The original documents are located in Box 1, folder "Air Quality (1)" of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

[undated]

WFG DRAFT

STATEMENT BY THE PRESIDENT

Both Chambers of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be offered by Congressman John Dingell. The Dingell Amendment reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell Amendment best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent concerning significant deterioration. As the respective Amendments are now written, new economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource develop-

ment might well be negative. While I applaud the effort of the Committees in attempting to clarify this difficult issue, the uncertainties of the suggested changes is disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the House and Senate. Accordingly, I believe the most prudent course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I ask the Congress to review this legislation further.

[ca. April 1976]

Ozone

No comment

danger

But don't say

now to know that

we will not

~~Not a crisis~~

we do have to worry

take a long-range or

national & int

concern

law and

world wide

agencies

THE WHITE HOUSE

WASHINGTON

REQUEST

April 14, 1976

MEMORANDUM FOR: JIM CANNON

FROM: GEORGE W. HUMPHREYS

SUBJECT: Ozone Depletion in the Stratosphere

Attached is a memo to the President, which he requested, on the ozone problem.

Attachment

THE WHITE HOUSE

WASHINGTON

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Ozone Depletion in the Stratosphere

In response to your concerns about the ozone problems, I asked Russ Peterson to prepare the attached summary report for you (TAB A).

You will note that Russ believes that we have an effective and well-coordinated Federal effort that is examining this issue. The OMB program people concur in this assessment.

The Interagency Task Force on the Inadvertent Modification of the Stratosphere (IMOS), co-chaired by Chairman Stever of the Federal Council for Science and Technology, along with Russ Peterson of CEQ, is comprised of 15 Federal organizations covering both research and regulatory functions. This task force has the responsibility for studying the issue and for making appropriate recommendations as to the need for regulatory or legislative action.

A short-term and long-term research program has been designed. In the proposal, additional funding will be required -- $5.5 million for FY 1976 and $13.9 million for FY 1977. Outyear projections are $36.2 million for FY 1978 and $48 million each year until 1981. OMB is now reviewing this program.

Recommendation

I suggest that you meet with Dr. Stever and Dr. Peterson for a briefing on the current status of the task force studies and conclusions.

TAB A

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

April 13, 1976

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Federal Actions on Fluorocarbons/Stratospheric Ozone

Jim Cannon asked me to prepare this status report on the "fluorocarbons/ozone problem" for you.

In June 1974 the first scientific paper was published hypothesizing that fluorocarbons released from aerosolized products, refrigeration/air conditioning equipment, and miscellaneous industrial uses could damage the ozone layer in the stratosphere that protects the earth's surface from harmful solar radiation. The hypothesis is as follows

-- over two billion pounds of fluorocarbons -11 and -12 ($CFCl_3$ and CF_2Cl_2) are released annually and are substantially inert in the lower atmosphere

-- over a period extending from many years to several decades the fluorocarbons are circulated upward to the stratosphere where they can be broken down by the sun

-- the decomposition products, particularly chlorine atoms, may each react with many thousands of ozone molecules thereby disturbing the natural dynamic equilibrium of ozone

Until the emergence of the fluorocarbon hypothesis, federal involvement in stratospheric modification consisted primarily of research by NASA, NOAA, and DOT into the possible effects of SST's and the space shuttle. In January 1975 Dr. Stever, as Chairman of the Federal Council for Science and Technology (FCST), and I established an Interagency Task Force on the Inadvertent Modification of the Stratosphere (IMOS). The task force included representatives of

15 federal organizations covering both the research and regulatory aspects of the problem. IMOS's first task was to evaluate the fluorocarbon issue and, on the basis of that assessment, recommend an appropriate coordinated Federal response.

In June 1975 the task force published its report, Fluorocarbons and the Environment, the first and only comprehensive review of this subject to date. The major conclusions of the task force were:

-- fluorocarbon releases to the environment are a "legitimate cause for concern";

-- rulemaking for regulating fluorocarbons should be initiated if the study underway by the National Academy of Sciences (expected in April 1976) confirms the preliminary IMOS conclusions. January 1978 was suggested as a date by which regulations might become effective;

-- while consumer aerosol products can be regulated under the present authority of three Federal agencies, many important fluorocarbon uses are outside the control of present law. IMOS recommended enactment of toxic substances control legislation as a remedy;

-- research into various aspects of atmospheric physics and chemistry, biological and climatic effects of ozone reduction, and economic impacts of regulation is needed to improve our current understanding and future decision-making on this matter.

Approximately $22.9 million in atmospheric research relevant to this problem will be undertaken in FY 76. NASA will take the lead in research on measurement and instrumentation. This effort is being complemented by industry-sponsored studies. Results derived from this program since the June 1975 IMOS report reinforce rather than diminish the concern over fluorocarbons.

Although we are certain that increased ultraviolet radiation from the sun is harmful, we still do not know much about its effects on earth. Skin cancer is the best documented effect but may well be of less consequence than agricultural, ecological, or climatic effects. Because there is very little ongoing research into these effects, an IMOS subcommittee - in consultation with OMB and the appropriate agencies - developed a proposed short- and long-term research program designed both to obtain critical information for regulatory action and to improve our basic understanding.

Because this problem has global implications, the State Department is working with the United Nations Environment Program, the World Meteorological Organization, the Organization for Economic Cooperation and Development, and appropriate individual countries to develop cooperative approaches to research and, if necessary, regulation.

To date toxic substances legislation is still pending before Congress, although some form is likely to pass this year. (Different House and Senate versions were passed but not reconciled in each of the last two Congresses.) Specific fluorocarbon amendments are being considered by both houses as amendments to the Clean Air Act. Each would give EPA regulatory authority and require a report to Congress in 1978. Administration witnesses have supported enactment of comprehensive toxic substances legislation in lieu of an ad hoc chemical-specific law.

The Council and FCST are continuing coordination on this matter through the IMOS task force. A recent IMOS follow-up report on other possible man-made modifiers of the stratosphere concludes that, while research is needed, there is no immediate problem either because the concern is highly speculative or because it is based upon compounds not as yet released in quantities believed sufficient to produce a significant effect.

This matter has attracted as much public attention in the past year as any environmental issue. Despite the many agencies involved, we believe that the Federal effort is well-coordinated. We would be happy to brief you in greater detail.

Russ Peterson

Russell W. Peterson
Chairman

THE WHITE HOUSE

WASHINGTON

February 19, 1976

MEMORANDUM FOR: GEORGE HUMPHREYS

FROM: JIM CANNON

SUBJECT: Ozone

At the Cabinet meeting today, after Secretary Coleman completed his remarks about the Concorde decision, the President said "We ought to undertake an examination of this ozone problem." He indicated that he had strongly supported the SST and indicated that the ozone problem was one of the worst things he had to deal with.

Would you discuss this with me.

Thanks.

2-20

INFORMATION

7600489

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GWH/pt 4-14-76

cc:WH files

ccs Quern
Schlesinger

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Chairman

Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

Threats to the atmosphere

Concern over preserving the ozone layer has raised alarming questions. Among them: Do our basic agricultural policies pose a greater threat to health than aerosol cans ever did?

by Michael B. McElroy

Every generation has its own historically unique vision of the end of the world. Children of the early Sixties grew up certain that doomsday would be announced with a shower of nuclear fireballs. But in the Seventies, the bomb has dropped from public consciousness, and international attention has focused on a new threat to humanity: the spray can.

