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Marion Clawson

Ecology: Second Thoughts

[1975]

The environmental revivalism of the mid-1960s was overdue, but many of the actions it spawned were ill-conceived, illusory in their results, or even harmful. Electric power companies were encouraged or forced to shift from coal to oil or gas as a source of energy, only shortly to be

Dr. Clawson is acting president of Resources for the Future, Inc. This article is adapted from his statement in the organization's 1974 annual report.

forced to reconvert at considerable expense when supplies of gas and oil were inadequate. Legislation required banning of chemicals which might cause cancer in humans, regardless of how low the probability and regardless of the adverse consequences to food supply and thus to health.

One of the most pervasive environmental measures of the past decade was the National Environmental Policy Act of 1969. It was not the first time that Congress enacted a law which it did not fully understand and whose meaning is only now slowly being forged in the courts. Environmental impact statements surely impede public action, whether it be well or ill conceived. They are costly to prepare, are an open invitation to lengthy court disputes, and may in time be largely thwarted as public agencies learn perfunctory compliance. A sharp check rein upon public agencies was almost surely necessary, but the short-run efficiency of environmental impact statements is low and their long-run effectiveness is, at best, unproven.

There is evidence of a serious recession in the tide of environmental concern. "Environment" is a serious issue with vastly fewer young people today. The hard core of dedicated environmentalists, young and old, still hold meetings, still circulate petitions, still write letters to magazines, newspapers, and public officials, and still attend public hearings. But apparently they find it harder to command attention and fresh audiences.

At the federal level, both Administration and Congress have had and are having second thoughts about environmental programs. In the economic and social framework which I fear the United States faces for the next few years, environmental protection is likely to find it increasingly hard going.

The partial and piecemeal approach to environmental problems has been particularly strange because its proponents have ignored the maxim of ecology which presumably all would accept: that everything in an ecosystem is related to everything else in that system. Had interrelationships among inputs, processes, and outputs been carefully studied, and had more distant, as well as primary, consequences been considered, the marching up and down of the past few years could have been much reduced, if not avoided entirely. The environmental

land now cultivated, or make some other adjustment, or simply accept an insufficient food supply? Some alternatives are rather evident, others are dubious or difficult, and still others are nearly or totally impossible.

2. What is the economic efficiency of each physically and biologically feasible alternative? Almost anything can be done, if one does not count cost—bananas can be grown in cold climates, water brought to deserts, metals extracted from seawater or from country rock, or even gold made from lead. These extremes aside, considerations of economic efficiency may be, often should be, dominant. The benefit-cost approach has been widely abused, even prostituted, and yet it is basic. Count every cost and every benefit, not merely those bought and sold in the market; count secondary and tertiary as well as primary effects. Yet in the end, both individual and society must decide: are the gains worth the costs?

3. But economic efficiency is not sufficient; who gains the benefits and who pays the costs? How does society or its elected government decide that the gain to one person outweighs the loss to another?

4. Social acceptability may be as important as physical-biological feasibility, economic efficiency, and considerations of distribution of costs and gains. Eating beef is as abhorrent to some Hindus as eating human flesh is to Americans. Clearcutting as a forest technique is culturally unacceptable to some people.

5. Lastly, a proposed resource or environmental program must be operationally or administratively practical. There is little gained, and much may be lost, by proposing some program which, for one of several reasons, cannot or will not be carried out. A program of waste collection and recycling which depends on consumer cooperation may fail because too few people cooperate. A land use planning process which depends on the independence of the planning board from the political pressure of builders may fail because such pressures are inevitable. And so on.

Utilization of five kinds of considerations presents serious analytical problems. How does one balance off high social acceptability against low economic efficiency, for instance? It is possible, however, to establish mini-

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mum levels or thresholds for each of these three factors, below which a proposed program will be rejected out of hand. It is also possible to measure



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The partial and piecemeal approach to environmental problems has been particularly strange because its proponents have ignored the maxim of ecology which presumably all would accept: that everything in an ecosystem is related to everything else in that system. Had interrelationships among inputs, processes, and outputs been carefully studied, and had more distant, as well as primary, consequences been considered, the marching up and down of the past few years could have been much reduced, if not avoided entirely. The environmental protagonist simply forgot what the environmental scientist had taught—even when the same person played both roles.

