

October 4, 1972

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AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on S. 2770, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CANNON). The report will be stated by title.

The legislative clerk read as follows: The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2770) to amend the Federal Water Pollution Control Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 28, 1972, at pages 32768-32796.)

Mr. MANSFIELD. Mr. President, I yield my 15 minutes to the distinguished Senator from Maine (Mr. MUSKIE).

Mr. MUSKIE. I thank the Senator from Montana.

Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

→ Mr. MUSKIE. Mr. President, I ask unanimous consent that during consideration of the conference report on S. 2770, the following members of the staff of the Committee on Public Works be permitted on the floor:

Leon G. Billings, M. Barry Meyer, Harold Brayman, Sally Walker, Philip T. Cummings, John Yago, Dick Hellman, and Bailey Guard.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Mr. David Clanton be permitted the privilege of the floor during consideration of this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, may I say to my colleagues that we have a 30-minute time agreement here and we should not be troubled by the size of the documentation before me as I shall not take more than 2 minutes to present the report and then there will be several colloquies on points in the report which are of interest to particular Senators. Thus, we should be able to cover the ground quickly in the next 30 minutes.

Senator Muskie's speech to the Senate on the conference report, October 4, 1972

Our planet is beset with a cancer which threatens our very existence and which will not respond to the kind of treatment that has been prescribed in the past. The cancer of water pollution was engendered by our abuse of our lakes, streams, rivers, and oceans; it has thrived on our half-hearted attempts to control it; and like any other disease, it can kill us.

We have ignored this cancer for so long that the romance of environmental concern is already fading in the shadow of the grim realities of lakes, rivers, and bays where all forms of life have been smothered by untreated wastes, and oceans which no longer provide us with food.

The amount of time spent in conference on this legislation, Mr. President, should not indicate any disagreement among the Senate and the House Members over the gravity of the problem. No one can face the facts of water pollution day in and day out without fearing for our future. In fact, it has taken this much time to hammer out an agreement because the conferees agreed that our product must, finally, be legislation which provides the means, properly administered, to eliminate this cancer.

There were disagreements over the means to achieve this goal, and the conference agreement before the Senate today reflects accommodations made by both sides. In my own eyes, the conference agreement is not perfect; it does not retain everything from the Senate bill that we had hoped it would, but it was evident after review in the conference committee that there were aspects of the House-passed legislation that improved upon provisions of the Senate bill. This agreement, then, is the best of two proposals, not the lowest common denominator.

Senators will recall from the November debate on the Senate bill that there were three essential elements to it: uniformity, finality, and enforceability. Without these elements a new law would not constitute any improvement on the old; we would not bring a conference agreement to the floor without them.

As far as uniformity and finality are concerned, the conference agreement provides that each polluter within a category or class of industrial sources will be required to achieve nationally uniform effluent limitations based on "best practicable" technology no later than July 1, 1977.

This does not mean that the Administrator cannot require compliance by an earlier date; it means that these limitations must be achieved no later than July 1, 1977, that they must be uniform, and that they will be final upon the issuance of a permit under section 402 of the bill.

Mr. President, the Senate bill established a deadline for the achievement of phase I by January 1, 1976. As I have noted, the conference agreement establishes a deadline of July 1, 1977. Since this legislation will not be signed into law until nearly 1 year after Senate action, the slippage in the timetable set forth in the Senate bill is, at most, only 6 months.

My colleagues will also recall that the Senate bill mandated requirements which would lead to the elimination of the discharge of pollutants or achieve effluent limitations based on the best available control technology by January 1, 1981. The Senate has maintained its position in that the goals of the Senate bill are intact. The requirement of the Senate bill as to the implementation of a no-discharge requirement where the technology is reasonably available is retained in the conference agreement, and the burden of justifying departure from the July 1, 1983, requirements remains on the polluter.

Phase II in the Senate bill was to have been implemented by January 1, 1981. The conferees agreed on a 6-year period rather than a 5-year period to move to this significant phase. But again because of the time in conference, the slippage in the Senate bill is no more than 18 months.

What does that slippage mean? It does not mean that polluters will be discharged from their responsibility to comply with the law. It only means that the requirement set forth in this act will be achieved in some cases at a date which is somewhat later than originally intended by the Senate. The Administrator retains the authority to require the application of these controls at an earlier date, and it is intended that he will require their application at the soonest practicable time.

The Administrator retains the authority to establish schedules and timetables of compliance which eliminate the discharges of pollutants whenever he determines that the technology is reasonably available. At the same time, the Administrator is given clear guidance in the law to press forward to achieve the goals of the act; to assure that reasonable effort is put forth to move from one phase to the other; to guarantee that there is real progress from best practicable technology to best available technology; and, above all, to require, whenever technology is reasonably

Senator Muskie's speech to the Senate on the conference report, October 4, 1972

PUBLIC PAPERS OF THE PRESIDENTS
OF THE UNITED STATES

Richard Nixon

*Containing the Public Messages, Speeches, and
Statements of the President*

1972



UNITED STATES GOVERNMENT PRINTING OFFICE

WASHINGTON : 1974

Veto of the Federal Water Pollution Control Act Amendments of 1972

campaign. That will be very interesting. The last 3 weeks are always the most important weeks of a campaign. The British have a much better system, incidentally, speaking as one who has campaigned, going back 25 years, virtually every 2 years.