In the past year and a half, the possibility that chemicals used in aerosol sprays could destroy the earth's protective ozone layer has sparked heated debate. Spokesmen for the aerosol industry claim that their products are virtually harmless, while many people have begun to believe (equally irrationally) that total ozone depletion is imminent, that the sun's rays will soon fry us all. Ozone is clearly the issue of the day. Prophets of thermonuclear disaster have even begun to argue about the effect a full-scale nuclear war could be expected to have on levels of ozone worldwide.

At first glance, ozone seems a rather unlikely substance to be the center of so much concentrated attention. It is a very simple gas; its molecules consist of three atoms of oxygen bound loosely together. Ozone makes up a very small fraction of the atmosphere, less than one part in a million. But this tiny quantity of gas plays an exceedingly important role: it is the only protection the surface of the earth has against high-frequency ultraviolet solar radiation, which can produce a variety of harmful biological effects. There is no doubt that ozone is essential to life, and that atmospheric ozone is threatened by certain air pollutants. The problem that remains is to clarify the exact biological consequences of serious ozone depletion, and to figure out how to prevent such an environmental disaster.

Opposite: In Sarah Landry's painting, the troposphere is represented in light blue, the stratosphere in dark blue. The ozone layer is in the lower stratosphere.

Michael B. McElroy is Abbott Lawrence Rotch Professor of Atmospheric Sciences at Harvard and director of the Center for Earth and Planetary Sciences.

The aspect of this problem that first caught the public's attention was the possibility that a drop in ozone levels—and the resultant increase in the amount of ultraviolet radiation reaching the surface of the earth—might cause skin cancer. Many forms of skin cancer are relatively innocuous and may be repaired by surgery; the link between these skin diseases and exposure to ultraviolet radiation in sunlight has been well established for quite some time. But very recently, new findings have begun to suggest that ultraviolet exposure may have much more serious medical consequences. Testimony presented to the U.S. Senate by Dr. Thomas Fitzpatrick, Edward Wigglesworth Professor of Dermatology at Harvard Medical School, cites convincing evidence that some of the more dangerous forms of skin cancer, particularly malignant melanoma, are also associated with solar ultraviolet radiation.

Malignant melanoma is a medical tragedy at least as fatal as breast cancer. The epidemiological data show that only 40 percent of those it strikes survive as long as five years following surgery—and the disease affects people in their most productive years (between the ages of twenty and sixty). The incidence of malignant melanoma is rising rapidly in all countries at a rate of between 3 and 9 percent a year; death rates from the disease have doubled in the last fifteen years. According to Dr. Fitzpatrick, the disease is definitely linked to exposure to sunlight, since it occurs at areas of the body that are most often exposed to ultraviolet radiation: the lower legs in females and the trunk in males. Whatever the specific reasons for this increase, malignant melanoma is defi-

Unlike pollution of the lower atmosphere, the stratospheric-pollution problem is both global in scope and long-term.

nitely on the rise. In Canada, the incidence of the disease is increasing at a rate greater than that of any other tumor, except for lung cancer in males. And this increase is apparently independent of medicine's improved diagnostic capabilities in this area.

If malignant melanoma is already spreading in the population with generally greater exposure to sunlight, the additional effects of ozone destruction could be dangerous indeed. Epidemiological data suggest that the incidence of skin cancer increases at least 2 percent for every 1-percent decrease in the amount of ozone in the atmosphere; a 10-percent decrease in ozone levels, for example, could be expected to cause at least a 20-percent increase in the incidence of melanoma. This fact alone makes it imperative that we study the processes controlling levels of atmospheric ozone, and that we take steps to prevent the release of chemicals capable of destroying ozone in significant amounts.

Ozone is produced by the interaction of sunlight with the oxygen in the earth's atmosphere. Sunlight below a certain wavelength splits molecules of oxygen (O_2) into separate oxygen atoms, which react with other molecules of O_2 to make ozone. The over-all reaction is described by the equation

$$\text{Sunlight} + 2O_2 = O_3 + O$$

The reaction can also go in the other direction: ozone can react with single oxygen atoms to re-form the oxygen molecules that were present initially. The entire process is maintained in a sort of crude equilibrium, which is disturbed when chemical pollutants are released into the air.

When a little bit of nitric oxide (NO) is added to the atmosphere, it speeds the reconversion of ozone and oxygen atoms into molecular oxygen, through the two reactions

$$NO + O_3 = NO_2 + O_2 \text{ and}$$
$$NO_2 + O = NO + O_2$$

The net reaction of a nitric-oxide molecule with ozone and atomic oxygen gives nitric oxide back, ready to react with ozone again, while two molecules of O_2 are formed in the process. Nitric oxide very effectively catalyzes the removal of atmospheric ozone. Less than one part per billion of the atmosphere consists of nitric oxide; yet this minute amount is sufficient to lower the level of ozone to half of what it would be were nitric oxide not present.

In 1970, nitric oxide's potential effect on atmospheric ozone levels came under intensive study, following the prediction that the supersonic aircraft then being developed might emit significant concentrations of nitric oxide into the stratosphere. Stratospheric pollution poses special problems. The stratosphere is much more stable than the lower atmosphere we are familiar with, the troposphere. Pollutants deposited in the troposphere are periodically removed from the atmosphere by rain; it is only the continuous release of industrial chemicals into the lower atmosphere that keeps air polluted at those altitudes. In the stratosphere, however, it does not rain. Gases emitted into the stratosphere may stay there for five or ten years before the slow turning over of the atmosphere may carry them down into the troposphere, where rain can cleanse the system. For this reason, one pollution source in the stratosphere is roughly equivalent to about three hundred pollution sources of similar magnitude in the lower atmosphere. Stratospheric sources of pollution, like the SST, are thus intrinsically more hazardous to the general environment.

All of these factors were taken into account in 1970 to predict the effect that large fleets of supersonic aircraft would be likely to have on the atmosphere. It was estimated at that time that 500 Boeing SST's flying daily would cause a reduction in ozone of 3 to 5 percent. The best calculations available today, using methods that have been proven accurate in estimating present levels of ozone and nitric oxide, show that these figures were well founded and accurate. This prediction received a great deal of publicity in 1970, and was a factor in the Congressional decision to prevent the production of supersonic commercial aircraft in the United States. Today, the British and French have only a few Concordes (smaller aircraft than the Boeing SST, and sources of less pollution); and the amount of nitric oxide released by military supersonic aircraft remains insignificant. In short, it is unlikely that supersonic aircraft will cause us all to contract skin cancer in the near future.