The environment-economic-output-population complex of problems is too serious, especially in the long run, to be brushed aside or taken lightly. Man cannot produce indefinitely at a rate which leads to constantly growing numbers, any more than can any other species. Neither can our environment absorb unlimited quantities of strange, even exotic, chemicals and other wastes. Some basic adjustments in population, consumption and production are clearly required. But how much, what kind, when and by whom?

In view of our past failures to deal with these problems soundly, I have evolved a five-fold approach:

1. What are the physical-biological alternatives in natural resource use in any given situation, and what are the physical-biological consequences of implementing each alternative? For instance, faced with the need for more food, does the family or the nation seek to bring more land under cultivation, or apply more fertilizer to the

the gain to one person out-weighs the loss to another?

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imum levels or thresholds for each of these three factors, below which a proposed program will be rejected out of hand. It is also possible to measure the trade-offs so that more informed political choices can be made.

If one acknowledges that the comprehensive and eclectic approach outlined above has merit, how might something like this come into use? Public agencies, individuals, firms and interest groups each have their established ways of doing things, which they are reluctant to change. The approach proposed here is not required by any law; indeed, it is not easy to see how it could be translated into law.

A different danger also exists. A call for more careful and more comprehensive planning of resource and environmental problems might well be used as the excuse for obfuscation and procrastination. One can almost hear some affected group calling for more facts, more research, and more planning as a means of stalling some action which it does not wish to oppose openly.

Given these serious theoretical and operational problems, why then do I still advocate this approach? The answer is clear to me: no lesser, simpler approach is adequate.





COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON

Good

Jim

CHAIRMAN

January 10, 1975

Dear Nelson:

The attached is of interest to the Domestic Council, and I therefore thought you would like to have a copy.

Sincerely,

Russ

Russell W. Peterson



Honorable Nelson A. Rockefeller
The Vice President
United States Senate
Washington, D.C. 20510

Attachment



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

10 JAN 1975

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Environmental Message

This is to follow up on our conversation last month about the desirability of an Environmental Message. I have discussed it with Rog Morton and Russ Train and they both support the concept. The purpose of this memo is to outline in preliminary fashion CEQ's suggestions for the contents of an Environmental Message and obtain approval for us to work with the Domestic Council, OMB, and the departments and agencies to develop a draft message and specific proposals.

A 1975 Environmental Message is desirable for many reasons. Most practically, it would serve to transmit to the Congress a number of important environmental proposals which the Executive Branch has supported for several years, including land use, toxic substances, and hazardous waste disposal legislation. It would provide a vehicle for new initiatives. Most importantly, a message would focus attention on your Administration's position on environmental issues, thereby defining a leadership role in an area of policy which has continuing strong support in Congress and the Nation.

"The New Conservation" offers a striking theme with broad appeal.

Tab A contains a brief preliminary outline of what the Environmental Message might say. Tab B provides brief descriptions of the major proposals we consider appropriate for interagency review.

Russell W. Peterson
Chairman

An Environmental Message should be prepared.

Approved _____

Disapproved _____



OUTLINE -- 1975 ENVIRONMENTAL MESSAGE

1. Introduction

- Summarize environmental accomplishments since Earth Day 1970
 - new institutions
 - new legislation
 - new international priority
- Stress need for balance, in particular with
 - energy development
 - economic growth

2. "The New Conservation"

- Our new perspective recognizes finite resources, global interdependence, population growth
- Need for a "New Conservation," stressing
 - elimination of waste
 - husbanding of resources
 - importance of productivity
 - protection of natural systems
 - concern for population growth

3. Conservation of our Energy

- Reference recommendations in the State of the Union and Energy Messages, including the need for amendments to the Clean Air Act

4. Conservation of our Land

- Reaffirmation of previous proposals
 - Land use legislation (proposed in 1971, 1972, 1973)
 - Natural Resources Lands Management Act (proposed in 1972, 1973)
 - Mining and Mineral Leasing Laws (proposed in 1973)