Our campaigns seem to go on all the time, and traditionally they last 8 weeks, 12 weeks, even 3 or 4 months. By the time the campaigns reach this stage, the candidates are tired and the people also are a bit tired.

The British, as you know—and many of you come from the parliamentary systems—have rules whereby they call an election and the campaign is only 3 weeks.

But in reality let me tell you, in observing the American political scene, the last 3 weeks are the most important, because that is when the people are listening, that is when the people are going to make up their minds.

So as you travel around the country, as you observe the candidates of the various parties for the House, for the Senate, for Governor, and, of course, for the Presidency and the Vice Presidency, you are here at the time when many important decisions, as far as voters are concerned, will be made.

In looking at our political scene, I do not suggest that each of you in your country should have the same system, because the hallmark of freedom is diversity. We have different backgrounds. We have dif-

ferent governments. A parliamentary system is different from the kind of system that we have in the United States. The kind of system you have in France is different from that in the United States. And yet, freedom flourishes in Britain, in France, in the United States, and in countries that have our kinds of systems of those free countries all over the world.

I will simply conclude by saying that we welcome you here very warmly, because we are always glad to have visitors from abroad. Particularly, I am glad to have visitors from countries where I have been so warmly received, along with my wife, going back over 25 years.

And second, we wish you well in your work for the men and women, the working men and women of your countries. And third, we hope that as you travel the United States over these next 3 weeks you will enjoy it, you will go back, that you will enter politics, and that all of you will win all of your elections in all the years ahead.

Thank you.

NOTE: The President spoke at 10:22 a.m. in the State Dining Room at the White House. He spoke without referring to notes. The labor leaders from 24 countries were in the United States to study the national elections in an exchange program sponsored by the Department of State and the AFL-CIO.

George P. Shultz was Secretary of the Treasury, and Lane Kirkland was secretary-treasurer of the AFL-CIO.

353 Veto of the Federal Water Pollution Control Act Amendments of 1972. *October 17, 1972*

To the Senate of the United States:

The pollution of our rivers, lakes and streams degrades the quality of American life. Cleaning up the Nation's waterways

is a matter of urgent concern to me, as evidenced by the nearly tenfold increase in my budget for this purpose during the past four years.

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I am also concerned, however, that we attack pollution in a way that does not ignore other very real threats to the quality of life, such as spiraling prices and increasingly onerous taxes. Legislation which would continue our efforts to raise water quality, but which would do so through extreme and needless overspending, does not serve the public interest. There is a much better way to get this job done.

For this reason, I am compelled to withhold my approval from S. 2770, the Federal Water Pollution Control Act Amendments of 1972—a bill whose laudable intent is outweighed by its unconscionable \$24 billion price tag. My proposed legislation, as reflected in my budget, provided sufficient funds to fulfill that same intent in a fiscally responsible manner. Unfortunately the Congress ignored our other vital national concerns and broke the budget with this legislation.

Environmental protection has been one of my highest priorities as President. The record speaks for itself. With the Council on Environmental Quality and the Environmental Protection Agency, we have established a strong new framework for developing and administering forceful programs in this problem area. I have proposed more than 25 far-reaching laws to deal with threats to the environment; most still await final action in the Congress. Pending enactment of new legislation, our enforcement agencies have cracked down on polluters under old laws seldom enforced by previous administrations.

The budget authority which I have requested for pollution control and abatement in fiscal year 1973 is more than four times the amount requested in 1969. Federal grants for local sewage

treatment plant construction have increased almost tenfold, from an annual rate of \$214 million appropriated up to the time I took office, to \$2 billion in my budget for 1973. This dramatic growth in the share of Federal Government resources being devoted to the environment exceeds, many times over, the rate of increase for funds in most other major government programs.

Every environmental spending increase that I have proposed, however, has been within the strict discipline of a responsible fiscal policy—a *policy which recognizes as the highest national priority the need to protect the working men and women of America against tax increases and renewed inflation*. Specifically, the water pollution control bill which I originally sent to the Congress last year was fully consistent with the concept of a balanced, full-employment budget. It would have committed \$6 billion in Federal funds over a three-year period, enough to continue and accelerate the momentum toward that high standard of cleanliness which all of us want in America's waters.

By contrast, the bill which has now come to my desk would provide for the commitment of a staggering, budget-wrecking \$24 billion. Every extra dollar which S. 2770 contemplates spending beyond the level of my budget proposals would exact a price from the consumer in the form of inflated living costs, or from the taxpayer in the form of a new Federal tax bite, or both.