The banning of large fleets of SST's was certainly an environmental victory; but it may have been a victory over an almost imaginary enemy. The fleet of 500 Boeing SST's envisioned in 1970 actually represents a tremendous number of planes, enough to move every man, woman, and child in this country an average of about a thousand miles a year. The need for such a huge fleet is questionable, but even if such a project were economically feasible, it could certainly

INFORMATION

7600489

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GWH/pt 4-14-76

Cannon

DOMESTIC COUNCIL CORRESPONDENCE PROFILE

DOC		RECD			LOG NBR
MO	DA	MO	DA	HR	
02	19	02	19	16	760489

SOURCE/DESCRIPTION

REFERENCE:

TO: PRES, V.P., CANNON, DUNHAM, CAVANAUGH, EX. SEC, OTHER Humphrys

FROM: (CANNON) DUNHAM, CAVANAUGH, WHSS, OTHER _____

WHSS _____

OTHER _____

INITIAL ACTION OFFICER Humphreys SPECIAL CODE _____

SUBJECT: DC/Feds Harvard Magazine article, Feb 1976 issue, re ozone by Michael B. McElroy

LEAD DEPT/AGENCY: _____

DISTR/INITIAL ACTION ASSIGNMENT

INTERNAL ROUTING AND DISTRIBUTION	ACTION		REC CY FOR
ADVANCE CYS TO JMC			
DEPUTY DIR - POLICY AND RG			
DEPUTY DIR - OPERATIONS			
STAFF SECRETARY			
HEALTH, SOC SCTY AND PUB. ASST.			
CRIME, JUSTICE, CIVIL RTS. AND COMM.			
HOUSING AND COMMT'Y AFFAIRS			
ENVIRONMENT	✓		
AGRIC. ECON DEV AND COMMERCE			
LABOR, EDUC, AND VETERANS			
ENERGY AND TRANSPORTATION			
GENERAL GOVERNMENT			
INTERGOVERNMENTAL RELATIONS			
EXECUTIVE SECRETARIAT			

ACTION REQUIRED

MEMO FOR PRES ..... (_____)
MEMO FOR JMC ..... (_____)
REPLY FOR ..... (_____)
APPROPRIATE ACTION ..... (_____)
ANY ACTION NECESSARY? ..... (_____)
MEMO: FROM _____ TO: _____ (_____)
JOINT MEMO ..... (_____)
REFER TO: _____ (_____)
FOR: _____ (_____)
CONCURRENCE ..... (_____)
FYI ..... (_____)

COMMENTS: (INCLUDING SPECIAL INSTRUCTIONS)

DUE

DATES

DUE: Feb 19 5 (AM/PM) LDA _____ AM/PM

SUBSEQUENT ROUTING/ACTIONS

DATE	FROM	TO	S	SUBSEQUENT ACTION REQUIRED (OR TAKEN):	CY TO
~~2/23 10am~~	~~Humph~~	~~ES~~	~~C~~	~~FYI~~	
2/23 10am	Humph	Cannon	Dis	(due Feb. 28, 3pm)	
2/23 5pm	Cannon	Exec Sec	SS	Ret to Humphreys for further discussion	
4/19 11am	Humph	Cannon	X	SP memo to Pres (4/22 5pm)	

EXEC SEC DISP INSTR

DISPATCH _____

CY RQMTS: SEE ABOVE PLUS _____

NOTIFY _____ AND DATE _____ BY _____

SPECIAL DISPOSITION _____

_____

CROSS REF W/ _____

SUSPENSE COPY ATTACHED _____

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CA DCES
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cc: Humphreys

THE WHITE HOUSE

WASHINGTON

April 23, 1976

ACTION

MEMORANDUM FOR: THE PRESIDENT

THROUGH: L. WILLIAM SEIDMAN
JAMES CANNON
FRANK ZARB

FROM: WILLIAM F. GOROG wfg

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 is expected shortly after the Easter recess. The House version of the Clean Air Amendments, H.R. 10498, is expected to reach the House floor in mid-May. This Memorandum outlines options regarding your response to these Amendments.

I. BACKGROUND

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 85% compared with pre-1968 emission levels, 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 recommended 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

In addition, 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. Both Bills would make the requirements of existing law more explicit in order to force States which contain areas in which air quality levels are better than the air quality standards, to adopt and enforce provisions to prevent significant deterioration of air quality. In line with this need, the Bills being considered would 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, continued economic growth can be gained only if all new facilities use BACT. There are serious concerns about the economic impact of such provisions.

The Administration, through existing EPA regulations, already has in effect a program that allows States to increase emissions up to air quality standard levels. This position could serve as an alternative to the pending Congressional proposals.

Strategy considerations would suggest that attempts to provide for 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.

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-Train Amendment, which reflects the position of Russell Train at the conclusion of EPA's March 1975 Auto Emissions Suspension Hearings, is as follows:

	HC (units=grams/mile)	CO	NO_x
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 consumer purchase and maintenance costs ranging into billions of dollars, and fuel economy losses ranging into billions of gallons resulting from imposition of the current House Bill rather than Dingell-Train. Health and air quality benefits from the Bill's provisions are negligible. The same report also demonstrated that the original Administration position would result in additional savings in the billions of dollars for consumer costs and in billions of gallons for fuel. Health and air quality losses were measurable, but small.

Senator Frank Moss has offered an amendment on the Senate side to submit the entire significant deterioration question to study under a Commission established by the Bill.

II. OPTIONS

Issue #1 - Should you meet with Minority Senate Committee leadership 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 (Buckley, Domenici, Stafford, McClure). Senator Baker feels that they have battled hard to bring the Senate version of the Bill to its present state from a more stringent position.

Option A: Meet prior to making your decisions.

Option B: Meet after making your decisions to ask for his support.

Recommendation: Approve Option ____

Concur: ✓

Dissent:

Decision: Option A ____

Option B ____

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. Our strongest advocate, Dingell, is unwilling to offer this Amendment.

Option B: Shift to backing of the Dingell-~~Train~~ Amendment.

Pros:

- o Allows Administration to ally with Dingell in order to push for a suitable compromise.
- o Recommended by motor vehicle manufacturers.

Cons:

- o Necessitates a change of the current Administration position.

Recommendation: Approve Option B

Concur: EPA, Treasury, Commerce

Dissent: CEA (prefers A, but accepts B), OMB

Decision: Option A ✓

Option B ____

Issue #3 - How should the Administration deal with the significant deterioration problem?

Option A: Back referral of entire significant deterioration section, including BACT, to study Commission to be established by Bill.

Pros:

- o Defers action in this area until remaining questions concerning effects on air quality are resolved.
- o Prevents risk of industry being unduly penalized by overly-stringent regulations.

Cons:

- o The potential cost and growth-restraint problems could possibly be resolved by amendments.

Option B: Back Amendment to Senate Bill to give States sufficient flexibility, as in EPA's regulations, to allow for continued growth of heavy industry and increased emission levels as long as ambient levels are not raised above present air quality standard levels.

Pros:

- o Gives States more control over industrial development.
- o Prevents severe restrictions at the Federal level on industrial growth.

Cons:

- o Was defeated in Committee; theoretically rejected in Committee Report.

Recommendation: Approve Option A with flexibility to move to Option B if necessary. ✓

Concur: Treasury, Commerce, OMB ✓

Dissent: CEA, EPA

Decision: Option A ____

Option B ____

Corollary Issues:

Issue #4 - How should the Administration deal with the production line test provisions?

The Senate Bill requires the EPA Administrator to "establish a test procedure" for production line testing within six months of the time the Bill becomes law. OMB prefers the existing requirement which makes assembly line testing a discretionary action on the part of EPA.

