One of the items on the agenda for the Thursday meeting of the National Water Quality Commission is a proposal to study the use of "effluent fees" as a means of controlling water pollution. This proposal was stimulated by two events:

1. Senator Proxmire raised a question at the recent National Water Quality Commission Appropriation Hearing as to whether the Commission was studying effluent fees; (Proxmire did not press the point when told no) and

2. A recent study by Allen Kneese with Charlie Schultze which is a re-run of Kneese's long held view that the best way to control pollution is through assigning a cost to environmental values and giving the polluter the choice of cleaning up or paying an economic price for the use of the environment as a garbage dump.

You will recall that the effluent fee issue was discussed during consideration of the 1972 Act and, in fact, you debated Senator Proxmire on this issue on the floor. You will also recall that the Committee adopted a user charge concept in recognition of that aspect of the effluent fee approach which was relevant to the 1972 Act. Also, the Committee held hearings on effluent fees as far back as 1970.

Effluent fees as a substitute for regulations in water pollution are simply not relevant. A regulatory structure has been established. Two levels of statutory regulatory requirements have been mandated and regulations have been developed. Now to re-invent the wheel in the form of an effluent fee related regulatory program will simply mean more delay. While I have no objections to studying anything, I think this point should be emphasized.

Also, it is fair to say that a study of effluent fees has nothing to do with the "implications of achieving or not achieving the requirements of the 1972 Act". What the Congress needs to know in as clear and concise fashion as possible (and sought from the Commission) are the economic, social, technological and environmental implications of achieving or not achieving the 1983 regulatory
requirements of P.L. 92-500. From an objective analysis of those implications the Congress should be able to draw certain conclusions and make legislative recommendations. I find it very difficult to believe that an effluent fee analysis as a substitute for regulations is going to contribute to that consideration.

I recommend you suggest that, if the Commission feels the study of effluent fees be undertaken, that such a study be on the utilization of various alternative penalty formulas to insure compliance with the requirements of the Act. The State of Connecticut, for example, has adopted an effluent and emission penalty program which requires individual polluters not in compliance with time-tables and limits to pay a penalty equivalent to the monthly cost of compliance. While seemingly complex, such penalty does eliminate discrimination between non-compliers and compliers and provides a healthy incentive to get in compliance as quickly as possible. Also it is related to the cost of control plus the cost of debt service and operation and maintenance.

A penalty scheme against a pre-existing regulatory requirement as set forth in a permit (as in the existing 1972 Act) might be a useful enforcement tool. It could be implemented with existing Agency resources. I intend to propose a scheme like this to you for enforcement of Clean Air Act emission limits after deadlines.

This kind of study would be a relevant and viable alternative to yet another study of effluent fees. It probably could be done in an ancillary fashion to the Commission report in the time remaining with the money available and would not be duplicative of the numerous Knese reports which already exist. I would underscore the fact that it is not likely that any new information on effluent taxes will be generated by a study which costs $50,000 and takes something less than six months. Certainly the NAS is the best organization to do the job.
MEMORANDUM

TO: The Record

FROM: Leon G. Billings

September 2, 1975

I am troubled by the emphasis the National Water Quality Commission is placing on the so-called interim water quality goal as a justification for abandoning or at least backing off from the regulations and deadlines which require control of the discharge of pollutants.

The so-called interim water quality goal was secondary to the structure and intent of the 1972 Act. It was intended as a backup test to measure whether "best available technology" (the 1983 regulatory requirement) would yield a quality of water which would support and protect fish, shellfish, wildlife and recreation land, a standard less demanding than biological integrity achievement.

The interim water quality standard was to be a measure of the performance of the program, particularly in those complex industrial waterways in which the water quality is seriously impaired by municipal and industrial activity. It was never intended to be a means to compromise the uniformity, finality and enforceability of a technology-based effluent control program.

To date and to the best of my knowledge, no criteria has been established which identifies the levels of quality required to assure the propagation and protection of fish, shellfish and wildlife or recreation in and on the water. In the absence of a water quality criteria which addresses the myriad of water quality parameters which impact on fish, wildlife and recreation it is impossible to assert whether or not the interim water quality standard will be achieved or not achieved by any degree of effluent control.

Even if the criteria exists, asserting that the interim water quality standard is a base for relaxing effluent limits would place the burden of proof on water quality rather than to rely on the application of technology and then measure the performance of that application against whatever the criteria of quality happens to be.

