The original documents are located in Box C41, folder "Presidential Handwriting, 5/25/1976" of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

May 25, 1976

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM F. GOROG WFG

SUBJECT: Clean Air Act Amendments

BACKGROUND

In your decision paper concerning the Clean Air Act Amendments, you indicated that you wished to have a meeting with Senator Baker and other minority members opposing his views prior to making your decisions on the issues involved. Subsequently, you made your decisions on the issues. There is a slight conflict, which this memorandum is intended to reslove.

Senator Baker is scheduled to meet with you on Thursday, May 27 at 2:30 p.m. This meeting concerns Clean Air, and was set prior to your actions in the decision memorandum on that subject.

The issues to be resolved include 1) whether you want to meet with Baker alone, with a minority group representing all viewpoints, with both parties in separate meetings, or with no Senatorial contingent; 2) if you meet with Baker or any group, should you advise them of your decisions, or confer and announce your decisions later.

OPTIONS

ISSUE I - Who should you meet with?

Option A - Meet with Senator Baker alone.

Option B - Meet with a minority group representing all viewpoints.

Option C - Meet with both parties in separate meetings.

Option D - Meet with no Senatorial contingent.

RECOMMENDATION

Option A - That you meet with Senator Baker alone (Gorog recommendation)

DECISION

Option A _____

Option B _____

Option C _____

Option D _____

ISSUE II - If you meet with anyone, should you advise of your decision at the meeting or delay such an announcement until a later time.

Option A - Advise of your decisions.

Option B - Listen and delay your decisions announcement until later.

RECOMMENDATION

Option A - Advise of your decisions at meeting (Gorog recommendation)

DECISION

Option A _____

Option B _____

PRIORITY
PRECEDENCE

UNCLAS
CLASSIFICATION

FROM: JAMES CONNOR

TO: DICK CHENEY
(WALNUT CREEK)

INFO:

RELEASED BY:

FOR COMMCENTER USE ONLY

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THE WHITE HOUSE

WASHINGTON

May 21, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: WILLIAM F. GOROG

FROM: JAMES E. CONNOR JEC

SUBJECT: Clean Air Amendments

The President reviewed your memorandum of May 11, 1976 on the above subject and approved the following:

Issue #1 - Should you meet with Senate Minority Members to discuss these issues prior to making your decisions?

Option B - Meet with Minority group representative of various positions before making your decisions.

Issue #2 - How should the Administration confront the auto emissions problem?

Option B - Shift to backing of the Dingell Amendment.

Issue #3 - How should the Administration confront the question of significant deterioration?

Option A - Adhere to the Administration's original position that the Clean Air Act should be amended by deleting the significant deterioration provision.

The further option of flexibility to move to B or C.was approved.

Issue #4 - How should the Administration deal with the Production Line Test/Selective Enforcement Audit provisions?

Option A - Delete production line test provisions by amendment, and instruct EPA not to authorize Selective Enforcement Audits.

Issue #5 - How should the Administration deal with Transportation Control Planning Agency (TCPA) provisions?

Option A - Delete Transportation Control Planning Agency provisions totally, by amendment.

Please follow-up with appropriate action.

cc: Dick Cheney
L. William Seidman
James E. Cannon
Frank Zarb
Jerry Jones

THE WHITE HOUSE

WASHINGTON

May 19, 1976

MR PRESIDENT:

Clean Air Amendments

Recommendations of your senior staff advisers are included in the attached memorandum from William Gorog.

In addition to recommendations contained in the memorandum, Mike Duval offers some comments concerning the clean air amendments. These are at TAB C.

Jim Connor

THE WHITE HOUSE

WASHINGTON

May 11, 1976

ACTION

MEMORANDUM FOR: THE PRESIDENT

THROUGH: L. WILLIAM SEIDMAN
JAMES CANNON
FRANK ZARB

FROM: WILLIAM F. GOROG

SUBJECT: Clean Air Amendments

The Senate Committee on Public Works recently reported S. 3219, including the Clean Air Amendments, of 1976. Action by the full Senate will begin on June 2. The House version of the Clean Air Amendments, H. R. 10498, is expected to reach the House floor in late May. This Memorandum outlines options regarding your response to these Amendments.