Ironically, however, only a portion of the \$18 billion by which my bill was fattened on Capitol Hill would actually go to buy more pollution control than the Administration bill would have done. One backward-looking provision, for example, would provide \$750 million to

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reimburse State and local governments for work already completed on sewage treatment plants *between 1956 and 1966*. The precedent this would set for retroactive reimbursement in other matching grant programs is an invitation to fiscal chaos. Another provision would raise the Federal share of the cost of future facilities from 55 percent to 75 percent. Neither of these costly actions would, in any real sense, make our waters any cleaner: they would simply increase the burden on the Federal taxpayer.

There is a well-worn political axiom which says that any election year spending bill, no matter how ill-advised, defies veto by the President. But I say that any spending bill this year which would lead to higher prices and higher taxes defies signature by this President. I have nailed my colors to the mast on this issue; the political winds can blow where they may.

I am prepared for the possibility that my action on this bill will be overridden. The defeat of my proposal for a spending ceiling showed that many Senators and Congressmen are simply AWOL in our fight against higher taxes. And some have been lured to the wrong side of the fight by the false glitter of public works money for their districts or states. They seem to forget that it is their constituents' pockets from which the higher taxes must come as a result of their votes this week. Others, to their great credit, voted for the spending limit to try to hold taxes down. Taxpayers must be sad to learn that a majority are charge account Congressmen.

If this veto is not sustained, however, let the issue be clearly drawn. As with the spending ceiling, so with this bill, a vote to sustain the veto is a vote against

a tax increase. A vote to override the veto is a vote to increase the likelihood of higher taxes.

Even if this bill is rammed into law over the better judgment of the Executive—even if the Congress defaults its obligation to the taxpayers—I shall not default mine. Certain provisions of S. 2770 confer a measure of spending discretion and flexibility upon the President, and if forced to administer this legislation I mean to use those provisions to put the brakes on budget-wrecking expenditures as much as possible.

But the law would still exact an unfair and unnecessary price from the public. For I am convinced, on the basis of 26 years' experience with the political realities here in Washington, that the pressure for full funding under this bill would be so intense that funds approaching the maximum authorized amount could ultimately be claimed and paid out, no matter what technical controls the bill appears to grant the Executive.

I still hope, with millions of taxpayers, that at least one third plus one of the members in one House will be responsible enough to vote for the public interest and sustain this veto. It should be noted that doing so would by no means terminate the existing Federal water quality programs, because the Environmental Protection Agency will continue to operate those programs until the merits of a new water bill can be dealt with as a first order of business in the new Congress.

I look forward to cooperating with the next Congress on a prudent bill, to achieve ends on which we are mutually agreed, and by means which I trust will take better account than S. 2770 did of the working men and women who must ulti-

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mately pay the bill for environmental quality.

RICHARD NIXON

The White House,
October 17, 1972.

NOTE: On the same day, the White House re-

leased the transcript of a news briefing on the veto message by John D. Ehrlichman, Assistant to the President for Domestic Affairs, and Caspar W. Weinberger, Director, Office of Management and Budget.

S. 2770 was enacted over the President's veto on October 18, 1972, as Public Law 92-500 (86 Stat. 816).

354 Remarks on Signing the General Revenue Sharing Bill. *October 20, 1972*

Mr. Vice President, Mayor Rizzo, and all of our distinguished guests:

We stand today on ground in which more history has been made than any place in America. As we stand here we all realize that the American system of government was born here. We realize, too, that as we stand here that the Declaration of Independence, the Constitution, the Bill of Rights—those three great documents created the federal system. And now by the bill I will soon sign, we have the privilege to renew the federal system that was created 190 years ago.

The Constitution of the United States begins with the words, "We the People," and the bill I shall sign is a demonstration of a principle that we have faith in people, we believe in people, and we believe that government closest to the people should have the greatest support.

And on behalf of the people, all of the American people, I express appreciation today to the Members of the House and the Senate, the members of the various organizations, civic organizations, that have worked for this cause, to the Governors of the States, to the mayors, to the county officials, and all others who have supported this cause.

You will note from the program today it is a bipartisan group. Reference has al-

ready been made to the fact that when this proposal was made at the Federal level, 3½ years ago, there were some who were quite pessimistic that it would ever come into being. And at the first of this year, an election year, there were some who thought it had very little chance for success.

But as I sign this bill, we will all be reminded of another great truth, and that is: When a great national purpose is to be solved, we act—not as Republicans, not as Democrats, not as partisans, but as Americans.

And now as I sign the bill, there will be, of course, a tendency to say it is done. But it will not be done.

Perhaps the most famous painting, at least my favorite painting of the signing of the Constitution, hangs just outside the Oval Office in Washington. It is an unfinished painting. As you look at it, you will note that the faces of some are not painted in, and that painting tells us the genius of the American system.