- Environmental Protection Tax Act (proposed in 1972,1973)
- Public Wild Lands in Alaska (proposed in 1973)
- o New proposals
 - Land and Water Conservation Fund
 - Floodplain Protection
 - Public Lands Planning
 - Wetlands Preservation
 - Agricultural Land Preservation
- 5. Conservation of our Resources
 - o New proposals
 - Recycling Tax Credit
 - Freight Rate Equalization for Recycled Materials
 - Mandatory Deposit for Beverage Containers
- 6. Conservation of our Environment
 - o Reaffirmation of previous proposals
 - Toxic Substances (proposed in 1971,1972,1973)
 - Hazardous Waste Disposal (proposed in 1973)
 - o New proposals
 - Water Pollution Amendments
 - Freon - Ozone
 - Burden of Proof Regarding Cancer Hazards
 - Non-Metallic and Metallic Mine Safety
 - Non-Game Wildlife Program
- 7. Conservation of the Global Environment
 - o Ratification of 5 International Environmental Conventions

B

LAND USE

The Problem

The proliferation of overlapping and often conflicting controls on land use in some areas, as well as the absence of adequate controls in others, has resulted in recent years in the need for state and local governments to develop more rational land use policies. The key issue is how the state and its localities will split up decision authority over the management of land. There is no need for Federal involvement in the decision-making, but Federal land use legislation is necessary to encourage the development of state and local programs.

Proposal

Submit land use legislation along the lines of the Coastal Zone Management Act of 1972 (now being implemented through grants to the states by the Commerce Department). Key provisions would provide assistance to states to identify and protect critical areas and adequately site key facilities, including energy facilities, and would require consistency of Federal programs with state planning and regulatory programs. The program would be voluntary for those states wishing to participate.

Land use legislation has been passed by the Senate in the last two Congresses, and was narrowly defeated in the House last year. It is likely to be enacted by the new Congress. A discussion of land use was held at the November 29 meeting of the Cabinet. The Department of the Interior has drawn up proposed legislation, which is now under review by other agencies.

NATIONAL RESOURCE LANDS MANAGEMENT ACT
(BLM ORGANIC ACT)

The Problem

The Bureau of Land Management of the Department of Interior has exclusive responsibility for 450 million acres or 60 percent of the Federally owned lands. Yet BLM lacks basic organic authority to administer, manage, and protect these lands for the long-term benefit of the nation.

Proposal

Resubmit the National Resource Lands Management Act. The proposed legislation provides basic authority for multiple use and environmental management of these lands, and repeals many existing laws that are inadequate, out-of-date, or inconsistent.

The Administration has strongly supported legislation to clearly define the mission of the Bureau of Land Management. Legislation similar to that proposed by the Department of the Interior passed the Senate last session. The House bill was considerably different than the Administration and Senate proposal. A new effort is required to assure passage of an acceptable bill.

MINING AND MINERAL LEASING LAWS

The Problem

There are numerous outdated and often conflicting laws which govern the development and extraction of minerals from the public lands. The U.S. Mining Laws of 1872 govern the location-patent system for the hard rock minerals (i.e., copper, lead, zinc, gold, silver, and others). Other laws govern the leasable minerals (oil, gas, oil shale, potassium, sodium, asbestos and other bedded minerals).

The Mining Laws of 1872 have many shortcomings:

- Responsible Federal officials cannot determine areas to be developed; miners are free to prospect and develop minerals on all public lands open to entry.
- Upon discovery of valuable minerals, a claimant may patent his claim. Thus the public loses both public lands and the mineral resource.
- There is no fee or royalty paid to the United States for the development or extraction of a public resource.
- Only limited controls to protect the environment are possible.

The various laws governing mineral leasing provide insufficient Federal discretion, insufficient return to the public, inadequate environmental protection, and a confusing array of regulations which are difficult and expensive to administer.

Proposal

Resubmit legislation which would repeal the Mining Act of 1872 and reform the mineral leasing laws. This legislation covers the exploration and development of all minerals on the public lands. Through a leasing

system, the legislation would provide Federal discretion in mineral disposal, a fair return to the public for its mineral estate, environmental protection, and conservation of minerals.