Option A: Delete production line test provisions (Section 26) by Amendment.

Option B: No action.

Recommendation: Approve Option A.

Concur: OMB ✓

Dissent:

Decision: Option A ____

Option B ____

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

The Senate Bill requires areawide planning agencies modeled after areawide agencies established by the Federal Water Pollution Control Act. OMB opposes these new structures on the grounds that they would be duplicative of other existing agencies receiving Federal funds from DOT and EPA.

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

Option B: No action.

Recommendation: Approve Option A.

Concur: OMB ✓

Dissent:

Decision: Option A ____

Option B ____

Jsm b

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 withhold 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.

It is further suggested that, in the interim, Frank Zarb indicate that he would recommend a veto to the President in the event that the President's position on these issues is not acted upon favorably.

Approve _____ Disapprove _____

Copies: Cannon, Humphreys
Original → Gorog

United States
Environmental Protection Agency
Washington, D.C. 20460

April 29, 1976

The Administrator

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Clean Air Act

I have requested an opportunity to meet with you to discuss the Clean Air Act which, as you know, will reach the Senate floor next week and the House floor about two weeks later.

After more than a year of work, the House Commerce and Senate Public Works Committees have developed comprehensive amendments which address substantially all of the issues raised by the Administration. The Republican members of the Public Works Committee (Baker, Buckley, Stafford, Domenici, and McClure) have devoted tremendous time and effort to the bill and support it. I therefore recommend very strongly that you meet with them before making any decisions on an Administration position.

Although there are a number of important issues including auto emissions which I would like to review with you, I want to focus in this memorandum on the prevention of significant deterioration (PSD).

You may remember that EPA issued PSD regulations in December 1974 pursuant to a decision of the Federal courts that provided very little guidance for implementation. Following your request last year in transmitting the Energy Independence Act proposal (which included Clean Air Act amendments), both Committees have devoted major efforts to clarifying the law's requirements in this area in a way that takes economic and energy as well as environmental factors into account.

PSD is a program aimed at preventing the rapid deterioration of clean areas up to the levels of the air quality standards. These standards are suitable objectives for the remedial abatement efforts needed in most

urban areas, largely to alleviate health impacts. They are not suitable for, and were never intended to be, tolerable limits on the increased pollution that will occur in some presently clean areas. The standards cannot, for example, prevent the often dramatic, but unquantifiable, impacts on visibility and vegetation that can occur well below the levels of the standards.

There is a particular national concern with protecting priceless elements of our national heritage, such as the major national parks and wilderness areas, which are given special protection under the Senate and House bills. Professional public opinion polls have shown well over 80 percent support -- among both urban and rural citizens -- for a policy of preventing pollution of clean areas. Unfortunately, there are already examples of markedly degraded air quality in several such areas as a result of major facilities located nearby without fully adequate pollution controls.

I believe it is essential, in order to safeguard sensitive national areas and to minimize pollution increases in other clean areas, to require that new facilities install the most effective control technologies. It is always much more feasible, technologically and economically, to install such technology at new facilities than to attempt retrofit after the air has become dirty. Indeed, I am convinced that this policy, which is an inherent part of the PSD concept, is a necessary precondition to facilitating orderly industrial expansion and development of our energy resources, much of which must occur in presently clean areas. A sensible PSD program can avoid much of the citizen opposition that now surrounds many proposed projects because of substantial pollution threats.

EPA has carried out an extensive series of industry impact studies, focusing particularly on coal-fired power plants, refineries, oil shale and coal gasification plants, pulp and paper mills, and smelters. These studies convince me (and apparently the two Congressional Committees) that a reasonable PSD program will ensure clean growth, and will by no means lead to "no growth" as some have claimed.

A PSD program will not prevent construction of major, economically-sized facilities in clean areas. Fairly close colocation of such facilities is usually possible as well. Except in unusually hilly terrain, most new industrial facilities will be able to comply with PSD requirements using

controls that are already required under the Act. Siting in very hilly terrain is usually possible with some added controls, although in some cases firms will simply choose alternative sites.

Our studies of the most likely impacted industries show that coal-fired power plants would be most substantially affected. It is significant, then, that even the most stringent proposals for PSD would add no more than about three percent to the utility industry's anticipated 1975-1990 capital expenditures and only slightly more than two percent to the consumers' utility bills over this period.

A number of States have taken initiatives to protect clean areas. However, one of the principal Congressional concerns has been the need for some minimal Federal rules to ensure economic equity among the States. Without such Federal involvement, States wishing to require clean growth will either be dissuaded from acting or economically disadvantaged if a few States choose to lure new industry with the promise of weaker air pollution controls.

As you told the Congress in 1975, and as I have urged in numerous hearings, we need certainty and clarity with regard to PSD. Otherwise, important industrial planning is inhibited and construction costs increased due to delays. Industry can proceed with new construction and meet clean air needs at the same time only if the requirements are made clear. Senator Moss will propose an amendment to provide for a deferral and a further study of the issue. I strongly urge against Administration support of this amendment. The issue has been studied enough. Support for deferral and study will simply be interpreted as Administration opposition to addressing the problem of significant deterioration.

I do believe that the Senate version of PSD can be improved. For example, I would support the addition of a "Class III" option which, as in EPA's regulations, would allow States in appropriate areas to allow deterioration up to the air quality standards levels. Furthermore, I would welcome the provision now included in the House bill which would exclude EPA from any role in the State designation process. My strong recommendation is that the Administration's efforts be directed to securing these improvements.

In conclusion, the Administration's position on significant deterioration (generally viewed as opposition rather than a desire for balanced clarification) and also on auto emissions is widely regarded as anti-environmental. The pending amendments offer an important opportunity to demonstrate that the Administration's legitimate emphasis on economic recovery and energy development need not and will not be pursued at the expense of environmental goals.

Russell E. Train

THE WHITE HOUSE
WASHINGTON

5/1/76

Bill Gaag –

Would you discuss this point with me.

Thanks

Jim

THE WHITE HOUSE

WASHINGTON

April 27, 1976

MEMORANDUM FOR: JIM CANNON

FROM: GEORGE W. HUMPHREYS

SUBJECT: Suggestions from Corning Glass on Auto Emissions

Yesterday, Mr. John MacAvoy, President of Corning Glass, urged that we establish specific limitations on emissions at dates certain. He argued that technology could meet any reasonable requirements provided the lead times were adequate. He further argued that the projected fuel economy losses and cost estimates are highly overblown.

His argument centered on the premise that no prudent manager will invest in the R&D today if the future statutory requirements are unknown. If he is not required to develop a technology by market demands, he will allocate his resources elsewhere.

I believe he makes an excellent point. Corning's suggestion are attached.

Corning sells catalytic convectors to Chrysler and Ford.

Attachment.