BACKGROUND

1. Auto Emissions:

In a message to the Congress on June 27, 1975, you asked that the Clean Air Act of 1970 be amended to extend the current automobile emission standards from 1977 to 1981. This position in part reflected the fact that auto emissions for the 1976 model autos have been reduced by 83% compared with uncontrolled pre-1968 emission levels (with the exception of NOx), and that further reductions would be increasingly expensive to obtain. Both Chambers of the Congress have held extensive hearings on this matter, and the respective Committees on each side have reported Bills that include far more stringent emissions standards than you requested. The present law, without amendment, would establish standards beginning in 1978 that are even more stringent than those contained in the Senate or House Bills.

For comparative purposes, your present position and the Senate and House positions are outlined as follows:

	Administration			Senate Bill			House Bill		
	HC	CO	NO_x						
	(units=grams/mile)								
1977	1.5	15.0	3.1	1.5	15.0	2.0	1.5	15.0	2.0
1978	1.5	15.0	3.1	1.5	15.0	2.0	1.5	15.0	2.0
1979	1.5	15.0	3.1	.41	3.4	2.0*	1.5	15.0	2.0
1980	1.5	15.0	3.1	.41	3.4	1.0	.41	3.4	2.0
1981	1.5	15.0	3.1	.41	3.4	1.0	.41	3.4	.4-2.0 waiver

(* 1.0 for 10% of light duty vehicles produced)

Congressman John Dingell will offer less stringent auto emissions standards by amendment on the House Floor. The same position narrowly failed on a vote in Committee. The Dingell Amendment, which reflects the position of Russell Train at the conclusion of EPA's March 1975 Auto Emissions Suspension Hearings, is as follows:

	HC	CO	NO_x
	(units=grams/mile)		
1977	1.5	15.0	2.0
1978	1.5	15.0	2.0
1979	1.5	15.0	2.0
1980	.9	9.0	2.0
1981	.9	9.0	2.0
1982	.41	3.4	Administratively established

A recent interagency report by DOT, FEA, and EPA estimated increased total lifetime cost per vehicle ranging as high as $540 and fuel economy losses ranging as high as 3.78 billion gallons, per model year fleet, resulting from imposition of the current House Bill rather than the Dingell Amendment. Health and air quality benefits from the Bill's provisions are limited. The same report also demonstrated that the original Administration position would result in additional savings in total lifetime cost per vehicle ranging as high as $283, and in fuel economy savings ranging a high as 4.31 billion gallons per model year fleet. Health and air quality losses were measurable, but small.

2. Significant Deterioration:

Both Bills contain provisions to deal with prevention of significant deterioration of air quality due to new stationary sources. This is in response to a District Court finding upheld by the Circuit Court of Appeals and the U. S. Supreme Court, which stated that significant deterioration of air quality in any region was contrary to the language of the 1967 Air Quality

Act to "protect and enhance" air quality. EPA promulgated regulations, in light of the Court decision, which would allow the States to designate areas as one of three classes:

Class I - maintains pristine areas in their present condition;

Class II - allows moderate growth with controlled emissions;

Class III - allows air quality deterioration up to levels of National Ambient Air Quality Standards.

Due to energy and economic considerations, you asked the Congress to remove the requirements that EPA act to prevent significant deterioration, or otherwise to clarify significant deterioration requirements in a way that balances economic, energy, and environmental concerns. Both Bills are more restrictive than EPA's regulations. The Senate Bill would require the States to designate all areas as either Class I or Class II, eliminating Class III entirely. The Bill would also mandate the use of best available control technology (BACT) for all new major emitting facilities. The assumption is that given the constraints of the significant deterioration clause, maximum economic growth can be gained only if all new facilities use BACT. While the significant deterioration section of the House Bill does allow for Class III areas, its BACT provisions are more stringent than those of the Senate Bill.

There are concerns over the impact of this amendment on future economic development, and over its close relationship to land use planning. As an example, Interior is concerned that the Bill would have an adverse impact on new surface mining operations; furthermore, industries in every sector are concerned that the impact may be such as to impose serious constraints on capital expansion and job creation.

The Senate Bill also contains a section which is intended to provide for an exception to the more stringent existing law in cases of construction or expansion in areas where one or both air quality standards are exceeded. Despite the fact that the Bill is intended to ease prohibitive regulations, the effect of the exception clause may well be to lead to more rigorous regulation and enforcement. Further discussion of this area is contained in Tab B.