Uniform standards, regulations, and penalties, wherever possible, would eliminate discrimination against certain industries, thus encouraging mineral recovery with less confusion for industry. Administration of public lands and mining on it would be simplified. In many cases, duplication of administrative structures and personnel could be avoided.

ENVIRONMENTAL PROTECTION TAX ACT


The Problem

Existing provisions of the Federal income tax laws have unintended but adverse effects on environmental quality. In particular:

- depreciation laws favor the demolition and clearance of older buildings and their replacement by new buildings constructed with quick turnover in mind
- tax deductions are allowed for the expenses of draining and filling wetlands for development which could as easily be placed on dry land
- open space easement donations are discouraged by tax lawyers because of confusion over the interpretation of the tax laws and IRS regulations

Proposal

Resubmit the Environmental Protection Tax Act. It would correct these biases in the tax laws by:

- treating construction of new buildings and substantial rehabilitation of older structures the same for depreciation purposes
 - providing fast write-offs for rehabilitation of registered historic structures and disallow the cost of their demolition
 - disallowing the cost of draining, dredging and filling coastal wetlands for construction
- 

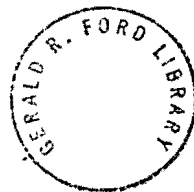
PUBLIC WILD LANDS IN ALASKA

The Problem

In December 1973, pursuant to the Alaska Native Claims Settlement Act, the Secretary of the Interior recommended to the Congress that 83 million acres of Federal land in Alaska be added to the National Park, National Forest, Wildlife Refuge, and Wild and Scenic River Systems. Although final action is not required for four years, prompt consideration by the Congress is desirable. None has taken place to date.

Proposal

Include in the Environmental Message a request that Congress initiate its review of the "4-systems" proposals.



LAND AND WATER CONSERVATION FUND

The Problem

The Land and Water Conservation Fund serves as the primary funding source for purchasing land for open space recreation and wildlife protection, both through direct Federal purchases and through 50 percent grants to states. The fund is presently set at \$300 million per year; monies come from a number of sources, with the difference up to \$300 million made up from Federal OCS receipts.

The funding level for this popular program has remained essentially level for several years. Increasing land costs, a large backlog of proposed purchases, and growing demands for protection of coastal areas from the influx of energy-related development have resulted in demand for funds far exceeding supply. At the same time, a substantial increase in OCS receipts is anticipated by opening up new areas, especially in the Atlantic, for leasing.

Proposal

Submit legislation to increase the funding level of the Land and Water Conservation Fund to \$1 billion annually by authorizing the use of OCS receipts to make up any difference between amounts collected from other sources and the new level. Priority should be given to the purchase of recreation and wildlife lands in coastal areas likely to be impacted by OCS-related development.

The Department of the Interior has been working on legislation to accomplish these changes in the Land and Water Conservation Fund Act.

300 million to 1 billion - a big hike in view of budget

FLOODPLAIN PROTECTION

The Problem

Property damage, loss of life, and disaster relief from floods continue to increase despite massive Federal investment in flood protection works and flood insurance. Losses amount to \$1-4 billion annually, most of which falls on the Federal Government. Less costly prevention measures -- such as limiting development in floodplains -- have been largely neglected. Indeed, some Federal programs continue to fund infrastructure investments such as roads, sewers, and housing in the floodplain, thereby fostering development which is likely to be damaged or destroyed by future floods.

In 1966, Executive Order 11296 was issued in an effort to make all agencies recognize the need to avoid encouraging development in floodplains. Agencies were directed to issue guidelines to assure that Federal programs did not stimulate floodplain development. Yet agencies have never complied with the requirement to develop plans for meeting the requirements of the Executive Order.

The Proposal

Update Executive Order 11296 to bring it into conformance with post-1966 legislative and executive developments, reaffirm its underlying rationale, and require expeditious agency implementation of its policies.