The Constitution was a great document, but a constitution made to govern 3 million people in 13 States, 190 years ago, would have been inadequate unless it had within it what is really the genius of the American system: a process by which, through peaceful change, we can

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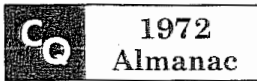
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Intro

CLEAN WATER: CONGRESS OVERRIDES PRESIDENTIAL VETO

Congress Oct. 18 overrode President Nixon's veto of the Federal Water Pollution Control Act Amendments of 1972 (S 2770—PL 92-500), the most comprehensive and expensive environmental legislation in the nation's history.

Final action came when the House, by a 247-23 roll call, voted to override the veto. The Senate had voted to override by a 52-12 roll call in the pre-dawn hours of the same day. Both votes were well over the two-thirds majority required by the Constitution. (p. 81-S; 98-H)

President Nixon vetoed the controversial measure shortly before midnight on Oct. 17, when the bill would have become law automatically without his signature. If Congress had adjourned before midnight, he could have pocket vetoed the bill.

The President has 10 full days (excluding Sundays) to sign a bill or it becomes law unless Congress adjourns, when he may pocket veto it. There was widespread speculation that had Congress adjourned before Oct. 17, S 2770 would have been pocket vetoed.

The bill was strongly opposed by major industries and by some state and local officials, but was endorsed by most environmental organizations. The bill originally passed the Senate in November 1971 and passed the House in a widely differing version in March 1972. Conferees first met May 11 and reached agreement at their 40th meeting Sept. 14. Both houses adopted the conference report (H Rept 92-1465) Oct. 4, the House by a 366-11 roll-call vote and the Senate by a 74-0 roll call. The bill went to the White House Oct. 5.

The bill initiated a major change in the basic approach to water pollution control in the United States by limiting effluent discharges as well as setting water quality standards.

The bill set a national goal of eliminating all pollutant discharges into U.S. waters by 1985 and an interim goal of making the waters safe for fish, shellfish, wildlife and people by July 1, 1983. S 2770 contained authorizations of \$24.7-billion, including more than \$18-billion in federal grants to the states for construction of waste treatment plants.

The construction grants were allotted to the states on the basis of need, as determined by the Environmental Protection Agency (EPA), with the federal government paying 75 percent of the costs and state and local governments providing the remaining 25 percent.

S 2770 established a new pollutant discharge permit program under strict guidelines administered by the EPA. An existing permit program, established by the Refuse Act of 1899, would be phased out. States could operate their own permit programs if approved by EPA, but the agency could take over state programs which failed to meet standards and veto individual permits under certain circumstances.

In a major departure from the language in both House- and Senate-passed versions of S 2770, the final bill exempted most EPA actions covered under S 2770 from provisions of the National Environmental Policy Act of 1969 (PL 91-190), which required the filing of detailed impact statements for federal projects significantly affecting the environment. The statements still would be required for construction of new municipal waste treatment and industrial plants, however.

By July 1, 1977, all industries would be required to use the "best practicable" technology for treatment of any discharges into U.S. waters. By July 1, 1983, they would have to install the "best available" equipment. Industry was the largest user of water in the nation, withdrawing about 177 billion gallons a day, according to the Interior Department.

The bill established a 15-member national commission to study the costs and benefits of achieving the 1977 and 1983 deadlines and issue its report to Congress. Conferees dropped a provision in the House bill requiring a two-year study and report by the National Academies of Sciences and Engineering with implementation of the deadlines contingent on further congressional action after the report was submitted.

S 2770 allowed citizen suits against polluters, the federal government or the EPA if the citizens had interests which were or might be adversely affected. The interests would not have to be economic, as in the House version of the bill, but could be related to recreational opportunities. The Senate bill would have allowed citizens to sue regardless of the extent of their interests.

Environmental Groups. Spokesmen for major environmental organizations generally praised the compromise version of S 2770, although some objected to specific provisions.

Barbara Reid of the Environmental Policy Center and David Zwick of Ralph Nader's Task Force on Water Pollution Control issued a press release Sept. 14 which described the bill as "a product of torturous agreements" made "in an atmosphere complicated by consistent Nixon Administration opposition." Reid and Zwick specifically objected to what they called weak compliance requirements, discretionary federal enforcement and restrictions on citizen participation. "Congress has failed to repair the most serious loophole in the old law—discretionary enforcement. By leaving the government free not to prosecute politically powerful polluters, the bill virtually guarantees abusive under-enforcement," they said.

Fruzsina Fedlam of the League of Women Voters told Congressional Quarterly that her organization generally supported the compromise bill although with some reservations over the citizen suit and sludge disposal provisions. "We feel that it is a reasonable compromise at this point and we have written our leagues asking them to support it and, if necessary, to write letters to the President urging him to sign it," she said.

The Sierra Club's Lloyd Tupling told Congressional Quarterly that his group was "disappointed" by the conference bill. He cited the National Environmental Policy Act exemption as "most unfortunate." Tupling said: "We've feared that they were going to dismember NEPA bit by bit, and it looks like that's just what is going to happen."