CORNING GLASS WORKS
CORNING
1800 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 296-8640

April 27, 1976

Mr. George Humphreys
Associate Director
Domestic Council
Executive Office Building
Washington, D.C. 20501

Dear Mr. Humphreys:

Mrs. Foer has relayed your question about auto emission control levels to us. Following our conversation yesterday, and understanding some of the overall considerations that are important to you today, we propose this position:

	HC	CO	NOx
'78	1.5	15.0	2.0
'79	1.5	15.0	2.0
'80	0.9	9.0	2.0
'81	0.9	9.0	1.5
'82	0.4	3.4	1.5
'83	0.4	3.4	1.0
'84	0.4	3.4	1.0
'85	0.4	3.4	0.4

This provides a firm incentive to continue the extensive and highly encouraging industry programs to control NOx. Leaving the final NOx value at 2.0 destroys all incentive for practical implementation of better technology. Even if the incentive is restored a year later, the development effort would be crippled. Scientific teams are dispersed to other jobs. Some companies withdraw from the program altogether. Starting again would be exceedingly costly in time and money.

Concern about NOx and its carcinogenic implications has been steadily increasing. There is considerable reason to expect that it will be a greater worry in future. When the control technology is demanded, we should have it available.

Very truly yours,

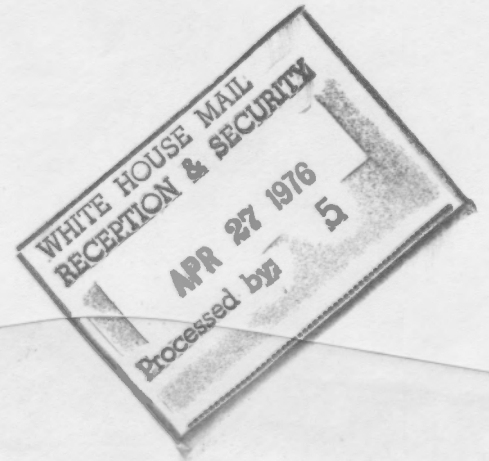
John R. Blizard
Government Affairs Manager

JRB/so

CORNING GLASS WORKS
CORNING
1800 K Street N.W., Washington, D.C. 20006

Mr. George Humphreys
Associate Director
Domestic Council
Executive Office Building
Washington, D.C. 20501

BY HAND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Environment — Air

THE WHITE HOUSE

WASHINGTON

cc: Humphreys

May 10, 1976

MEMORANDUM FOR RICHARD B. CHENEY

THROUGH: L. WILLIAM SEIDMAN

FROM: WILLIAM F. GOROG

SUBJECT: EPA Actions Regarding Clean Air Act

This Memorandum is in response to your request for a review of recent EPA actions regarding the Clean Air Act.

I asked OMB to review both the EPA study circulated at the Senate and Administrator Train's Memorandum to the President regarding the Clean Air Act. Their response to each of these issues are attached as Tabs A and B.

The material which the EPA submitted to the Senate was in response to a letter from Senator Muskie asking for an EPA Report dealing with the significant deterioration issue. The speed of their response (one day) is indicative of the fact that there was already a Report in preparation, and that the Senate Committee Staff was aware of its existence.

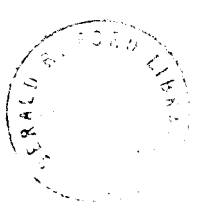
OMB Circular A 19 clearly sets forth the fact that the agency should submit this type of report to OMB for clearance before they are transmitted outside the Executive Branch.

It is important to note the last paragraph of OMB's comments on this matter, however. This indicates that although this particular action was a violation of the intent of the OMB directive, EPA has an above average record of compliance with their procedures in other legislative areas; and that this action is not representative of their normal way of doing business.

I am concerned to a greater extent about general representations of the EPA in dealing with matters of the Clean Air Act. Their spokesmen tend to be advocates of an environmental position, rather than technical specialists who deal even-handedly with the facts.

The second OMB Memorandum dealing with Administrator Train's recommendations to the President clearly indicates this problem. This letter, and also the material which was supplied to the Senate is very vague on the issues of technology and economics. As an example, the letter to the President indicates that the EPA has completed studies on impact of significant deterioration on industries such as coal-fired power plants, refineries, oil shale and coal gassification plants, pulp and paper mill and smelters. When I read this statement, I wrote a Memorandum to Russell Train asking him to immediately forward copies of those studies so that we might have the information for our use in advising the President. The studies have not been forthcoming, and I suspect that they do not exist.

At this point, I think we must be extremely careful in our handling of the meeting which Russell Train has requested with the President. I am sure that there will be a strong presentation of the environmentalist point of view. While we need to be even-handed in presenting the President with all sides of the issue, I think it is important that we insist that EPA backs up its presentation with specific facts, rather than broad generalities, and that we make sure that Jim Lynn and Frank Zarb are in attendance.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 5, 1976

MEMORANDUM FOR MR. GOROG

I am responding to your request that we review the materials recently submitted by EPA to the Senate with respect to the significant deterioration issue and to determine if the Agency complied with existing guidance with respect to the clearance of Agency reports to Congress.

OMB Circular A-19 sets forth the procedures for the coordination and clearance of Agency recommendations on proposed, pending and enrolled legislation.

The germane section of A-19, which applies to the issue at hand, is Section 7 which states:

> Clearance of agency proposed legislation and reports. The originating agency shall submit to OMB for clearance, proposed legislation or reports before they are transmitted outside the executive branch. Agencies should not commit themselves to testify on pending bills or to submit reports or proposed legislation to Congress on a time schedule which does not allow orderly coordination and clearance to take place. To facilitate congressional action on Administration proposals and to forestall hasty, last-minute clearance requests on pending legislation, agencies should plan their submissions to OMB on a time schedule which will permit such coordination and clearance to take place...

The important phrase is "Agencies should not..submit reports ..to Congress in a time schedule which does not allow orderly coordination and clearance to take place."

The above phrase, and the remainder of A-19 is subject to degrees of interpretation by different agencies. OMB monitors the legislative clearance process very closely and advises the agencies of when they cross the line.

During the past several years, there have been several instances where, in our opinion, EPA violated the intent

of A-19. Consequently, last summer we began monitoring EPA's legislative activities on the Clear Air Act very closely. In our opinion, the most recent violation of the intent A-19 occurred last August.

Senate Working Draft #2 (July 11, 1975)

OMB made repeated attempts to get copies of this from the agency. The Agency stated it did not have final copies and would get us one shortly. After several delay tactics we got a copy from other sources and we had every reason to believe the Agency had a copy but we could not prove it.

This lead to the OMB requirement that the Agency would give OMB weekly briefings on congressional activities related to Clear Air Act.

Senate Working Draft #3 (July 23)

The Agency failed to provide us with a copy. Although OMB-EPA staff were meeting weekly on this issue, EPA issued a report entitled "EPA Preliminary Staff Comments" on August 8 without OMB clearance.

In response to concerns expressed by OMB, Administrator Train issued a memorandum to all Assistant Administrators to interpret more specifically the intent of Circular A-19. A copy of this memo is appended hereto. In part the memo stated: "A recent failure on our part to do this---while possibly explainable in terms of technical interpretation of A-19---nevertheless has caused misunderstanding between us and the Office of Management and Budget. I look to the Office of Legislation and to Bob Ryan to assure that in all cases there is appropriate coordination with OMB on views and comments that we may wish to make on proposed or pending legislative issues."

