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September 3, 1974

M E M O R A N D U M

TO : Leon G. Billings
FROM : Karl Braithwaite
SUBJECT: Draft Solid Waste Legislation

Procedures:

Nothing has been settled about the first meeting of the Members -- whether it will be Panel, Subcommittee or Full Committee. All options are still open. I talked to Barry about this and told him that Senator Muskie had indicated that he felt a responsibility for this subject matter, and that he might want the Subcommittee to have the main role.

After our meeting Thursday, Dick Grundy and Peggy Workman were to do a memo to the Chairman outlining the consensus or majority opinion the staff has reached regarding the contents of the bill. That memo is to go to Barry sometime today. I have some apprehension about the kind of agreement that will be outlined. In the past agreements reached by the staff have been ignored. Instead items have been placed in the working papers that have been rejected previously by the group.

What clearly ought to go to Randolph is a discussion of the provisions around which a strong consensus exist, then a discussion of provisions supported by a majority, followed by a discussion of the minority positions held by various members. This will allow the Chairman to know where things really stand. Instead, there is a chance that the memo will tell him what he might like to hear -- that an agreement has been reached containing all the things he wants. No such agreement has been reached.

As I understand it, the purpose of the memo is to give the Chairman a basis for his ~~decision~~ regarding the future of the legislation. He will then decide whether to move forward and try to carry the bill through, or give up for this fall.

You should focus on (1) the state-local-regional arrangement and the 208 similarity, (2) whether we have pushed enough on source reduction, and (3) whether we have given too much discretion to EPA in standard setting.

State, Local and Regional Roles

The arrangement is even softer and more flexible than 1965 Water Act. A modified regional planning process somewhat similar to the 208 process would be required at a future date. (Probably in 18 months) But in the meantime, localities and states could come in for implementation grants as long as their activities were consistent with EPA guidelines (to be published six months after enactment) and any existing state or regional plans.

In many cases, this would be an incentive to the local government to go ahead and get its money before regional planning processes were established that might constrain them. The other choice is to hold up all money until regional planning processes were in place, and that was rejected because the "carrot" in this act seemed to be too small to justify this. At no time will a master plan or regional plan have to be adopted. A planning process will have to be in effect and the actions taken under that process which are funded by implementation grants will have to be consistent with existing standards.

These standards will be upgraded by a series of regulations to be promulgated by EPA on a timetable specified in the Act. These would be standards regarding land fill disposal (based on studies EPA is now conducting), resource recovery systems, and the like.

States would bear the enforcement responsibility and would receive money for that, general program support, and technical assistance.

EPA would be instructed to give priority to regional approaches throughout the bill.

Standards

Mandatory Federal standards would close dumps, ban open burning, and regulate the disposal of hazardous materials. Beyond that, standards promulgated by EPA would simply be conditions required for the receipt of funds, and if a state or locality chose not to comply, they simply would not receive funds.

Hazardous materials would be controlled from the point of which a manufacturer or owner of the material determine that it is to be disposed of, even if that disposal occurs on his own property. In other words, we are not invading his plant, but merely regulating from the point he begins to dispose of the material until actual disposal is completed. A permit would be required of both the disposer and the facility receiving the material.

Materials deemed hazardous under the air and water Act would go immediately on the list of substances to be considered for regulations under this Act. But a narrow definition of hazardous waste will be drawn, with the hopes that EPA would then be able actually to move ahead (unlike air and water).

There will be a specific provision allowing Federal action for imminent hazards similar to the air and water acts.

Source Reduction

We agreed to give EPA discretionary authority to regulate the presence of materials in products which interfere with recycling or reuse. For design factors, a grandfather clause would be included. EPA's power would only be to deal with perspective design problems, and its authority would go beyond a simple public health protection and would involve environmental considerations. There were discussions about making the regulatory authority more specific and focusing it on one-way bottles and bi-metal cans, but no resolution of this was agreed to.

An interagency study focusing on materials policy in resource conservation was agreed to. A majority feels that EPA ought to have a dominant role, but agreement was reached to present the members with these alternatives: (1) The Presidential Study Commission, (2) an interagency study with EPA as lead agency and (3) a study chaired by EPA with specific seats designated in the Act. This idea comes from Barry as an attempt to get labor factors considered in source reduction activities.

