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BRIEFING BOOK FOR ROY L. ASH

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EPA Testimony

Hearings are the 22nd July -

D R A F T
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Mr. Chairman and Members of the Subcommittee:

We welcome the opportunity to appear before this subcommittee in support of Reorganization Plan No. 3, consolidating the major Federal pollution control programs in a new independent agency in the Executive Branch, the Environmental Protection Agency (EPA). Before proceeding further, I would like to make it clear that I am speaking on behalf of all members of the President's Advisory Council on Executive Organization: Dr. George P. Baker, Hon. John B. Connally, Mr. Frederick R. Kappel, Mr. Richard M. Paget, and Mr. Walter N. Thayer. Our Council unanimously supports the President's plan without reservation. As individuals personally concerned with the present environmental crisis, we believe that the EPA will provide the organizational base necessary for the conduct of an effective Federal pollution control effort over the long term.

Background

When the President created his Advisory Council on Executive Organization in April, 1969, he gave it a broad charter to examine ways in which the Executive Branch could be better organized. The President, along with the Council, soon concluded that environmental protection should receive top priority as a target for

executive reorganization. Given the broad and all-encompassing nature of environmental quality as a national goal, the Council decided it would concentrate its efforts on what is presently the most well-defined and critical element of this--the control of harmful pollutants in the environment.

Since late November of last year, the Council, aided by seven full-time professional staff members and consultants, has examined pollution related programs located in 15 government departments and agencies. The Council staff conducted approximately 180 interviews, visited a number of regional, state and local pollution control agencies, and held several seminars with nongovernmental experts on environmental problems. Persons consulted included the top officials of all the government programs examined, as well as former government officials, public administration experts, ecologists, and pollution experts, resource economists, lawyers, and others.

Findings

The breadth of the Council's investigation is itself indicative of the key problem encountered in instituting an effective national pollution control policy. The environment is an extremely complex field of study, requiring the special expertise of many agencies on an inter-disciplinary basis. Many agencies now conduct programs on limited aspects of pollution related to their own special expertise and primary

activities. But at the present time there is no central cognizance point or responsibility for these programs. Our analysis of separate programs revealed that proliferation and fragmentation have markedly decreased the effectiveness of the government's total pollution abatement effort. In fact, the present diffusion of functions and responsibility has made impossible the kind of integrated research, standard-setting, and assistance programs necessary in the long run to deal effectively with pollution by means other than short term crisis response and technical repair efforts.

What became especially evident as an organizational weakness was the illogic of dividing the responsibility for pollution research and control according to the environmental medium in which the contaminant occurs. Most pollutants--many chemicals, radiation, pesticides, trace metals--do not fit into the traditional air-water-soil classifications, but are present in or travel through all media. Effective control of these pollutants means that their presence and effects in all media must be studied, and decision made as to the best point of interception. Similarly, a single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of this air pollution may convert the smoke to solid wastes that pollute the air and water. Control of the water-polluting effluent may convert it into solid wastes which then may be disposed of on land. Effective regulation must involve the control of a single

source in all media, and recognition of the fact that control of one problem may cause another.

A brief case history may help illustrate, in particular, the kind of trade-offs and regulatory loopholes now found in pollution controls. Several years ago proceedings were initiated against an industrial plant to enjoin the emission of air pollution from its smokestacks. As a result, wet scrubbers were installed in the stacks of the plant and emissions brought within acceptable levels. The wet scrubbing operation, however, resulted in a sludgelike effluent which the plant routinely began to divert into a nearby river. Now, several years following the initial proceedings, a new action has been instituted against the plant to enjoin the discharge of the effluent into the river.

The same illogic attends efforts to organize around particular pollutants. For example, pesticides are first applied to the soil or to crops. The original compounds, and the derivatives resulting from their use--some more toxic than the original substances--are absorbed in biological ecosystems. They are then metabolized or photo-chemically degraded, and dispersed into the environment. Some persist on the land itself and may affect the underground water supply. Some remain in the harvested crop and find their way to the ultimate consumer. Some find their way into waterways (through rainfall runoffs or irrigation practices), where they are carried to inland lakes and to the ocean. Some become airborne. On the land, in the water, or in the air, they may synergistically interact with any number of other compounds and affect any variety of ecological systems. They have been found so concentrated in seafood, for example, that in some cases commercial fishing had to be banned.

There is much more we need to learn about our ecological system--the way pollutants travel, interact, and take effect. We are in the process of developing the necessary technology to monitor and control the effect of major pollutants throughout our environment. However, as long as there is no single agency responsible for integrated research and standard-setting, we will not have the knowledge and management capability to effectively implement a comprehensive strategy of pollution reduction.

Organizational Recommendations and Objectives

The EPA brings together in a single organization the major Federal pollution control programs now existing in four separate agencies and one interagency council. With an estimated FY 1971 budget of $1.3 billion and 6,250 personnel, the EPA will consist of the following components:

- the Federal Water Quality Administration (FWQA), now in the Department of the Interior;
- the National Air Pollution Control Administration (NAPCA), now in the Department of Health, Education, and Welfare;
- parts of the Environmental Control Administration (ECA), also from HEW;
- the pesticides research and standard-setting program of the Food and Drug Administration, HEW:
- the pesticides registration authority of the Department of Agriculture;
- the environmental radiation protection standard-setting function of the Atomic Energy Commission;
- the functions of the Federal Radiation Council (FRC);

- the ecological research function of the Council on Environmental Quality (CEQ);

- the pesticides research authority of the Bureau of Sport Fisheries and Wildlife in the Interior Department.