Senator Frank Moss has offered an amendment on the Senate side to submit the significant deterioration and BACT questions to a one year study by an Air Quality Commission to be established by the Bill. During that period, the EPA regulations would remain in effect. Tab A includes further discussion of the differences between existing regulations and those contemplated in the Senate Bill.

Strategy considerations would suggest that attempts to provide for less stringent auto standards should be made on the House side. Similarly, progress towards gaining a less restrictive significant deterioration clause may best be made on the Senate side.

OPTIONS

Issue #1 - Should you meet with Senate Minority Members to discuss these issues prior to making your decisions?

EPA recommends that you defer making decisions on the above issues until you have had an opportunity to discuss the questions with Senator Howard Baker and the other Minority Members of the Public Works Committee (Buckley, Domenici, Stafford, McClure). These five Senators are united in support of the Senate Bill as it is written, and are opposed to the Moss Amendment.

Other members of the Administration recommend that if you meet with anyone, you meet with a Minority group from the Senate which is representative of the various positions being considered by you.

Option A: Meet with Minority Committee members prior to making your decisions.

Option B: Meet with Minority group representative of various positions before making your decisions.

Option C: Meet with Minority members after making your decisions to ask for their support.

Recommendation: Approve Option B.

Concur: Messrs. Marsh, Buchen and Friedersdorf, Commerce, Interior, ERDA, Treasury; OMB and FEA favor B if you decide to meet with anyone.

Dissent: EPA (favors A).

Decision: Option A ____

Option B MRF

Option C ____

Issue #2 - How should the Administration confront the auto emissions problem?

Option A: Maintain present advocacy of a five-year freeze.

Pros:
- o Results in greater fuel savings relative to other proposals.
- o Results in least additional consumer costs.

Cons:
- o Is unlikely to be given serious, if any, consideration by the Congress.

Option B: Shift to backing of the Dingell Amendment.

Pros:
- o Allows Administration to ally with Dingell in order to seek a suitable compromise.
- o Recommended by motor vehicle manufacturers, assuming impossibility of achieving goal of Option A.
- o Achieves almost same air quality level as House Bill, at much less cost.

Cons:
- o Necessitates a change of the current Administration position.
- o Increases fuel penalty and total lifetime cost per vehicle, relative to Option A position.

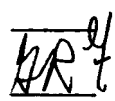
Recommendation: Approve Option B

Concur: EPA, Treasury, Commerce, ERDA, FEA, Jack Marsh, Phil Buchen, Max Friedersdorf.

Dissent: CEA, OMB, Domestic Council, Interior

Decision:

Option A

Option B 

Issue #3 - How should the Administration confront the question of significant deterioration?

Option A: Adhere to the Administration's original position that the Clean Air Act should be amended by deleting the significant deterioration provision.

Pros:
- o Prevents severe restrictions on industrial growth and minimizes energy penalty.
- o States already have authority to establish and implement stricter air quality standards if they wish.
- o Allows States and local communities to decide trade-offs between resource development and air quality.

Cons:
- o Congressional trends thus far make chances of passage questionable.

Option B: Support the Moss Amendment that refers the entire significant deterioration/BACT issue to a study commission. (A period longer than one year is desirable.)

Pros:
- o Defers action in this area until major unresolved questions concerning energy, economics, and health are adequately studied.
- o Senate trends appear to support this option.
- o Prevents industry and utilities from being penalized by overly stringent regulations until complete weighing of cost/benefits is completed.

Cons:
- o Continued uncertainty regarding this issue may further delay necessary domestic energy developments.

Option C: Support the Senate bill if change is made to allow for Class III areas as defined in EPA Regulations, i.e., giving States the option to allow for continued growth of industry and increased emittent levels as long as ambient levels are not raised above present ambient health and welfare standard levels.

Pros:
- o Gives States more control over industrial development.
- o Ameliorates restrictions imposed at the Federal level on industrial growth.

Cons:
- o Stands little chance of passage; was defeated in Committee.

Recommendation: No recommendation.

Decision:

		Positions:
Option A	MRG	Support A with flexibility to move to B or C--OMB, Phil Buchen Support A with flexibility to move to B--Treasury, FEA, CEA, Jack Marsh
Option B	____	Support B with flexibility to move to C--Commerce Support B--Interior, Max Friedersdorf
Option C	____	Support C--EPA

Corollary Issues:

Issue #4 - How should the Administration deal with the Production Line Test/Selective Enforcement Audit provisions?