PUBLIC LANDS PLANNING

The Problem

Public lands (including national parks, forests, wildlife refuges, national resource lands) make up one-third of the nation's land. There is currently no generally accepted framework for land use planning among the major Federal public lands agencies, nor is there adequate coordination between Federal land planning and affected states and communities. Since planning decisions often transcend administrative boundaries, coordination is essential to:

- guide natural resource protection, management and development programs
- guide location of investments in transportation and energy facilities
- protect areas of unique and special value
- coordinate Federal decisions with other Federal, state and local government programs.

Proposal

Issue an Executive Order directing public land agencies, primarily the Forest Service, BLM, Fish and Wildlife Service, and the National Park Service, to cooperate in regional land use planning efforts. Federal public lands agencies would be directed to:

- establish public lands planning areas in locations requiring special planning attention (e.g., the Yellowstone National Park region)
- coordinate their land use planning in other areas where contiguous lands are managed by several Federal agencies
- cooperate in developing improved land use planning systems
- work more closely with the states and communities

WETLANDS PRESERVATION

The Problem

Wetlands, both coastal and inland, serve important national purposes. They are a main source of food and protection for two-thirds of marine species and thus are essential for the continued viability of commercial fishing. Wetlands also blunt storms and high tides and act as wildlife and waterfowl habitat, hydrologic recharge areas, and recreation resources.

Piecemeal destruction of wetlands through draining, dredging, and filling has caused major losses in many regions of our country. (Up to 2/3 of San Francisco Bay and over 1/2 of Long Island Sound wetlands have been permanently lost.) The Federal Government has extensive and continuing programs that adversely affect wetlands by encouraging construction, development, and other activities in and near wetlands.



Proposal

Issue an Executive Order establishing a national policy of wetland preservation and requiring Federal agencies to ensure that facilities caused or endorsed by program activities are placed outside of wetlands wherever possible or, where they must be located in wetlands, are constructed, operated and maintained to minimize impact. Exemptions would be allowed on a per project basis. //

AGRICULTURAL LAND PRESERVATION

The Problem

The world food situation and the importance of agricultural products as U.S. export commodities suggest a national goal of maximum agricultural productive capacity. Yet nearly a million acres of prime agricultural land are being developed each year without regard to their agricultural importance.

Proposal

Issue an Executive Order establishing a national policy of preservation of prime agricultural land and requiring Federal agencies to ensure that their activities do not consume such land. Exemptions would be allowed on a per project basis with approval of the Secretary of Agriculture.

Ex private land developers

RECYCLING TAX CREDIT

The Problem

Current solid waste management practices are environmentally damaging, financially burdensome, and wasteful of scarce energy and mineral resources. About 250 million tons of solid wastes are now generated annually in the United States and this amount is growing at an annual rate of around 4 percent. Approximately 90 percent of the solid waste volume is disposed of in landfills, with the remainder incinerated. Of the landfills in operation in the U.S., only 10 percent are managed in an acceptable manner from the standpoint of public health and the environment; the remainder are simply open dumps.

While resource recovery is receiving increased attention as a means of large-scale waste disposal, its growth is hindered by Federal policies (particularly tax policies) that tend to make virgin materials more attractive than reclaimed materials. Various provisions of the Federal tax code (e.g., percentage depletion allowances, favorable capital gains treatment) provide substantial benefits to the virgin materials production sectors that are not available to the recycled material sector.

Users tend to regard reclaimed materials as marginal supplies to be utilized during periods of high product demand and ignored at other times. This leads to extreme fluctuations in scrap prices and an atmosphere of uncertainty which discourages investment in recovery facilities. Within the past year alone, scrap paper prices have dropped from \$45 to \$7 per ton, and scrap copper prices have fallen to 40 cents from a high of \$1.10 a pound.

The energy potentially recoverable from post-consumer residential and commercial solid waste could displace from 400,000 to 500,000 barrels of oil per day. Materials recycled could provide 7 percent of the iron, 8 percent of the aluminum, 20 percent of the tin, and 19 percent of the paper consumed annually in the United States.

Proposal

Amend the Internal Revenue Code to reduce the tax liability of processors of post-consumer waste by 15 percent of income derived from resource recovery. Processors, including governmental entities, could elect to transfer eligibility for the tax credit to a user of the recovered resources. The tax credit, which would be effective for a period of 10 years, is based upon the value of the recovered resources prior to transportation to the user. It would be applicable to post-consumer waste from residential and commercial sources, and would include glass, ferrous metals, and paper products.