In our judgment, the EPA will substantially increase the effectiveness of these major pollution control programs. The EPA will be able to trace the effects of major contaminants through the ecological system, determining their cumulative effect on the individual and the environment. This will allow standard-setting and assistance to occur on an entirely new, integrated basis. In addition, reorganization will have the following advantages:

- The EPA will provide a central focus for an evaluation of all pollution-related activities of the Federal government;

- The EPA will serve to upgrade the importance of environmental considerations and pollution programs within the Federal government, and over a period of time tend to have a similar effect on program priorities within state and local governments;

- Industries will have to deal with only one agency concerning the control of their waste problems;

- State and local pollution control agencies will be able to look to one Federal agency for all their financial support and technical assistance;

- The EPA will insulate pollution abatement standard-setting from the promotional interests of other departments.

Criteria for Inclusion

The organization of the EPA has involved a delicate balancing between the needs of the new agency and those of existing agencies. We have not felt that it was either practical or desirable for the EPA to have a monopoly on all pollution relation functions, particularly since there are many agencies which presently have an interest in the environment and have specialized expertise and staff. The major organizational criterion for inclusion in the EPA thus has been whether or not a program is essential to conduct of the new agency's primary mission--an integrated regulatory effort. In order to set realistic and effective pollution control standards, the EPA has a critical need for an applied research capability which will provide the scientific, technological and economic information as a base. Many state and local government assistance programs, such as water and sewer treatment grants, should also be made on an integrated basis and will aid compliance with standards. On the other hand, the EPA can easily obtain the results of other agencies' pollution related work through contractual or other means. Some kinds of basic environmental science research (such as that done in HEW), pollution control technology research (such as that done by DOT, the Interior Department, and NASA), and environmental monitoring (Commerce Department) are probably best carried out by those agencies with primary expertise or objectives related to them. Finally, in one case (radiation) we

have recommended the retention of standards-enforcement responsibility by the agency having a broad regulatory authority and staff in related fields (AEC). In another case (pesticides on food) we have recommended that the EPA contract with the FDA (in HEW) for enforcement services.

Questions on the EPA's Location and Conduct

Before inviting specific questions from members of the subcommittee, I would like to address myself to a number of broader organizational issues frequently raised and to which the Council has devoted considerable attention over the past several months.

1. One question is why was the pollution control package located in an independent agency rather than within an existing agency which already possessed expertise directly related to pollution control? Let me answer this by saying that the Council seriously considered locating the EPA in HEW or Interior. Both these agencies have expertise in one aspect of pollution (HEW--health effects; Interior--resource development and conservation). In fact, many agencies have partial expertise in a specific area of the problem. For example, HUD specializes in the urban and USDA in the rural sources of pollution, while DOT studies emissions from transportation vehicles--accounting for at least 60 percent of all air pollution. No single agency, however, possesses the wide range of expertise which would give it, rather than another related agency, an overriding claim on pollution control and

which would qualify it as the logical location for the EPA. HEW and Interior have the additional disadvantages of unwieldy size and, in the case of Interior, competing primary interests.

As an independent agency the EPA will have distinct advantages. It will:

- maintain a wide range of expertise on all aspects of pollution with a specific focus on control programs;
- avoid the conflict of interest charges directed at agencies which have the dual function of program development and program regulation;
- upgrade the priority of pollution problems, having as its prime interest pollution control, rather than health or resource development.
- relate objectively to all agencies on a daily basis of mutual interaction, cooperation, and exchange of information and ideas.

2. Another organizational question frequently raised is whether the existence of a separate agency will increase interagency conflicts and escalate trade-off decisions to the Presidential level. As you may be aware, a primary organizational principle of the Ash Council has been to reduce the number of agencies reporting to the President by creating the machinery necessary to resolve interagency conflicts and trade-off decisions below the Executive level. We feel that pollution control is a matter of such vital importance to the nation, however, that a separate agency is required. This will not be without distinct advantages.

In our opinion, the proposed consolidation of pollution programs will create a new, efficient and uncluttered arena for interaction between the EPA, other agencies and the EOP. Hitherto there was no one place to turn to for judgments on pollution effects nor a consistent set of standards to be applied or followed. Now all agencies will have an incentive to work closely with the EPA and their own environmental responsibilities and programs will be clarified. Of course, some issues, both of policy and operation, will arise between the EPA and other agencies of government, and some probably cannot be solved before reaching the Executive Office of the President. As in the case of most other domestic issues, these should normally be resolved, depending on their content, by either the Domestic Council or the Office of Management and Budget. The Council on Environmental Quality will oversee the environmental quality activities of all agencies, and further serve to reduce confusion, overlap, and interagency conflicts.

3. One widely voiced concern is whether an independent EPA will become a mere anti-pollution advocacy body, adopting strict standards that ignore other economic, political, and social priorities. In our judgment, the EPA cannot afford to set standards which are unreasonable or which ignore competing national objectives and resource limitations. As an organization it must maintain a long-term credibility and a reputation for political realism to function effectively with other agencies, private interest groups, and with state and local governments. The alternative is to be ignored.