The EPA Office of Legislation advises us that they cleared the report. They state that per previous agreement on the significant deterioration issue only that they were allowed to differ from the Administration's position. They also argue that their study is solely a technical study. 4/26/76

~~With respect to~~ The statements made in the EPA report ~~it~~ is an accurate statement of previous EPA studies on this subject.

However, had the document gone through a formal OMB clearance process---particularly at this sensitive time, it is highly unlikely that we would have cleared one of the principal conclusions as stated, namely:

> The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities. Rather, some sources may have to employ different air pollution control strategies such as further control of sulfur dioxide emissions, relocation at an alternative site construction of taller stacks or smaller plants, etc.

We would have emphasized that the cost of locating powerplants at alternative sites and the cost of added pollution abatement equipment might prohibit the development of energy sources at alternative sites.

Finally, we would like to state that EPA has---without doubt---the best record of any Agency with which we deal with respect to submitting its proposed regulations through interagency review. Furthermore, the current and past problems we have had with respect to legislative activities related to the Clean Air Act are not representative of the agency's above average compliance with OMB Circular A-19 in other legislative areas.

James L. Mitchell
Associate Director

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SUBJECT: OMB Circular A-19 Procedures and Agency Comments on Pending Legislation

DATE:

FROM: Administrator

TO: Assistant Administrators

I want to emphasize that we must insure that all EPA comment provided to the Congress on proposed legislation is not only consistent with the letter of OMB Circular A-19 (attached), but also in the spirit of the guidance provided in that document. A recent failure on our part to do this--while possibly explainable in terms of a technical interpretation of A-19--nevertheless has caused misunderstanding between us and the Office of Management and Budget. Such misunderstandings can only impede the execution of our mission, and must be avoided.

I consider OMB to be an active and welcome partner in the execution of our mission. We are a part of the Administration and it is vital that we work through the established channels to provide to the Congress a coherent Administration view on controversial issues. It must be obvious to everyone that a failure to do so can only result in increasingly limited opportunity to comment on the positions that may be proposed by other agencies on issues of interest to us; the OMB coordinatic mechanism is as much an assurance that our views will be heard as it is an opportunity for others to comment on our views.

Let me quote a key paragraph from Circular A-19:

> "Clearance of agency proposed legislation and reports. The originating agency shall submit to OMB for clearance, proposed legislation or reports before they are transmitted outside the executive branch. Agencies should not commit themselves to testify on pending bills or to submit reports or proposed legislation to Congress on a time schedule which does not allow orderly coordination and clearance to take place. To facilitate congressional action on Administration proposals and to forestall hasty, last minute clearance requests on pending legislation, agencies should plan their submissions to OMB on a time schedule which will permit such coordination and clearance to take place. Particular care should be given to ensuring that draft legislation to carry out Presidential legislative recommendations is submitted promptly to OMB with the maximum possible allowance for analysis and review."

I believe we can assure adherence to Circular A-19 and still provide the assistance the Congress needs in the development of legislation. I look to the Office of Legislation and to Bob Ryan to assure that in all cases there is appropriate coordination with OMB on views and comments that we may wish to make on proposed or pending legislative issues. But Bob needs your help, for in many cases there is need for technical backup to the Office of Legislation to make such coordination effective. For that reason, I ask you and your staffs to give a high priority to Bob's requests for assistance in briefing OMB on technical issues, and for assuring that we comply with both the letter and the spirit of A-19. In addition, I have asked Bob Ryan to make sure that OMB is given regular status reports on our legislative initiatives and legislative developments affecting our jurisdiction and responsibilities, including necessary congressional documents, drafts and committee reports.

I intend to raise this matter at an upcoming Administrator's staff meeting for further discussion.

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 10 1976

MEMORANDUM FOR MR. GOROG

From: James L. Mitchell

Subject: Clean Air Act - Administrator Train's Memorandum

The following comments are in response to your request for our views on the Memorandum to the President from Administrator Train on significant deterioration.

1. The national ambient air quality standards are designed, with an adequate margin of safety, to protect public health and welfare. Questions of visibility, while perhaps important in selected locations, are entirely different, and not particularly germane to the purpose of the standards.

2. Administrator Train is somewhat vague on the issue of control technology. His terminology "most effective control technologies" is considerably different than the term utilized in the Senate version of "best available control technology."

   We see no necessity to alter the current Clean Air Act language, which, via the new source performance standards section, requires "the application of the best system of emission reduction (taking into account the cost of achieving such reduction) ... that has been adequately demonstrated." We do not see the necessity, in areas already cleaner than national standards, to further limit the choice of control strategies as long as the standards are not violated. Any changes such as suggested in the Senate amendments imply a more restrictive approach than currently utilized.

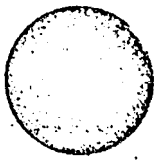
3. It is highly questionable whether the inclusion of "a sensible PSD program" can avoid much of the citizen opposition that now surrounds particular projects. The entire point is conjectural and misleading.

4. The memorandum is also misleading in the manner in which economic analysis is presented. The statements are over-simplified. To date, there have been no analyses made of the combined effect on development in this country of industry by industry impacts resulting from significant deterioration provisions. While it is feasible to re-locate or to utilize alternative control mechanisms, it is not clear that alternative approaches are economically viable.

5. While the Administrator recommends the adoption of a Class III, he does not emphasize just how important that concept is for overall industrial growth. EPA's own analysis indicates that a Class III provision becomes critical to prevent significant restrictions and or altered development in the post-1980 period. Also Class III provisions will be required for large scale energy and industrial development at a single location and for copper smelters and gasification plants in hilly terrain. The issue of a Class III is considerably more important than simply to give states more flexibility.

We disagree with the recommendation made by Administrator Train to oppose the Moss amendment. Although we prefer the elimination of the significant deterioration sections from the Senate amendments, we believe that enough work has not been done to inter-relate the various industry by industry impact studies. That issue alone, in addition to the gaps that still remain in the analysis, would be reason enough to support a further study period.

United States
Environmental Protection Agency
Washington, D.C. 20460



April 29, 1976

The Administrator

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Clean Air Act

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Although there are a number of important issues including auto emissions which I would like to review with you, I want to focus in this memorandum on the prevention of significant deterioration (PSD).

You may remember that EPA issued PSD regulations in December 1974 pursuant to a decision of the Federal courts that provided very little guidance for implementation. Following your request last year in transmitting the Energy Independence Act proposal (which included Clean Air Act amendments), both Committees have devoted major efforts to clarifying the law's requirements in this area in a way that takes economic and energy as well as environmental factors into account.

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urban areas, largely to alleviate health impacts. They are not suitable for, and were never intended to be, tolerable limits on the increased pollution that will occur in some presently clean areas. The standards cannot, for example, prevent the often dramatic, but unquantifiable, impacts on visibility and vegetation that can occur well below the levels of the standards.

There is a particular national concern with protecting priceless elements of our national heritage, such as the major national parks and wilderness areas, which are given special protection under the Senate and House bills. Professional public opinion polls have shown well over 80 percent support -- among both urban and rural citizens -- for a policy of preventing pollution of clean areas. Unfortunately, there are already examples of markedly degraded air quality in several such areas as a result of major facilities located nearby without fully adequate pollution controls.