References. *Senate passage and House hearings, 1971 CQ Almanac p. 710-718.*

708—1972 CQ ALMANAC

Final Provisions

As cleared by Congress, S 2770:

Title I—Research

- Declared it the Act's objective to restore and maintain the chemical, physical and biological integrity of the nation's waters.
- Established as a national goal elimination of pollutant discharges into U.S. waters by 1985 and as an interim goal achievement of water quality safe for fish, shellfish, wildlife and recreation by July 1, 1983.
- Established as a national goal elimination of pollutants of toxic pollutants in toxic amounts, providing federal financial aid to build public waste treatment works, developing areawide waste treatment management plans and making a major research effort to develop technology to eliminate pollutant discharges.
- Declared it the policy of Congress to preserve and protect the rights of the states in pollution control.
- Encouraged the President to take steps to ensure that all foreign countries make efforts equal to those of the United States to stop pollution in their waters and in international waters.
- Directed the administrator of the Environmental Protection Agency (EPA) to administer the act and provide for public participation in development of regulations.
- Directed the administrator to cooperate with other federal, state and local agencies and industries in developing comprehensive water pollution control programs.
- Directed the administrator to study reservoirs and other water storage facilities and their relation to water quality control, and declared that storage and water release (pollution dilution) could not be used as a substitute for adequate treatment or effluent limitations.
- Authorized the administrator to make a maximum of 50-percent federal grants to states for administrative expenses of planning agencies (for a maximum of three years) developing comprehensive water quality control plans for river basins, bays or lakes.
- Encouraged interstate cooperation and compacts for the prevention and control of pollution.
- Directed the administrator to establish national programs for water pollution control, promote research, give technical aid, conduct public investigations, establish advisory committees, collect information and maintain research fellowships at colleges or research organizations.
- Directed the administrator to finance pilot programs of manpower development and training in the field of waste treatment works and to make training project grants.
- Directed the administrator to study the special water pollution problems of oil spills, marine sewage equipment (especially on small boats), pesticides, waste oil, estuary pollution, total sewage, agricultural and other rural pollution, fresh water aquatic ecosystems, river systems and thermal discharges.
- Authorized the administrator to make a maximum of 75-percent research and development grants (for demonstration purposes only) for storm sewers, joint municipal-industrial treatment systems, water recycling methods and agricultural pollution.
- Authorized the administrator to conduct or make grants for mine acid or mine water pollution control demonstration projects.

Total Authorizations in S 2770

(Fiscal years 1972-1975)

| | |
|--|-------------------------|
| Research, investigations, training and information | \$260,000,000 |
| Research and development grants | 150,000,000 |
| Pollution control program grants | 135,000,000 |
| Mine water pollution control | 15,000,000 |
| Lake Erie study | 5,000,000 |
| Training grants, contracts, scholarships | 50,000,000 |
| Alaska village demonstration projects | 1,000,000 |
| Lake Tahoe study | 500,000 |
| Toxic pollutants | 15,000,000 |
| Construction reimbursements | 2,750,000,000 |
| Waste treatment works construction | 18,000,000,000 |
| Areawide waste treatment management | 300,000,000 |
| Areawide technical assistance | 100,000,000 |
| Water Resources Council, basin planning | 200,000,000 |
| Supplemental funds | 200,000,000 |
| Clean lakes programs | 300,000,000 |
| National study commission | 15,000,000 |
| Financing study | 1,000,000 |
| General authorization | 900,000,000 |
| Waste treatment works (fiscal 1972) | 350,000,000 |
| Research (fiscal 1972) | 6,000,000 |
| Small business loans | 800,000,000 |
| National policies and goals study | 5,000,000 |
| Environmental Financing Authority | 100,000,000 |
| GRAND TOTAL | \$24,658,500,000 |

- Directed the administrator to set up special demonstration projects (with a maximum of 75-percent federal participation) to eliminate pollution of the Great Lakes, with particular attention to the rehabilitation and environmental repair of Lake Erie.
- Authorized the administrator to make grants to higher education institutions for undergraduate or faculty training in waste treatment or water quality management, and to award scholarships to students of treatment works operation or maintenance.
- Authorized demonstration projects to control water pollution and quality in Alaskan native villages.
- Authorized a one-year study of Lake Tahoe and the Tahoe Basin ecosystem and the need for federal oversight.
- Directed the administrator to identify and eliminate stationary toxic pollution sources in ports and harbors.