To argue that water quality standards will eliminate the inequities of the technologically based program to Congress authorized is perverse. The Congress required the application of secondary treatment and its
equivalent for industry (best practicable technology) by 1977 and the application of best available technology by 1983. The law provided that after best available technology had been applied the results of that application should be evaluated in terms of the national interim water quality standard. If the result of that evaluation was to indicate the need for additional effluent reduction (more than best available technology) to achieve the interim standard such added control could only be imposed after a very careful balancing of social and economic environmental benefits and costs.

To assert that because the "Interim" water quality standard will be achieved except in areas of complex industrial and municipal activity and therefore the program has accomplished its objectives, is to argue that we should not have enacted the 1972 Act in the first place because some waterways already had or would soon achieve a quality of water which protects fish and wildlife.

It is important to note also that emphasis on the interim standard appears to be in place of consideration of the basic ecological standard which the Act established as a long range goal. The goal of biological integrity is being ignored while its counterpart goal, elimination of discharge, is receiving major attention. The result is that no effort will be made to determine whether or not biological integrity ought to be achieved by the levels of control required by the law.

Let me make another point. There is a tendency to assume that somehow the States can do a better job in implementing water quality requirements than the Federal government. At the time the 1972 Act was written, there was little evidence to indicate that the states were aggressively pursuing the programs established under the 1965 Act or even under state water pollution control law. The process of water quality improvement was one of negotiation and delay. If deadlines got in the way, variances were granted. If the quality to be protected was too high to permit an industry to continue to discharge inadequately treated water, standards were downgraded. Deadlines were meaningless because there was no enforcement.

That situation has changed very little. It hasn't changed because the Environmental Protection Agency is for all practical purposes making the same compromises in permits that the states were making prior to the enactment of the 1972 law. The absence of effluent guidelines has resulted in negotiation of individual permits. Enforcement has not commenced. The only pressure is the deadline in the law.

The Ketchikan Pulp and Paper Plant problem is a prime example of EPA's failure. The company agreed, during a period of profit and strong economic activity, to a high standard of control which was reasonably related to that which other pulp and paper plants in the country were required to achieve. When the market changed, the company protested. When the company protested the EPA regional office relaxed the standard. But the company's wasn't satisfied with the degree of relaxation and they have continued to appeal to EPA for further relaxation and probably will get it. This is
not the result of the law but the fact that the effluent guidelines are
under litigation, have not been finalized and the permits for the first
round of compliance of the Act have been based on negotiation, not guide-
lines.

In other words, the program to date is in many cases merely an
extension of the 1965 Act. The question of the extent to which the states
would do better now, reviewing in 1971 and 1972 is really not a question
for the Commission to address. The 1972 Act provided a mechanism for
the States to run the permit program against the backdrop of national
effluent guidelines uniformly applied.

EPA has even authorized at least one state to manage the construction
grant program -- an administrative judgment which is being practiced in
California with a good degree of success. The only legislative question
is whether there should be a special means to fund state management of
the construction grant program.

It is certainly no more true now than it was three years ago that
all states have similar capacities to manage all programs. Some states
simply do not have the capacity to manage the permit program for either
political, economic or other reasons. Some states do not have the capacity
to manage the construction grant program. To assert that they do and
mandate that the construction grant program be turned over to the states
would be a very risky means to distribute very large sums of Federal funds.

As to the red tape argument, I am less than convinced of its
validity. The water pollution control program is an extremely large
program. It has become the nation's largest public works program and
yet it has fewer than 800 people involved in grants management (compare
this to the 5000 people who are running the Federal aid highway program
which is a smaller program today and which has most of the responsibility
vested in state highway departments).

Many aspects of the water pollution program are new. Only recently
have major sums been made available to fund the grant program and only
recently has the scope of Federal regulation been expanded to provide a
means of addressing the pollution problem of myriad of the nation's industries.
Thus the absence of personnel, the degree of specificity of the Federal
Water Pollution Control Act, the scope of the regulatory responsibility of
the Environmental Protection Agency and the need to protect and wisely
invest huge sums of Federal money necessarily stimulates regulations.

And most of the criticism of "red tape" is directed at those
regulations which require the performance of functions related either
to the application for permits or the distribution of dollars. While
there are justifiable criticisms which can be directed at those regulations
because of their length and scope, their purpose, which is to protect the
Federal dollar and assure achievement of the objectives of the Act, is
defensible.
If the fault in this area lies anywhere it may be with Congress and the Office of Management and Budget because we simply did not give the Agency enough time to shift from one program to the other. We underestimated the "interstitial forces" and the Office of Management and Budget and the Appropriations Committees have not made sufficient personnel and funding available.