EPA proposed on December 31, 1974 to impose on auto manufacturers an end-of-assembly line test requirement, titled Selective Enforcement Audit (SEA), to be performed at random. These tests would be performed in addition to considerable tests already being performed. Manufacturers' audit figures indicate existing compliance in the range of 95% for NOx to 99% for HC. Certification and audit costs under existing requirements are considerable. Authorization for SEA action is contained in the 1970 Clean Air Act; the Senate amendments would require the EPA Administrator to "establish a test procedure" for production line testing within six months of the time the Bill becomes law. OMB opposes any requirement for production line testing; the industry concurs, pending cost/benefit studies.

Option A: Delete production line test provisions by amendment, and instruct EPA not to authorize Selective Enforcement Audits.

Option B: No action.

Recommendation: Approve Option A.

Concur: OMB, Domestic Council, ERDA, Commerce, Treasury, Interior FEA, CEA, Jack Marsh, Phil Buchen, Max Friedersdorf

Dissent: EPA

Decision:

Option A ✓

Option B _____

Issue #5 - How should the Adminstration deal with Transportation Control Planning Agency (TCPA) provisions?

The Senate Bill requires areawide planning agencies modeled after areawide agencies established by the Federal Water Pollution Control Act. OMB opposes establishing new agency structures on the grounds that 1) they would duplicate the activities of other existing agencies receiving Federal funds from DOT and EPA; 2) they would receive 100 percent Federal reimbursement; and 3) they would involve a shift

of effective responsibility from State and municipal governments to the various Councils of Government.

EPA points out that while the Bill would rarely require new agency structures, it would lead to duplicate funding. EPA agrees that the level of the proposed authorization is a problem.

Option A: Delete Transportation Control Planning Agency provisions totally, by amendment.

Option B: Support TCPA, but eliminate funding authorization by amendment.

Option C: No action.

Recommendation: Approve Option A

Concur: Commerce, Treasury, Interior, OMB, Jack Marsh, Phil Buchen, Max Friedersdorf.

Dissent: EPA (support TCPA, but decrease funding)

Decision: Option A ✓

Option B _____

Option C _____

ADDITIONAL CONSIDERATIONS

As this issue develops, you may be faced with a Bill that is acceptable on the auto emissions side and unacceptable regarding significant deterioration, or vice versa. For this reason, possible veto strategy must be carefully developed. It is suggested that we withold consideration of veto strategy until we can determine more clearly what provisions will be contained in House and Senate versions. We also need to determine if there is any possibility of splitting the auto emissions section for consideration as separate legislation.

THE WHITE HOUSE

WASHINGTON

May 5, 1976

BACKGROUND MEMORANDUM

FROM: WILLIAM F. GOROG

Subject: Differences between existing EPA regulations and the Senate Bill in the area of Prevention of Significant Deterioration (PSD)

Among the options which the full Senate will consider in a floor vote on the Clean Air Act Amendments is the Moss Amendment, which would defer changes in existing EPA regulations concerning PSD until after the Congress had considered a report on this subject from a one year study commission. The purpose of this memorandum is to outline the differences between the Senate Bill and the existing EPA regulations in the area of PSD.

Current Regulations

Existing EPA regulations, promulgated in December of 1974, provide for a means of protecting air quality in areas where the air is cleaner than National Ambient Air Quality Standards require. The regulations establish three classifications, based on the permissible increase in ambient concentration of sulfur dioxide and total suspended particulates. The classifications are as follows:

Class I -- pristine areas when practically any air quality deterioration would be considered significant;

Class II -- areas where deterioration in air quality that would normally accompany moderate growth would not be considered significant;

Class III -- areas where concentrated industrial growth is desired, and where deterioration of air quality to National Ambient Air Quality Standards levels would be allowed.

EPA originally designated all areas of the country as Class II, effective January 6, 1975. The States have been allowed in the

intervening period to redesignate areas either as Class I or as Class III. In addition, Federal Land Managers have been allowed to propose redesignation of federal lands under their jurisdiction to Class I. To date, there have been no redesignations by States or by Federal Land Managers.