Title II—Construction Grants

- Declared the purpose of the title to require waste treatment management plans and practices which applied the best practicable technology, were on an areawide basis, encouraged recycling and reclamation and integrated facilities.
- Authorized the administrator to make grants to state or local agencies for the construction of publicly owned treatment works, with a maximum 75-percent federal share.
- Required grant applicants to submit plans, specifications and estimates to the EPA with grant payments dependent on EPA approval.
- Required treatment works projects to conform to state and areawide plans and to adopt proportionate cost-sharing systems for industrial and other users.
- Authorized grants to be allotted to the states on the basis of need, as determined by the EPA.
- Authorized some reimbursement of states and municipalities for treatment work construction begun between

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1966 and 1972 (not more than 80 percent) and between 1956 and 1966 (not more than 30 percent).

- Directed the administrator to publish guidelines for areawide waste treatment management plans and directed state governors to set up areawide planning processes and agencies.

- Authorized the administrator to make 100-percent federal grants to such agencies for three fiscal years, and 75-percent grants thereafter.

- Directed the President to prepare a water resources plan for all U.S. basins; plans must be completed by Jan. 1, 1980, with annual progress reports to Congress required.

Title III—Standards and Enforcement

- Made the discharge of any pollutant by any person unlawful, with some exceptions.

- Required by July 1, 1977, effluent limitations for point sources (mostly factories) which used the "best practicable control technology currently available," as defined by the EPA administrator. For publicly owned treatment works, required limitations based on secondary treatment by the same date.

- Required by July 1, 1983, effluent limitations based on the "best available technology economically achievable" as determined by the administrator: limits would be based on categories or classes of industries, and would be aimed at elimination of discharges if technologically and economically achievable. Industries could seek relief based on economic capability.

- Prohibited discharge of radiological, chemical or biological warfare agents or high-level radioactive waste.

- Authorized the administrator to set water quality-related effluent limitations, after holding public hearings.

- Provided that existing interstate and intrastate water quality standards remain in effect subject to EPA approval and revision.

- Directed the administrator to develop and publish detailed water quality information and guidelines.

- Directed the administrator to submit a water quality inventory report to Congress by Jan. 1, 1974, and required states to submit such reports by Jan. 1, 1975.

- Directed the administrator to list categories of industrial pollution sources and set national performance standards for each new source. States could take over enforcement if laws were as strict as federal standards. If new factories complied with provisions of the bill, they would not be subject to more stringent standards for at least 10 years.

- Directed the administrator to list toxic pollutants and prohibit their discharge and to set effluent limitations providing "an ample margin of safety."

- Required the administrator to set pretreatment standards for discharges into publicly owned treatment plants.

- Gave the EPA the right of entry to pollution sources and the right to inspect records and monitoring equipment, and to make data public (except trade secrets).

- Provided criminal penalties of between \$2,500 and \$25,000 per day or one year in prison or both; \$50,000 per day or two years or both for second offenses; and civil penalties of up to \$10,000 per day.

- Authorized the administrator to hold public hearings and take other necessary action to stop international pollution originating in the United States if requested by the secretary of state.

- Declared it to be U.S. policy that there should be no discharges of oil or hazardous substances into U.S. waters, adjoining shorelines or contiguous zone waters.

- Set civil penalties for oil or hazardous substance discharges of up to \$50,000 (per discharge), with no limit for willful discharges.

- Required the President to prepare a national contingency plan for removal of oil and hazardous substances, including the establishment of emergency task forces at major ports.

- Provided that clean-up costs of discharges from vessels, onshore or offshore facilities, if not caused by an act of God, an act of war, negligence by the federal government or an act of a third party, would be paid by the owners or operators.

- Directed the administrator to set federal performance standards for marine sanitation equipment, with violators subject to \$5,000 fines.

- Required federal departments to comply with pollution control standards, but authorized the President to grant certain exemptions in the national interest.

- Directed the states to prepare plans to restore fresh water lakes and authorized federal grants for clean lakes projects.

- Established a 15-member national study commission to investigate the technological aspects of achieving the 1983 economic, social and environmental goals in the act.

- Required the administrator to set effluent limitations for thermal discharges that would ensure a balanced population of fish, shellfish and wildlife.

- Authorized the discharge of specific pollutants for approved aquaculture projects, after public hearings.

Title IV—Permits and Licenses

- Required applicants for federal discharge licenses or permits to first obtain state, interstate agency or EPA certification that the discharge would comply with provisions of the act.

- Authorized the EPA administrator, after opportunity for public hearings, to issue permits for pollutant discharges under certain conditions and if they met other requirements of the act.

- Authorized states to conduct their own discharge permit programs if approved by the EPA.

- Declared existing permits issued under the 1899 Refuse Act to be valid, but provided that no new permits could be issued after the bill's enactment.

- Authorized the administrator to suspend state programs which did not meet federal guidelines; but the administrator could veto individual state permits only during the interim period before the guidelines were issued.

- Set procedures for granting EPA permits to dump materials into the oceans or coastal waters.

- Authorized the secretary of the army to grant permits for dumping dredged or fill material at specified disposal sites.

- Set procedures for sewage sludge disposal permits.

Title V—General Provisions

- Authorized the EPA administrator to issue necessary regulations to carry out the act.