After the study, EPA would be required to publish model state regulations for product and design standards.

Preemption of Source Reduction

The ban on the ban has surfaced again. This would be a preemption on any state and local action that might have an adverse affect on the economic viability of the community. It was agreed that there could be no agreement in this area.

Procurement

We have agreed to the policy of regulating procurement of specified items where known impact has been established. This means that EPA will publish regulations requiring government agencies to purchase recycled paper, tires, oil and some construction materials. EPA will study the rest, and do regulations if substantial impact is predicted. A cumbersome review process will be drafted which will allow agencies to get out from under the requirements if they can make it through the process. A citizen suit provision covering the whole act will help enforce this provision. There is a strong majority position for this, but Richard Grundy prefers a softer, more general approach.

We have rejected the idea of paying a government premium price for recycled materials and creating a Federal stockpile from them.

Capital Assistance

We have agreed to a loan guarantee program. These would be immediately available for communities that qualify with EPA's initial guidelines. These guidelines would be toughened up as further studies are done and as regulations required by the Act are promulgated over the next two or three years. I have suggested that after a certain time, loan guarantee should be conditioned upon the locality considering alternatives dealing with source reduction prior to receiving such funds, along with a requirement banning the New Orleans contract (which precludes source reduction activities). This has not been agreed to.

General Provisions

Money for public participation (similar to workshops under the water act), a citizen suit provision, Federal enforcement under hazardous, employee protection (similar to the water act), a study of agriculture and mining waste, and a land acquisition study have all been agreed to.

Small Community Assistance

It has been agreed that the members should discuss the possibility of providing some kind of assistance to small communities who are hit by the Federal requirement closing open dumps. No proposal to crystalize this issue had been agreed to. Some suggestions have been made to channel this money through the Farmer's Home Administration.

Do we want to save this for a Muskie amendment?

Funding

We have agreed to three general categories of money. The first could be front end seed money for projects: specification, land acquisition analysis, hiring of consultants, etc. This is not capital expenditure money and is not for hardware. The second category would be for state program money, enforcement, and technical assistance. A third pot of money would be the capital assistance loan guarantee money.

A user fee concept would be required.

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*File: Solid Waste
Legislation*

United States Senate

COMMITTEE ON PUBLIC WORKS
WASHINGTON, D.C. 20510

June 12, 1973

MEMORANDUM

TO : Senator Edmund S. Muskie
FROM : Leon Billings and Don Alexander
SUBJECT: Solid Waste Development

In the past couple of weeks several developments have occurred relating to solid waste management.

1. Senator Hart introduced his bill which is an attempt to establish a comprehensive regulatory program for solid waste through disposal charges, regulation of materials and the establishment of an environmental fund to be re-distributed to states and localities to use for environmental purposes. (You have a letter from Senator Hart on this subject in your solid waste material.)
2. The bill was referred solely to the Commerce Committee though it affects matters within the jurisdiction of the Subcommittee on Air and Water Pollution, both as this jurisdiction relates to solid waste and as the environmental fund may be used to support other projects relating to air and water pollution or noise.
3. The National League of Cities and U.S. Conference of Mayors have issued a major report on solid waste urging Federal action along the lines of your draft legislation but with greater emphasis on subsidies for improvement of municipal resource management systems.

FROM : Leon Billings and Don Alexander

SUBJECT: Solid Waste Legislation

The attached article from Newsweek discusses a recent report of the U.S. Geological Survey detailing the serious depletion of U.S. mineral resources. This report is only the latest of many competent studies published recently on the matter, including three studies which the Library of Congress has prepared specifically for the Subcommittee on Air and Water Pollution.

We are informed that the Senate Interior Committee is planning some action soon on Resource Conservation-National Materials Policy matters. Their jurisdictional base will be the overall public lands - mineral resource responsibility which authorizes U.S. Geological Survey. We recommend introduction of the prepared solid waste legislation to reassert the Subcommittee's jurisdiction and maintain the leadership position in this policy area.

antitrust investigation. The Federal Trade Commission indicated it might scrutinize the situation, too. The oil companies, of course, denied the allegations. The independents are simply greedy, huffed one executive.