Under current EPA regulations, the States notify the EPA of all areas exceeding national standards for sulfur dioxide and total suspended particulates. All other areas become classified as Class II. Redesignations can be made as outlined above. The States are then responsible for filing State Implementation Plans to indicate how they will act to prevent significant deterioration. Upon receipt of EPA approval of the overall plan, the States are responsible for proper implementation. EPA assures this through the use of a source-by-source preconstruction review system, with which development plans for industrial facilities in any of the specified source categories are reviewed to determine if the source would violate any of the appropriate increments.

Emission limitations are currently based on New Source Performance Standards (NSPS) for those sources covered by a standard. In other cases, limitations are set at the discretion of the EPA Administrator, after consideration of costs, siting, and fuel availability.

In summary, with the present system, EPA has tremendous potential authority, with flexibility in the use of such authority. Costs and feasibility are major considerations in the determination of emission limitations. Finally, Federal Land Managers provide advisory comment only in connection with the preconstruction review system.

Changes Contemplated in Senate Bill

Under the Senate Bill, the States would submit to EPA lists of areas with air quality better than current standards. Each State would then submit a State Implementation Plan which categorizes these areas into Class I or Class II. National Parks, International Parks, National Wilderness Areas, and National Memorial Parks greater than 5,000 acreas must be designated Class I. This provision would presently cover 131 areas, constituting 1.3% of the total U.S. land area.

States are given the option to redesignate Class II areas to Class I status, however, mandatory Class I areas may not be redesignated. Additionally, States would have to require each new major emitting source to apply for a permit before construction. Such permits would be granted only if:

1) Best Available Control Technology (BACT) is used, as determined by the State on a case-by-case basis, taking into account energy, environmental, and economic impacts and costs. (In no case could the application of BACT result in emissions exceeding those allowed under NSPS).

2) In the case of a protest notice from the Federal Land Manager, the Governor of another State, or the EPA, the source demonstrates to the State that the emissions from that source would not contribute to a significant change in air quality.

In addition, the State must deny a permit, regardless of increment violation, if the Federal Land Manager can demonstrate to the State that emissions from a source will have an "adverse impact" on air quality. Conversely, if the Federal Land Manager is convinced that a source will have no adverse impact, regardless of increment violations, the State may issue a without further review by EPA.

Major Differences

The Senate Bill does not provide for Class III designations, which would allow for deterioration up to National Ambient Air Quality Standards.

The Senate Bill provides for more stringent control technology, mandating the use of BACT. The Bill is unclear in this area, and seems to include some contradictory language. The Committee Report states that the Bill "requires that large new sources use the best available technology to minimize emissions, determined by each State on a case-by-case basis." BACT is then defined to mean:

> "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable ..."

However, another section of the Bill states that the EPA Administrator or a Governor may seek injunctive relief to prevent permit issuance or facility construction if such facility "does not conform to the requirements" of BACT provisions. This appears to leave substantial control authority in the hands of the EPA Administrator, should he wish to overside the decision of a State on what constitutes BACT.

Finally, the Senate Bill would mandatorily establish 131 Class I areas, removing voluntary authority to do so from the States.

Discussion

While proponents of the Senate Bill have claimed that it transfers considerable authority to the States, this contention is subject to question. First, State authority over designation of Class I areas would be decreased by the mandatory imposition of some Class I designations. Second, State authority over designation of Class III areas would be entirely eliminated, removing from the States the authority to allow deterioration up to National Ambient Air Quality Standards, if desired. Third, language regarding BACT states that control technology at least equal to NSPS would be required, regardless of cost considerations. Fourth, the establishment of buffer distances around Class I areas would be subject to ultimate control by the Federal Land Manager, the EPA Administrator, or the Governor of an adjoining State.

The statements of numerous Governors echo the concern over the contention that the States would receive greater authority and flexibility. This concern has been raised most often regarding:

1) the impossibility of determining the extent of buffer distances; and,

2) the lack of flexibility to provide for less stringent emissions limitations where needed.

B

THE WHITE HOUSE

WASHINGTON

May 6, 1976

BACKGROUND MEMORANDUM

FROM: WILLIAM F. GOROG

Subject: Expansion Clause in Senate Clean Air Act Amendments (S. 3219)

Section 110 of the 1970 Clean Air Act can be used to prohibit new construction or expansion of facilities in areas of the country which do not meet the National Ambient Air Quality Standards, if such construction or expansion would prevent the attainment or maintenance of standards. This memorandum deals with Section 11 of the Senate Clean Air Act Amendments, which is intended to provide an exception to this prohibition.