- Authorized official federal recognition for industrial and political organizations which demonstrated out-

standing technology or innovative methods of waste treatment and pollution abatement.

- Established a 10-member water pollution control advisory board.
- Gave the administrator emergency powers to bring suit in district court to stop pollution presenting an imminent health or welfare hazard.
- Authorized citizen suits against the U.S. government, other federal agencies or the EPA administrator. Defined citizens as persons having an interest adversely affected.
- Forbade the firing of or discrimination against the employees who filed proceedings or testified under provisions of the act, with procedures for review by the secretary of labor. Required the administrator to continually investigate potential employment losses or plant closures resulting from effluent limitations.
- Prohibited federal agencies from entering into contracts for services with facilities convicted under the act, with provision for presidential exemptions in the national interest.
- Authorized the administrator to issue subpoenas for witnesses to testify or for production of documents, and to administer oaths.
- Provided for judicial review of the administrator's actions in circuit courts of appeals.
- Provided that nothing in the act would deny the right of states or interstate agencies to set pollution control standards at least as stringent as federal standards.
- Established a nine-member effluent standards and water quality information advisory committee.
- Required the administrator to submit a progress report to Congress every year and a detailed cost estimate every other year.
- Required an oversight study by the General Accounting Office of research and demonstration programs and a report to Congress by Oct. 1, 1973.
- Directed the secretary of commerce to study the effects of the bill on international trade and report to Congress within six months.
- Required the President to seek international agreements for water pollution control, including treaties.
- Authorized loans to small business concerns for water pollution control facilities.
- Directed the President to study the feasibility of a separate environmental court system and to report to Congress within one year.
- Directed the President to study the national policies and goals in the bill and to report within two years.
- Established an Environmental Financing Authority to help finance the non-federal share of the costs of any waste treatment construction project.
- Prohibited sex discrimination in any program or activity receiving federal assistance under the act.

1971 Senate Action

S 2770 was passed by the Senate Nov. 2, 1971, by an 86-0 roll-call vote. (For details of Senate committee and floor action, see 1971 Almanac p. 710)

PROVISIONS. As passed by the Senate, S 2770:

House and Senate Versions

There were several basic differences between the water pollution control bill passed by the House in 1972, HR 11896, and S 2770, the version passed by the Senate in 1971.

Zero Discharge. The House bill declared national goals of eliminating the discharge of pollutants into navigable waters by 1985 and of achieving water quality safe for fish, wildlife and recreation by 1981. These goals would be implemented only by further congressional action after the National Academy of Sciences completed a two-year study. The Senate bill called the achievement of zero discharge by 1985 national policy rather than a national goal and did not make implementation of the goal dependent on the results of an NAS study.

Spending. The House bill authorized total spending of \$24.6-billion, including \$18.4-billion in federal grants for construction of waste treatment works. Grants would be allotted to states on the basis of need, with a maximum federal share of 75 percent. S 2770 authorized \$20-billion in total spending, including \$14-billion for waste treatment construction grants which would be allotted on the basis of population with a federal share of 70 percent.

Permit Program. The House version established a federal-state discharge permit program in which the states could issue permits under federal guidelines established by the EPA. The EPA could veto state permits during the interim period before the guidelines were issued, but thereafter approved state permit programs would be subject only to cancellation of the entire program by EPA, not a permit-by-permit veto. The House bill also would prohibit issuance of new waste discharge permits under the authority of the 1899 Refuse Act. The Senate version also established a federal-state permit program under EPA guidelines but gave EPA continuing permit-by-permit veto power. The Senate bill left intact the 1899 Refuse Act permit program.

Citizen Suits. The House bill narrowly limited citizen suits against polluters, the federal government or the EPA; it defined citizens as residents of the geographic area who were affected by the pollution, or groups which had been actively engaged in the administrative process concerning the alleged violation. The effect of the provision was to limit future legal action by such national groups as the Sierra Club and Friends of the Earth. The Senate bill would allow any citizen to bring suit against violators of the act.

Financing Authority. The House version established an Environmental Financing Authority, with an initial authorization of \$100-million, to help localities pay the non-federal share of treatment plant construction projects. S 2770 had no comparable provision.