Russell Train noted at hearings on the construction grant program that the effort to distribute money at the rate which Congress anticipated is undoubtedly going to lead to maldistribution, mistakes and waste. He was willing to take the risks, but he wanted Congress to be aware of the potential for problems. The fact that construction grant programs have been somewhat delayed by the development of regulations to manage distribution of the monies should be viewed as a way of reducing the risks as well as from the point of view of slowing down the program.

Let me comment only briefly on the question of equity. There is no equity in the water pollution program and there has never been. The 1972 Act really intended to create equity in terms of the Phase II -- best available technology requirements -- because Phase I was to be a completion of the tasks underway at the time the Act was written. To argue that B.A.T. can be done away with and that the national water quality standard ought to be the enforcement base is to grossly overemphasize the inequities and place a far greater burden on older industries and older communities in more developed areas and a lesser burden on newer industries in newer areas because it almost goes without saying that old industries in old areas are working on waterways with more serious water pollution problems and therefore will have to achieve a much higher degree of control whereas new industries in new areas will be able to get by with a considerably lower investment and still achieve the interim standard.

Best available technology and new source performance standards taken together provide the means to eliminate the inequities imposed by the clean up process. After all best available technology takes into account the age of the plant whereas water quality standards do not. While it is true that a state might choose to require a plant to go beyond the level of control which results from best available technology as applied to a particular plant (in order to achieve a specific water quality goal), that is not required by the Federal law without the balancing judgment referred to above. Except as provided in Sec. 302 more restrictive control would be a decision made against the backdrop of political considerations in the state.

Except under these limited circumstances, all polluters were intended to be required to achieve effluent limitations set forth in a permit based on an economic and technical analysis of plants in the class or category to which that industry belongs, by dates certain, thus assuring enforceability, uniformity, and finality.

Any further judgments about the requirements to be imposed on that facility would be made in the political context. It goes without saying that if best practicable for cities can in some instances only be secondary
treatment (the 1977 requirement) then there is no question but that best available for some industries may not be beyond best practicable, especially considering the fact that there is an opportunity for an old plant to seek a waiver from best available technology (note section 301(c)).
September 3, 1975

MEMORANDUM

TO: Senator Edmund S. Muskie

FROM: Leon G. Billings and John Freshman

SUBJECT: Preamble for National Commission on Water Quality Report

We have reviewed the Rockefeller draft of a preamble for the National Commission on Water Quality report and have serious reservations about it from both a procedural and a substantive point of view.

The draft creates procedural problems because it draws specific conclusions prior to having the basic documents to justify them. It creates substantive problems because those conclusions ignore the thrust of the 1972 Act and are inconsistent with the Commission's preliminary findings. The major substantive problems are:

-- it rejects a basic purpose of the 1972 Act with the statement "we question that national standards and detailed regulations uniformly applied is the best way to get the most clean-up done the fastest."

-- it recommends that the program be turned over to the states without raising the difficult questions of inequity capability or willingness to control water pollution throughout the fifty states.

-- it recommends repeal of the point-source regulatory 1983 requirements because "it now appears that achievement of the 1977 standard by both industry and municipalities will substantially bring the nation to the interim (1983) goal of the Act (the interim water quality goal). This is wholly unsupportable by any evidence available to anyone for reasons which are spelled out in attachment (a).

-- it contains unsupportable estimates of municipal costs.

-- it does not discuss the purpose or intent of the 1972 Act, notwithstanding the near unanimous support of both Houses of Congress.

-- accordingly, there is no mention of the benefits that have or will accrue from the Act's implementation.
A preamble ought to be a discussion of the Commission's charge, the framework of the study and the structure of the report. It could (but does not have to) be a backscratching exercise. The preamble ought not be an attempt to resolve all the differences which may find their way into the final Commission document, or be an attempt to state any one particular position. The draft Commission report is going to be the subject of public hearings and comment.

It is premature, at best, to articulate specific conclusions of the Commission in a preamble of a draft report prior to hearings and public comment. (It is important to remember that while private industry and special interest groups are represented on the Commission, the only "public members" are Members of Congress and the public has had very little opportunity for input into the Commission report.)