Still, an increasing number of independent-service-station owners claim they're being driven out of business. "I've had to close almost half my pumps and raise my prices," complained a Los Angeles dealer whose gas allocation was cut by a third to 105,000 gallons a month. "I don't know how long I can keep going this way." Another added: "Unless I can affiliate with a major company, I don't know how I can last."

It's doubtful whether the Administration's plan will do much to help. In fact, it's doubtful whether any plan, short of

all key minerals. These are the materials that Interior Secretary Rogers C.B. Morton calls "the physical source of most of the necessities, conveniences and comforts of life in the U.S. today."

The U.S. already has run out of its own chromium and manganese, which is vital to the manufacture of steel; it has to import at least half its requirements of aluminum, nickel, tin and zinc as well. In fact, the Geological Survey said, the U.S. is in "excellent shape" in only a handful of the 60 minerals it studied: in good supply are gypsum, sulfur, molybdenum and evaporated salt.

The remedies the agency proposed were similar to those offered recently for the energy crisis: new technology to locate new supplies and economically extract known low-grade resources; more

says. "I have no great faith in estimated reserves, and I have less faith in mineral-reserves projections than I do in oil-reserves projections. As a nation, we have technology that man has never dreamed of before. We'll put it to work."

Using Them Again

As government officials and environmentalists search for ways to cut the drain on the nation's natural resources, their thoughts turn increasingly to recycling. Every year, Americans generate 200 million tons of trash, and much of it could be reclaimed and used in new products. Efforts to reuse materials are enjoying some modest increases—but there is still a long way to go.

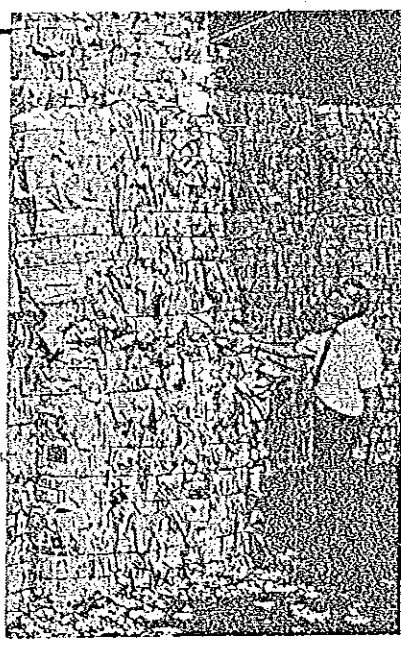
In the past, less than 10 per cent of the

RESOURCES

Growing demand is depleting known reserves of some key U.S. minerals.

| | RESERVES | WILL LAST |
|-----------|----------------------|-------------|
| COAL | 1.5 trillion tons | 2,500 years |
| OIL & GAS | 36.3 billion barrels | 6.1 years |
| IRON | 9 billion tons | 72 years |
| COPPER | 76 million tons | 38 years |
| ZINC | 49.5 million tons | 28 years |
| LEAD | 38 million tons | 27 years |
| BAUXITE | 40 million tons | 2.2 years |
| MANGANESE | none | — |

Source: U. S. Geological Survey



Scrap paper: A new leaf

RECYCLING

Reusing materials saves vital resources — but more can be done.

| | SCRAPPED ANNUALLY Millions of Tons | RECYCLED ANNUALLY Millions of Tons | PER CENT |
|----------|---------------------------------------|---------------------------------------|----------|
| COPPER | 2.5 | 1.5 | 61% |
| ALUMINUM | 2.2 | 1.0 | 48% |
| LEAD | 1.4 | 0.6 | 42% |
| NICKEL | 0.1 | 0.04 | 40% |
| STEEL | 141.0 | 36.7 | 26% |
| PAPER | 46.8 | 11.4 | 19% |
| TEXTILES | 4.7 | 0.8 | 17% |
| ZINC | 1.3 | 0.2 | 14% |

Source: National Association of Secondary Material Industries

Feng & Freyer

outright rationing, can alleviate the inequities caused by the shortage. One oilman suggested that petroleum price ceilings be lifted. Rising prices would then cut demand and stimulate increased supplies. But, he conceded, "that would be politically impractical." What else, then? "Damned if I know," he laughed. "Punt."