Background

The Public Works Committee Report on S.3219 "restates the principle that no major emitting facility can be constructed in a region where emissions from the facility would prevent the attainment or maintenance of standards." However, the Committee recognizes that many areas where industrial development would normally take place lie within air quality control regions where standards have not been attained, and are not likely to be attained in the near future. The intent of Section 11 is to provide "an exception to allow greater flexibility in the administration of the Act and opportunity for growth of national industrial capability."

This exception may be granted by a State if the owner or operator of a proposed facility demonstrates that:

A) the facility will use Best Available Control Technology (BACT);

B) all sources in the same air quality control region owned or operated by the same entity are in compliance with emissions limitations, or with an enforcement order or compliance schedule;

C) total cumulative emissions from proposed and existing facilities at the new facility location will at no time increase; and,

D) total allowable emissions from all sources at the facility location after construction of the new facility will be sufficiently less than the total allowable emissions under the original implementation plan so as to represent reasonable further progress towards attainment of standards, with progress already made toward standard attainment to be taken in account.

Legislative Intent

The Committee Report includes language stressing that, given the four requirements which must be met, the intent is to allow flexibility on the part of the State to take into account progress already made by an owner or operator at limiting emissions. For example, the Report states:

> "The determination of what is reasonable further progress should take into account progress already made by the existing sources toward attainment of the ambient standards ... Where existing sources have installed the best available control technology and there is nothing further which can be done to move toward the ambient standards, the State may take into account progress already made in determining reasonable further progress."

Furthermore, the Report states:

> "These determinations (made in order to grant an exception) by the State called for under this subsection are not subject to review by the Environmental Protection Agency."

EPA cannot disapprove a revison of State Implementation Plan based on an exception except on procedural or statutory grounds.

Discussion

While the Senate Bill does grant near-total authority to the States, with flexibilty and without allowing for a decison reversal by EPA, there is extensive concern among a broad range of industrial interests that the exception provision is still too stringent. First, it must be noted that parts of or all of every State except Mississippi and Hawaii would be covered by this section due to the fact that air quality exceeds standards for SO2, or total supended particulates (TSP) or both. Since many States are in violation of TSP standards due to naturally occurring phenomena, this provision would be 1) unjustifiably restrictive

towards these States, and 2) conducive to wasteful allocation of pollution control resources.

Second, the condition that total cumulative emissions from the existing portion and the new portion of a source must be reduced may lead to overly stringent interpretatious of the law which unduly preclude expansion. This is particularly pertinent in the case of refineries or synthetic fuel plants where relatively new existing facilities use BACT; and where an expanded source, even with BACT, would necessarily emit more pollutants. Under these circumstances, it may be impossible to expand and achieve further reductions.

The potential problems resulting from this Bill could be handled by 1) deleting the cumulative reduction requirement, and 2) exempting areas where TSP violations are due to naturally occurring phenomena. The latter proposal would be virtually impossible to implement fairly and effectively without further study. Deletion of the entire amendment would be counterproductive since existing law is more stringent.

In conclusion, the quandary posed by the above-mentioned problems could best be solved through the Moss Amendment.

C

THE WHITE HOUSE

WASHINGTON

May 17, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: MIKE DUVAL

SUBJECT: BILL GOROG'S CLEAN AIR ACT AMENDMENTS MEMORANDUM

I continue to feel that the significant deterioration discussion (both in the background beginning on Page 2 and the discussion of the options beginning on Page 5) does not adequately present the real issue involved.

I would add a paragraph along the following lines:

> "Your original opposition to the significant deterioration court case was based on the fact that EPA regulations in this area amount to Federal zoning laws. Such regulation will result in far more pervasive Federal control over land use decisions than any of the land use bills recently considered by Congress."

In terms of how the President announces his decision on these issues, I would recommend that he develop his position before any meeting with Baker, et al., and use that meeting simply to discuss legislative strategy. The President should have a clear position on the substance prior to the meeting, and it should be announced at that time in a hard-hitting, direct manner.

Accordingly, I suggest that a press plan be developed with a brief Presidential statement drafted prior to announcing the meeting.