We believe that you can avoid a confrontation on substantive problems with the conclusions proposed in the draft preamble by raising the procedural issue. Conversely if it is important to reach tentative conclusions, we have redrafted the preamble. It is a document with which you and the Senate members can live, still attempting to retain as much of the Rockefeller/Baker draft as possible. (While the first three pages are a Rockefeller/Baker draft, the last five are exclusively Rockefeller's; he had the recommendations drafted and has reviewed and approved them.)

Attachments:

a. Rockefeller Draft Preamble
b. Memo from John Freshman to Leon on meeting with Henry Diamond
c. Memorandum for Record from Leon on interim water quality goals
SUBSTANTIVE COMMISSION ISSUES

1. Is there any new evidence to indicate that the program should now abandon the 1983 uniform technology based standards, based upon practicability and economic achievability, and return to a negotiated one-case-by-case approach based upon water quality standards? Do the Commission's studies indicate that the 1983 requirements should be delayed?

2. Are the 1977 technology-based standards as implemented adequate to achieve the 1983 interim water quality goal? (Do we know what the 1983 standard requires in terms of water quality?) Is enough known about the relationship between the requirements and the interim goal to make an informed judgment?

3. Is there any evidence that the apparent fact that publicly owned treatment works will not achieve the 1977 requirement of secondary treatment requires a shift in the 1983 municipal requirement?

4. Since the industrial program appears to be on track, do any changes need to be made in the requirements for either 1977 or 1983? Do these requirements have a significant economic impact?

5. Does the Act place too great a burden on the institutional system, at all levels of government? If so, how can the Congress respond at this stage of implementation?

6. Since the benefits appear to justify the costs, is that sufficient reason to continue the clean-up program?

7. Is there any new evidence to demonstrate that the states could do a better job with the implementation of the program? Should more of it be returned to the states?

8. Is there a need for a non-point source regulatory program? How should the program be developed?

9. Do the Commission studies evidence a reason to make any changes in the goal "to eliminate the discharge of pollutants?"
PREAMBLE

The National Commission on Water Quality finds that the Federal Water Pollution Control Act Amendments of 1972 are an ambitious, important and bold initiative to improve the quality of the nation's waters.

The Commission believes strongly that the objectives as defined in the Act should be maintained.

At the time the bill was before the Congress, Congress recognized that this legislation was a venture into an area with many unknown factors. It knew that, although it was necessary to move forward without delay, some of the important economic, social and environmental impacts and ramifications would require examination.

At the same time Congress recognized:

-- Many of the Nation's navigable waters are severely polluted, and major waterways near the industrial and urban areas are aging rapidly under the impact of increased pollution;

-- Rivers, lakes, and streams are being used to dispose of man's wastes rather than to support man's life and health;

-- Rivers are the primary sources of pollution of coastal waters and the oceans, and many lakes and confined waterways are aging rapidly under the impact of increased pollution; and

-- The use of any river, lake, stream or ocean as a waste treatment system is unacceptable.

Therefore, the Congress set forth objectives, requirements and deadlines including the objective of restoring and maintaining the chemical, physical and biological integrity of the Nation's waters. In order to achieve that objective Congress declared:
"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

"(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

"(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans."

Also, the Congress authorized the creation of the National Commission on Water Quality to make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1983 in this Act.

The Commission's members and its staff have carried out an intensive two-year study involving (statistics). In addition to the study, the Commission has received input from the public, private industry, state and local governments, and Federal officials who have been involved in implementation of the requirements of the law.

Surveying the result of this effort, the Commission finds that the Federal Water Pollution Control Act Amendments of 1972 is a major milestone in environmental law. Its goals and objectives are defensible. Its requirements are justifiable.

However, the program is behind the schedule the Congress set. The most important cause of delay was President Nacion's impoundment of $9 billion
Federal municipal sewage treatment grant funds. The impoundment which was declared illegal by the Supreme Court on February 18, 1975, may have delayed the municipal program by as much as three years.

Equally important has been the failure of certain segments of industry in some states to gear up to meet the 1977 deadlines.

Other factors which have contributed to the delay include the complexity of the law and bureaucratic inertia. The timetable for promulgation of requirements required by the Act and agreed to at the time by EPA simply proved to be too tight.

For example, EPA stopped ongoing effluent guideline efforts and started anew, setting back the implementation of Phase I by at least 12-18 months.

Also, EPA decided to develop an entirely new set of construction grant requirements effective March 1, 1973, the effect of which was to confuse and delay ongoing planning efforts.