A tax credit, in conjunction with the continuing development of more economical resource recovery systems, would permit the formation of a substantial reclaimed materials market. Stimulus of the tax credit would bridge existing economic gaps and accelerate the implementation of resource recovery systems. By the time the tax benefits are eliminated, resource recovery could develop into a self-sustaining and economically viable alternative to conventional solid waste disposal.

FREIGHT RATE EQUALIZATION FOR RECYCLED MATERIALS

The Problem

There is evidence to indicate that freight rates determined by the Interstate Commerce Commission and the Federal Maritime Commission discriminate against shipment of secondary materials versus shipment of virgin materials. Rates for several recycled materials exceed actual transportation costs by higher margins than do rates for competing virgin materials. For instance, the ratio of revenue to costs incurred for shipment by railroad of iron and steel scrap exceeds that for shipment of iron ore by as much as 65 percent. Under competitive conditions, these ratios would be equal.

While it is difficult to predict the degree to which rate equalization would promote waste recovery, transportation costs represent a significant proportion of the total costs of several recycled materials and thus can be considered important factors in determining demand. For example, freight costs represent 31 percent of the average delivered price of scrap iron but only 17 percent of the delivered price of iron ore.

The reason for the existence of rate discrimination lies in the method of rate setting employed by the two regulatory agencies. While costs are considered in setting rates, discrimination results from additional non-cost considerations which essentially lead to prices set according to "what the traffic will bear." In practice, this means that rates include a higher profit margin for those commodities for which fewer transportation alternatives exist -- the less the competition, the higher the rate of profit. Since there tend to be few alternative transportation modes available to scrap shippers, they are charged higher rates.

Proposal

It is proposed that the Interstate Commerce Act and the Shipping Act be amended to provide clear direction to the regulatory commissions in their rate setting procedures.

This direction would emphasize the importance of basing freight rates on actual costs and not subsidizing more competitive commodities through the rates charged on less competitive commodities. The amendments would particularly emphasize the importance of scrap materials.



MANDATORY DEPOSIT FOR BEVERAGE CONTAINERS

The Problem

Consumption of beer and soft drink containers continues to grow faster than population and faster than consumption of the beverages themselves. Per capita beverage container consumption rose by 164 percent between 1959 and 1969; consumption of beer and soft drinks rose by only 29 percent. The relative rise in container consumption is largely explained by the decline in the use of refillable bottles -- the average number of fillings per container dropped from 3.7 to 1.8 from 1959 to 1969.

Beer and soft drink containers form a large and highly visible segment of roadside litter. At least 2.2 billion beverage containers became litter in 1969, from 20 to 32 percent of all roadside litter by item count.

Refillable bottles are beneficial from other viewpoints. Refillable bottles use from 41 to 74 percent less energy and reduce air and water effluents by 30 to 71 percent. Nonreturnable beverage cans consumed 2 million tons of steel and 0.6 million tons of aluminum in 1972, representing 2 and 20 percent of industry shipments respectively.

Proposal

Submit legislation requiring retailers to pay 5 cents for every empty container of beer and carbonated soft drinks. The retailer would be required to accept from the consumer any empty container of the kind, size, and brand sold by that retail outlet. Retailers, in turn, could return empty containers to the distributor who would also be required to pay the 5 cent refund.

A mandatory deposit system does not directly prohibit the sale of any container type. However, it forces the consumer to pay a higher price -- equivalent to the deposit -- for the convenience of discarding a container.

Implementation of a 5 cent mandatory deposit would result in a reduction in beverage container litter through decreased discards and increased scavenging. Estimates of litter reduction are between 60 and 75 percent. Material and energy use would be reduced, as would water and air pollution and solid waste.

Studies in Oregon have shown that while such action would be temporarily disruptive for the beverage container industry, overall employment might increase slightly due to job additions in the distribution sectors.