I believe it is essential, in order to safeguard sensitive national areas and to minimize pollution increases in other clean areas, to require that new facilities install the most effective control technologies. It is always much more feasible, technologically and economically, to install such technology at new facilities than to attempt retrofit after the air has become dirty. Indeed, I am convinced that this policy, which is an inherent part of the PSD concept, is a necessary precondition to facilitating orderly industrial expansion and development of our energy resources, much of which must occur in presently clean areas. A sensible PSD program can avoid much of the citizen opposition that now surrounds many proposed projects because of substantial pollution threats.

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I do believe that the Senate version of PSD can be improved. For example, I would support the addition of a "Class III" option which, as in EPA's regulations, would allow States in appropriate areas to allow deterioration up to the air quality standards levels. Furthermore, I would welcome the provision now included in the House bill which would exclude EPA from any role in the State designation process. My strong recommendation is that the Administration's efforts be directed to securing these improvements.

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Russell E. Train

New Questions Arise On Aerosols' Effect On the Ozone Shield

* * *

Report That Could Determine If Fluorocarbons Should Be Restricted Is Delayed

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — New scientific uncertainties have arisen over the effect of aerosols on the earth's protective ozone shield.

The uncertainties are delaying for several months a National Academy of Sciences

The NAS has designated two groups to examine the fluorocarbon issue. A panel on atmospheric chemistry, headed by Herbert S. Gutowsky, a professor at the University of Illinois, will assess the amount of ozone depletion. Its findings will be critical to the NAS's conclusions. A second group, the Committee on Atmospheric Impacts, headed by John W. Tukey, a professor at Princeton University and employe of Bell Telephone Laboratories Inc., a unit of American Telephone & Telegraph Co., will assess the health and environmental effects. Both reports are expected to reach the government by early summer.

May 10, 1976
Wall Street Journal

Jim Cannon -

This adds some validity to my summary comment to you that "we have a problem but not a crisis" -

George H.

5/12/76

Environment
cc: Humphreys
Air Quality
file

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

Environment

THE WHITE HOUSE

WASHINGTON

May 22, 1976

John Lyn -
Paul O'Neill

MEMORANDUM TO: DICK CHENEY

FROM: JACK MARSH

You should be aware that Congressman Jim Broyhill called in reference to Administration support for the Dingell/Broyhill amendment to the Clean Air Act. This is the emmissions standard which is more desirable insofar as we're concerned. Although it is not everything we want, it is preferable to other proposed amendments. It was also a position supported earlier by Russell Train. Broyhill advises that there are some elements undercutting the Dingell/Broyhill position on Capitol Hill because of parochial interests that seek more rigid standards. He advised me on the phone that some representatives of EPA were backing off the Administration position.

Jim requested the President read the Riot Act to those in the Administration involved so that everyone is aboard, particularly Russell Train. Also, Jim feels downstream a statement by Passkey on the Administration position in support of Dingell/Broyhill would be helpful.

I mentioned the above briefly to Passkey last evening, and he wants to take steps through Domestic Council and other key players in this building to get a united front as well as keep Train and EPA on track. This would be the first step, and there is no rush for his statement prior to his return from the West Coast.

I have shown this message to Jim Cavanaugh, and we will keep you advised.

Environment
Air

THE WHITE HOUSE

WASHINGTON

May 26, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM F. GOROG WFG

SUBJECT: ~~Meeting with~~ Senator Howard Baker concerning Clean Air Amendments, 2:30 p.m., Thursday, May 27, Oval Office.

PURPOSE

To meet with Senator Howard Baker, ranking Minority member, Senate Public Works Committee, in order to discuss the significant deterioration and auto emissions sections of the Clean Air Amendments.

PARTICIPANTS

Senator Howard Baker

Mr. Bailey Guard, Minority Clerk, Senate Public Works Committee.

William Gorog, Jim Cannon, Max Friedersdorf

BACKGROUND and TALKING POINTS

Senator Howard Baker and the other four Minority members of the Senate Public Works Committee are essentially in agreement with the Senate Clean Air Amendments as they are now written. Your decisions, as reflected in the Clean Air Amendments options paper of May 11, indicate differences of opinion with the Senate Minority members, particularly regarding signification deterioration and auto emissions. You indicated a desire to discuss your positions with Baker, while reserving to your own judgment whether or not you should inform him of your decisions at this meeting.

A. Significant Deterioration:

In 1972, the Supreme Court affirmed the decision of a lower court that significant deterioration of air quality in

any region of the country was contrary to the intent of the 1967 Air Quality Act to "protect and enhance" air quality. As a result of this decision, EPA promulgated regulations allowing the States to designate regions with air quality better than national standards in one of three categories:

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, the Federal Land Managers (Secretaries of Agriculture of Interior) 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, however, 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 acres 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 override 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.

Your Position

In your decision on the significant deterioration question, you indicated a desire to adhere to the Administration's original position that the Clean Air Amendments should be amended by deleting the significant deterioration provision. You further indicated the desire to retain flexibility to move to support of the Moss Study Amendment or to support of the Senate provision if Class III areas are allowed.

The Moss Amendment would authorize submission of the significant deterioration/BACT question to a one year study by an Air Quality Commission established by the Bill. During the one year period, the existing EPA regulations described previously would remain in effect.

Senator Baker's Position

In drafting the air pollution control strategy outlined in the 1970 Clean Air Act, the Congress gave careful consideration to the need for improving air quality in more polluted areas. Consideration of a strategy for the protection of cleaner air regions was largely overlooked. Senator Baker feels the Committee has worked diligently to develop a suitable strategy for dealing with the problem of significant deterioration in cleaner air regions. The Committee held 45 markup sessions on the Clean Air Amendments during this and the previous session of Congress. Much of this time was spent dealing with the significant deterioration provisions.

Baker suggests that the Senate Bill is preferable to the existing regulations for several reasons:

1) The Committee Bill limits mandatory Class I designations to major parks and wilderness areas, while EPA regulations allow any federal area to be designated Class I at the sole discretion of the Federal Land Managers.

2) The Committee Bill rejected arbitrary buffer zones (areas around Class I regions where development would be predictably curtailed to protect the Class I sector) around Class I areas, while the EPA regulations effect buffer zones. In addition, the Committee Bill bases buffer protection of Class I areas on a case by case basis.

3) The Committee Bill would turn the EPA permit program over to the States with direction that economic and energy impacts be given appropriate consideration.

Discussion

While Senator Baker claims that the above considerations are valid, and that the Senate Bill will allow more State control, greater flexibility, and clarity of application, the Administration's analysis of the Bill indicates contrary results.

First, State control over Class I designations would be decreased by the mandatory imposition of some Class I designations. To date, no federal lands have been voluntarily redesignated to Class I by the Federal Land Managers or by the States. The Senate Bill would automatically impose on the States designation of 131 Class I, amounting to 1.3 percent of total U.S. land area.

Second, the Committee Bill would require a programmatic approach to buffer zones, contrary to Senator Baker's statement. For example, EPA has already estimated probable buffer distances for various types of industrial facilities.