But, EPA has on the whole been bold and imaginative in attempting to carry out the complex, landmark law. EPA has performed admirably with inadequate staff and too few dollars, not to mention political interferences from the Office of Management and Budget in regulating decisions.

Funding impoundments, regulatory delays and industrial foot-dragging may result in Phase I not being completed in the time required by the law—a deadline set based on the deadlines which existed in approved state water quality standards.

We are able to confirm the conclusion of the Congress regarding the limitation of a program based on water quality standards. There is a major knowledge shortage. We simply do not know enough. There is not sufficient data to tell us how dirty the water was and how it is improving. The measur-
ing and analytical techniques are not good enough in many instances to confirm the value of incremental water quality improvements.

The Congress foresaw in creating the Commission that an Act with ambitious goals, far-reaching programs and complicated implementation machinery could need adjustment. The Commission, therefore, examined not only the implications of Phase II of the Act but also the program and problems associated with completion of Phase I requirements which the Congress intended to be the requirements which existed prior to enactment of the 1972 law and which had been adopted by the states and approved by EPA under the 1985 water quality standard program.

(Describe the study)
FACT SHEET ON THE RECOMMENDATIONS OF THE COMMISSION ON WATER QUALITY

There were 13 members who felt the need to write individual views on the Commission's recommendations. Notwithstanding the fact that the Chairman portrayed these recommendations as a consensus, his cover letter which was put in front of the report and which was not reviewed by any members of the Commission, said the following:

"This report represents the best thinking of a national group of legislators and citizens concern for the quality of our nation's water."

The recommendations themselves were written in thirty-four pages but it took over fifty more pages to conclude the individual views.

Some excerpts from the individual views follow.

1. Chairman Rockefeller

"The data on which the Commission's recommendations were based from both the staff and the public, are so comprehensive that arguments can be found for any position. But the Commission and its staff came to their conclusions on the basis of valued judgements."

2. Vice Chairman Muskie

"I cannot underestimate my disappointment in these recommendations. They are a disservice to an otherwise excellent analysis of the implications of the 1983 goals and requirements. While I have chosen to dissociate myself from the recommendations, I am satisfied that the Congress, EPA and the public will find much of value in the staff report."
3. **Vice Chairman Jones**

"The difficulties that still bar our way toward achievement of that goal are many /The 1983 goal/ and all but insurmountable; the problems and suggested solutions are detailed in the Commission report. But the 1972 Act in whose development I am proud to have played a part will be recorded as one of the greatest environmental decisions of our time. With its enactment, we were at last mobilized in moving to save our waters. And not a moment too soon."

4. **Commissioner Gianelli**

"It would seem obvious that Congress itself could not attempt to amend the act in the detail necessary to make it more workable and still accomplish its very important goals."

5. **Commissioner Kudukis**

"We need flexibility but flexibility should not be misinterpreted as a waiver of the law. I recommend that while exceptions should be permitted on a case by case basis it must be limited only to those cases where the discharger has legitimate cause for delay. That stipulation should be made more specific in the present recommendations."

6. **Commissioner Davies**

"Recommendation IV(a) and discussion .... seem to be contradictory."

7. **Senator Randolph**

"Evidence presented in the report does not support broad modifications or waivers from the 1977 requirements." And "the Commission recommendations in effect would make the 1983 goal of control mechanism for further treatment beyond the 1977 requirements."
Levels of abatement must be measured against goal. Neither EPA nor the Commission has developed a list of criteria for or definitions of that goal."

8. **Senator Randolph**

Commission analysis or progress toward that goal was based almost exclusively on standard pollutant measurements such as BOD and DO." And "while I concur with the Commission recommendation to maintain the 1983 requirements but delay the compliance date I do not believe the delay should be so prolonged."

9. **Senator Baker**

"As to recommendation #1, I doubt that the Commission should recommend modification to or exemption from the 1977 standards. It is probably indicated then that future commission's ought not to have Congressional Members." And "in general I feel that the language of the recommendations taken as a whole are more exact and specific and more the nature of legislative undertakings than section 315 of the 1972 Act contemplated."

10. **Congressman Johnson**

"It is up to the Congress now to evaluate the work of the Commission and determine whether or not the flexibility recommended by the Commission should be incorporated into a National Water Pollution Control Program."

11. **Congressman Harsha**

"For the portion of the recommendation dealing with extensions I would simply say that it strikes me as being overly broad..."