TOXIC SUBSTANCES

The Problem

In recent years several widely used chemicals (such as PCB's, mercury, asbestos, and vinyl chloride) have been discovered to be causing major damage to human health and the environment. Given the rapid development of the chemical industry, additional toxic substances are likely to be discovered in the future. Controlling a toxic chemical after marketing is extremely difficult and disruptive. Furthermore, in cases such as PCB's, no Federal authority exists to restrict the use of toxic substances to safe and appropriate uses.

Proposal

Resubmit the Toxic Substances Control Act which provides authority for EPA to (1) require appropriate testing of chemicals to identify potential hazards and (2) permits control of the production, distribution, or use of toxic chemicals.

Include an amendment to provide for EPA access to relevant toxicity data already collected by companies on unmarketed chemicals. Such information can lead to a means of classifying and assessing the risks of similar chemical compounds and thereby reduce the need for new tests.

HAZARDOUS WASTE DISPOSAL

The Problem

More than 10 million tons of nonradioactive hazardous wastes are produced in the United States each year, and the volume is growing at 5-10 percent annually. Most of these wastes pose present or potential hazards to human health and other living organisms. Existing Federal legislation regulates disposal of these toxic wastes through incineration or through dumping into waterways or the ocean, but disposal on land is not regulated. As a result dangerous disposal practices are occurring, and no incentive exists for improvement in present practice.

Proposal

Resubmit The Hazardous Waste Management Act. This legislation would give primary responsibility for regulating hazardous wastes to the states, with direct Federal regulation for a limited category of the most hazardous wastes. 11

COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Problem

Increased waterborne transportation of petroleum and petroleum products and accelerated development of offshore oil resources threaten increased oil damage to shorefront property, fisheries and other natural resources. Even with stringent environmental controls, the risk of oil spills and substantial financial losses is great.

Recognizing this threat, Congress and the States have in recent years passed a number of laws establishing more stringent liability for damages and creating a number of funds to compensate for damages. Examples include the Trans-Alaska Pipeline Act, the Deepwater Ports Act, and laws of Florida and Maine. The results are overlapping liability systems, duplicative compensation funds, and procedural uncertainties. Moreover, the ability of a party to receive full compensation for oil damages varies from State to State and from Federal fund to Federal fund.

Proposal

The Council on Environmental Quality and the Interior Department have chaired an interagency working group which over the past four months has drafted a comprehensive Oil Pollution Liability and Compensation Act. This bill would provide a single nationwide liability system for damages from all oil discharged into the waters of the United States, and from U.S. offshore operations. The bill includes a simplified, no-fault claims mechanism which will facilitate quick payment to damaged parties. It establishes a single nationwide fund adequate to pay all claims. The fund would be based on a fee of approximately one cent per barrel on all oil moved over water and by payments from those responsible for oil discharges.

WATER POLLUTION AMENDMENTS

The Problem

OMB is taking the lead, in conjunction with EPA and other agencies, in developing necessary amendments to the Water Pollution Control Act. These amendments must be transmitted to the Congress.

Proposal

Propose the amendments in the Environmental Message.



FREON - OZONE

The Problem

Many respected atmospheric scientists are concerned that the use of approximately 4 billion pounds per year of freon gases as aerosol propellants may result in a depletion of the protective ozone layer of the stratosphere. A significant depletion could potentially increase the incidence of human skin cancer, alter global climate, and (perhaps most importantly) affect agriculture.

A research program is needed to address this potentially important issue. Other human activity which might similarly disturb the stratosphere should also be investigated.

Proposal

A Presidential directive to the Chairman of CEQ and the Science Advisor to convene an interagency task force on unintended modifications of the stratosphere. A report on the freon situation should be requested by June 1. This report should contain recommendations for an appropriate Federal response to the problem. The appropriate agencies are prepared to carry out such a directive.

BURDEN-OF-PROOF REGARDING CANCER HAZARDS

The Problem

Diseases with long latency periods, particularly cancers, are caused by small exposures to disease causing chemicals over a long period of time. A dispute exists as to the degree of proof the Government or other plaintiffs must reach in lawsuits to abate environmental pollution which has alleged cancer producing potential.