RESOURCES: Using Them Up

Just when Americans were beginning to adjust to the fact that the nation's supplies of fuel are uncomfortably limited, the U.S. Geological Survey passed the disturbing word last week that the country may be headed for severe shortages of other vitally needed minerals as well. In its first look since 1952 at America's raw-material wealth, the agency said that rapid industrial growth has seriously depleted proven reserves of nearly

recycling (following story) and conservation; and more imports. Putting theory into practice is almost certain to touch off further battles between conservationists and industrialists and may intensify America's reliance on other nations for key resources. "Interdependence among nations is commonly viewed in terms of dependence of poor countries on rich ones," says economist Lester Brown of the Overseas Development Council. "But with minerals, dependence of rich countries on poor ones is far greater—and increasing year by year."

The report claims that mineral shortages eventually could threaten not only U.S. affluence but also civilization as it is now known. But not everyone is convinced that the outlook is that bleak. John Whitaker, Under Secretary of Interior, for one, isn't convinced that the nation is actually running out of fuel and minerals. "For God's sake, the Mesabi Range ran out of iron ore 50 years ago and then taconite was discovered," he

200 million tires tossed away annually were ever recycled, and then only into a small number of items such as door mats, hoses or battery cases. Now, several cities take rubber from castoff tires, mix it with hot asphalt and use it to surface highways—producing roads more durable, smoother and cheaper to maintain.

This success story is repeated in some other areas. More than 40 per cent of the metal in copper, lead and stainless-steel products is recycled materials. The amount of reclaimed glass has also increased; bottle makers now use up to 50 per cent recycled glass in their wares vs. 10 to 30 per cent a few years ago. Even plastic, which until recently resisted recycling attempts because of the difficulty and expense of retrieving it, is being recycled in small amounts. Firms like Ortho-Tech, Inc., are using the recovered plastic to produce dumbbells, wine racks and containers.

Far more could be done, but simple economics still favor the use of "virgin."

February 5, 1973

MEMORANDUM

TO : Senator Edmund S. Muskie

FROM : Leon Billings and Don Alexander

SUBJECT: Meeting with the Brewers

The Brewers have major objections to the draft solid waste bill which has been circulated. We believe these objections focus on two points:

1. Paragraph 2, section 110(a) which bans the sale of Federal property of beverages in non-reusable or non-recyclable containers. They also object to the interpretation of this in the section-by-section analysis which refers to banning the sale of beverages in "throw-away" containers.

2. The provisions of section 111 which would require that all packaging be reusable or recyclable. Their objections here relate to the impact on both beverage containers and related packaging practices such as the plastic holders on six packs which this section could ban.

We expect they may also have procedural objections to other sections, however, we are not aware of what their specific objections are because they cancelled a meeting which they had scheduled with us on January 24, to discuss the draft bill.

The following points are useful for the discussion with them:

1. The impact of the sections to which they object is to require that beverages either be sold in reusable containers or that a system be developed to assure the return and recycling of containers which cannot be reused. The Coors Brewing Company has established and supported a system for recycling of aluminum cans which has achieved a return rate of nearly 50% in some states and 66% in New Mexico. Thus, creation of a system to assure a high percentage of return of cans is possible and is in existence. It is our understanding that this return rate is achieved almost entirely outside the municipal trash collection system. The percentage rate would probably be much higher with a Federally mandated system.

2.

2. The Brewers can be expected to argue that while beer cans are a highly visible element of the solid waste problem, they do not constitute that significant a portion of municipal waste or the solid waste problem. This is true but the same argument can be made to exempt most industries from this or other environmental regulatory legislation. In this connection you might point out:

(a) Beer and soft drink cans are a significant litter problem. The City of New York has estimated that collection of each can thrown away as litter costs the city thirty cents.

(b) The concerns which your bill addresses go well beyond the "environmental" problem relating to solid waste and address such matters as; the outright waste of non-renewable resources caused by present practices; the dwindling supplies of domestic resources (all agree that aluminum is in short supply domestically. Many argue that iron ore which can be easily mined is also in short supply); the balance of payments problems which this short domestic supply is creating and the national security problem which it may create in the future; and the ease with which balance of payments and national security problems could be avoided or limited with more responsible recycling practices.