Third, while the permit authority would be turned over to the States, State authority would be diminished due to the removal of the right to designate areas to Class III. This removes from the States the authority to allow deterioration up to the National Ambient Air Quality Standards. Furthermore, the mandated use of BACT, as decided by the States on a case by case basis, still requires that regardless of economic or energy considerations, emissions could not exceed those allowed under the current New Source Performance Standards.

The statements of numerous Governors echo the concern over the contention that the States would receive greater authority and flexibility under the Bill. This concern has been raised most often regarding the difficulity in determining the effects of buffer areas, and the lack of flexibility to provide for less stringent emissions limitations where needed.

Perhaps the most compelling argument against the imposition of the changes contemplated in the Bill arises from the uncertainty of its final effects on industrial growth. By the estimation of OMB, the Bill is more restrictive than current EPA regulations. There are serious concerns within the Administration and industry alike that the bill would have adverse effects on future economic development, and that it bears a close relationship to Federal land use planning.

As examples, Interior is concerned about the adverse impact on new surface mining operations; and FEA expects adverse effects on the development of refineries, synthetic fuel plants, and electric power generating facilities. Various sectors of industry, in addition to those mentioned above, believe the impact of the Bill would be such as to impose serious constraints on job creation and capital expansion.

Tab A includes talking points reflecting the above.

B. 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.

In light of legislative considerations and evidence compiled by EPA, as well as DOT-EPA-FEA in a joint study, you decided to shift to backing of an amendment to be offered by Congressman John Dingell 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, compares to the Senate position as follows:

	DINGELL ADMENDMENT			SENATE BILL		
	HC	CO	NOx	HC	CO	NOx
	(units=grams/mile)			(units=grams/mile)		
1977	1.5	15.0	2.0	1.5	15.0	2.0
1978	1.5	15.0	2.0	1.5	15.0	2.0
1979	1.5	15.0	2.0	.41	3.4	2.0*
1980	.9	9.0	2.0	.41	3.4	1.0
1981	.9	9.0	2.0	.41	3.4	1.0
1982	.41	3.4	Waiver			

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

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 4.64 billion gallons, per model year fleet, resulting from imposition of the current Senate Bill rather than the Dingell Amendment. Health and air quality benefits from the Bill's provisions are limited.

Your position in support of the Dingell Amendment as opposed to the Senate Bill is predicated on the limited health benefits and their relation to substantially increased costs due to:

- additional fuel consumption
- higher consumer purchase price
- higher maintenance and replacement costs

Tab A contains talking points that reflect the above discussion.

TALKING POINTS -- SINGIFICANT DETERIORATION

I am opposed to the significant deterioration section as it is now written for several reasons:

- mandatory imposition of Class I areas decreases State authority and flexibility
- uncertainty over size and impact of buffer regions
- abolition of State discretion to designate Class III areas decreases State authority and flexibility
- mandated use of BACT at least as stringent as current New Source Performance Standards negates value of case-by-case review

Other concerns:

- numerous Governors have echoed considerations mentioned
- FEA concerned over impact on refinery, synthetic fuel, and electric power facility development
- Interior concerned over effect on new surface mines
- industry is uncertain about impact on job creation/ capital formation

There are too many doubts raised by responsible individuals and entities. This is not a time to risk additional uncertainty regarding jobs and capital formation.

TALKING POINTS -- SINGIFICANT DETERIORATION

I am also opposed to the auto emission standards contained in the Senate Bill. Cost/benefit studies indicate:

- total additional lifetime cost per vehicle ranging as high as $540
- additional fuel consumption ranging as high as 4.64 billion gallons per model year fleet
- negligible health or air quality benefits

These costs are from an EPA-DOT-FEA joint study, carried out in March.

We have reduced auto emissions for 1976 model autos 83% over pre-1968 models.

Russell Train of EPA advises me that the Dingell Amendment offers the best balance of environmental, economic, and energy considerations.

With the auto industry in the midst of a strong recovery, we cannot afford to penalize it unnecessarily.

THE WHITE HOUSE
WASHINGTON

MARSH AND FRIEDERSDORF
WANTED THIS TO GO IN LETTER
FORM FROM THE PRESIDENT;
IT IS NOW BEING PROCESSED.

Who is this from?

cc: Humphreys

THE WHITE HOUSE

WASHINGTON

May 28, 1976

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM F. GOROG

SUBJECT: Presidential Statement on the Clean Air Amendments

BACKGROUND

Legislative considerations suggest that you communicate to the Congress immediately your position on the auto emissions and significant deterioration provisions of the Clean Air Amendments.

Attached is a statement to that effect which would be transmitted in the form of a letter to the following individuals:

Senator Jennings Randolph,
Ranking Majority Member,
Senate Public Works Committee

Congressman Harley Staggers,
Ranking Majority Member,
House Interstate and Foreign Commerce Committee

Copies to:

Senator Howard Baker,
Ranking Minority Member,
Senate Public Works Committee

Congressman Samuel Devine,
Ranking Minority Member,
House Interstate and Foreign Commerce Committee

The proposed statement received full staff review prior to submission to you.

RECOMMENDATION

That you approve the attached letter for immediate transmission.

Approve _____ Disapprove _____

THE WHITE HOUSE

WASHINGTON

May 28, 1976

Dear Chairman Staggers:

Both Chambers of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be co-sponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe at this point the Dingell-Broyhill Amendment best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked

the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most prudent course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

The Honorable Harley O. Staggers
Chairman
House Interstate and Foreign
Commerce Committee
House of Representatives
Washington, D. C. 20515

cc: Humphreys

THE WHITE HOUSE

WASHINGTON

May 29, 1976

MEMORANDUM FOR RON NESSEN

FROM: WILLIAM F. GOROG

SUBJECT: Fact Sheet

CLEAN AIR ACT AMENDMENTS

On Friday, May 28, the President sent letters to Jennings Randolph, Chairman of the Senate Public Works Committee, and to Harley O. Staggers, Chairman of the House Interstate and Foreign Commerce Committee, regarding Clean Air Amendments. A copy of the text of this letter is attached.

The letter refers to two of the most significant Amendments offered by the Senate and the House regarding changes in Auto Emission Standards, and changes in the significant deterioration provisions of the Clean Air Act of 1970.

In January 1975, the President recommended that the Congress modify provisions of the Clean Air Act because of great concern that the provisions of this Act would have serious impact on industrial expansion, job creation, and energy, without materially improving the environment as far as health standards were concerned.

When the Senate version of the Bill was reported out of Committee, the President requested the Environmental Protection Agency to provide him with an analysis of the impact of the provisions of this Bill on the factors of unemployment, energy, and health standards. These analyses were delivered on the 27th of May. It was the opinion of the President's advisors that the preliminary work presented did not contain sufficient evidence to endorse the provisions of the Senate Bill. There are great uncertainties concerning impact on industrial expansion and effect on the economy and job creation. As a result, the President made the decision on Friday, May 28, to recommend that the most appropriate course of action would be to amend the Act to preclude application of significant deterioration provisions until sufficient information concerning final impact can be gathered.

Attachment

THE WHITE HOUSE

WASHINGTON

May 28, 1976

Dear Mr. Chairman:

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In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be co-sponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

Gerald R. Ford

The Honorable Jennings Randolph
Chairman
Public Works Committee
United States Senate
Washington, D.C. 20510