In United States v. Reserve Mining Co. the district court enjoined the discharge of 67,000 tons per day of mine tailings into Lake Superior because asbestos fibers contained therein were entering municipal water supplies. Asbestos is a known human carcinogen. Although it was not possible to show present death or disease, the Court found a substantial health hazard to exist on grounds that there was a probability that some cancers would occur in the population as a result of the pollution at some unknown future date. The Court of Appeals set aside the injunction on preliminary hearing on the ground that no demonstrable health hazard existed, death or injury being beyond proof because of latency period. The Supreme Court declined to review that decision, Justice Douglas dissenting, but ordered the Court of Appeals to have a final decision by January 31, 1975.

Proposal

Submit legislation to allow a prima facie case to be made in pollution cases involving carcinogens by showing a serious risk to public health. This would shift the burden of proof to industry to show that the risk from the pollution is slight, or, alternatively, that the cost of abatement outweighs the benefits of abatement.

NON-METALLIC AND METALLIC MINE SAFETY

The Problem

The health and safety problems of the American worker is of increasing public concern. The workplace constitutes by far the most hazardous human environment. Significant improvement in human health and productivity are possible through reasonable improvements in workplace conditions.

The American workforce is protected by three major occupational health authorities: the Occupational Safety and Health Act (OSHA), the Coal Mine Safety Act (CMSA), and the Non-Metallic and Metallic Mine Safety Act (NMMSA). Although not exactly parallel, OSHA and CMSA provide comparable levels of worker protection. The now antiquated NMMSA is seriously inadequate and needs revision to afford similar levels of protection.

Proposal

Submit a new Non-Metallic and Metallic Mine Safety Act to give all Americans comparable protection from hazards in the workplace.

NON-GAME WILDLIFE PROGRAM

The Problem

Hunters comprise only 5-10% of the U.S. population, and hunted wildlife is a very small percentage of the 400 species of wild native mammals and 800 species of native birds. However, most wildlife programs are focussed on game species, and most funding of wildlife programs are financed through hunting licenses and taxes.

Identified non-consumptive uses of wildlife (wildlife-based visits to public lands, wildlife watching, and photography, nature study, etc.) have increased dramatically, and there are strong and vocal demands by the American public for improved management of non-hunted wildlife, particularly on public lands and in urban-suburban areas. In 1969 (the last year for which such records are available) only 4% of all funds spent for wildlife management, research and habitat acquisition was expended for clearly non-game purposes. In FY 1975, only an estimated 5.7% of the budget of the U.S. Fish and Wildlife Service relates directly to non-game wildlife, including endangered species. Hence, there is an urgent need to develop a more balanced national wildlife management program.



Proposal

Initiate a non-game wildlife program parallel to and complimentary with the present, largely game-oriented wildlife program. The program would include research, management, and habitat acquisition at Federal and state levels, and research and education at appropriate educational institutions.

Estimated initial needs are \$12 million for Federal agencies, \$11 million for 36 states presently able to undertake such programs, and \$4 million for 115 educational institutions. Funding and leadership for the Federal - State program would be through the Fish and Wildlife Service, after the pattern of the long established,

successful Pittman-Robertson and Dingell-Johnson programs. Federal funding would come from an excise tax on selected items of outdoor recreation equipment (such as that used in photography, bird watching, camping, snowmobiling, etc.), payable to General Funds but earmarked as special funds, authorized to be appropriated for the purposes of enhancing and preserving non-game wildlife and its habitat. Such a tax of 10% (similar to the 10-11% tax on hunting equipment under the Pitman Robertson Act) would yield approximately \$130 million annually.

RATIFICATION OF ENVIRONMENTAL CONVENTIONS

The Problem

Since 1970, the U.S. has taken a leadership position in negotiating international environmental conventions to protect the oceans, wildlife, and other environmental matters of global concern. Legislation to provide for formal U.S. ratification of the following conventions must be forwarded to the Congress:

- International Convention for the Prevention of Pollution from Ships
- International Convention on Civil Liability for Oil Pollution Damage
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage
- Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil
- Convention for the Conservation of Antarctic Seals

Proposal

Include a section in the Environmental Message drawing attention to U.S. leadership in developing international environmental conventions and calling for prompt Congressional action leading to ratification.