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Title I—Research

- Established as federal policy the goal of making the nation's waters suitable for fish propagation and recreation by 1981 and of eliminating completely by 1985 the discharge of pollutants in navigable waters.
- Gave the administrator of the Environmental Protection Agency authority to plan programs to eliminate pollution from navigable waters and ground waters in cooperation with state and interstate water pollution agencies, municipalities, industries and the public. Fifty-percent federal-state matching grants for planning of pollution control in river basins were authorized.
- Authorized the administrator to conduct various types of research including the establishment of six field laboratories around the nation, a one-year study of problems associated with disposing of waste oils, a national monitoring and surveillance system, the measurement of social costs and benefits, methods to reduce unnecessary water consumption and control of agricultural pollution. For agricultural pollution research, \$10-million was authorized annually.
- Authorized for general research: fiscal 1972, \$65-million; fiscal 1973, \$70-million; fiscal 1974, \$75-million; fiscal 1975, \$80-million.
- Authorized \$2.5-million for fiscal 1972 for forecasting employment needs for pollution control and \$7.5-million in fiscal 1972 for a pilot training program for personnel.
- Authorized for model river demonstration projects: fiscal 1972, \$70-million; fiscal 1973, \$75-million; fiscal 1974, \$80-million; fiscal 1975, \$85-million. Federal grants were limited to 75 percent of total cost; at least 10 percent of available funds must be used on agriculture pollution control projects.
- Authorized for state and interstate programs of water pollution control: fiscal 1972, \$30-million; fiscal 1973, \$30-million; fiscal 1974, \$35-million; fiscal 1975, \$40-million.
- Authorized \$30-million for a program of demonstration projects for control of mine water runoff in cooperation with the Appalachian Regional Commission.
- Authorized \$20-million for a program of pollution control in the Great Lakes.
- Authorized \$25-million for fiscal 1972 for programs of training grants and contracts and scholarships.
- Authorized \$2-million for Alaska village demonstration projects.
- Authorized \$6-million for pollution control in the Lake Tahoe basin.

Title II—Construction Grants

- Authorized for construction grants of water pollution treatment plants under a formula based on population: fiscal 1972, \$2-billion; fiscal 1973, \$3-billion; fiscal 1974, \$4-billion; fiscal 1975, \$5-billion. (Fiscal 1972 funds would be provided by appropriations; fiscal 1973-75 funds would be provided by contract authority.)
- Set the federal share for construction of sewage treatment facilities at 60 percent, which would be raised to 70 percent if states agreed to contribute 10 percent by grants to localities.
- Allowed the administrator to advance up to 5 percent of a federal grant to localities to complete planning, and required EPA to review preliminary plans.

- Required applicants for construction grants to obtain from each industrial user a promise to repay the federal government for its share of the capital outlay required to dispose of the user's wastes. The applicant must adopt user charges by July 1, 1973, to guarantee that each type of user would pay its share of operating and maintenance costs of the facility.
- Authorized \$2-billion in retroactive construction grants for all projects begun after June 30, 1966, to raise the federal share to at least 50 percent; the funds must be spent to retire the project's indebtedness or to finance the local share of a new project. In addition, \$400-million was authorized to reimburse projects built between 1956 and 1966, raising the federal share to 30 percent.
- Required each state governor, under EPA guidelines, to establish waste management regions covering the entire state. Each region would have to have an agency to develop within two years waste management plans dealing with construction priorities and waste treatment over a 20-year period. After completion of the plans, the governor must designate agencies in each region to implement them, build treatment facilities and assess user charges. After July 1, 1974, all grants would go to a designated agency for projects which conformed with the waste treatment plan.

Title III—Standards and Enforcement

- Specified that discharge of any pollutant was illegal, except as permitted under procedures set by the bill. By Jan. 1, 1976, all "point" sources of pollution (single sources, such as factories), except publicly owned treatment works, must use the "best practicable control technology currently available." Effluents sent through a publicly owned treatment works must meet specified pre-treatment standards. A timetable was set for public facilities to utilize secondary treatment. By 1981, non-public point sources must eliminate the discharge of pollutants; if the owner presented evidence to the administrator that compliance could not be attained at a reasonable cost, the source had to make use of the "best available technology." All discharge limitations must be reviewed every five years.
- Prohibited discharge into navigable waters of any radiological, chemical or biological warfare material, or any high-level radioactive waste.
- Required the administrator to publish within a year of enactment of the bill criteria on water quality and effluent-limitation guidelines. Other information would also be required on methods of pollution reduction, procedures for controlling pollution from "non-point" sources (pollution not confining its discharge to a specific location; would include run-off and accumulation from agriculture, mining or construction work), and pre-treatment standards for certain types of pollutants.
- Authorized \$100-million annually beginning with fiscal 1973 to the administrator to transfer to the Agriculture, Interior and Army Departments to implement pollution abatement programs.
- Required the administrator to report to Congress by July 1, 1973, on the specific quality of all U.S. waters, including the identity of all point sources of pollution; required an inventory of waters currently suitable for swimming and fish propagation and waters which would

meet those standards by 1976, 1981 or at some later date. States must report annually, beginning July 1, 1974, on existing water quality levels within their borders, including cost-benefit analyses of achieving water quality standards and reviews of non-point sources of pollution.

- Required the EPA administrator to promulgate new standards to eliminate or reduce pollution from new plants in various types of industries (the bill specified 28 types) through use of the latest available control technology.

- Required the administrator to establish a roster of toxic substances and to set procedures to eliminate them and to set pre-treatment standards for the dumping of industrial discharges into public treatment facilities.

- Required the owner or operator of any effluent source to use pollution-control monitoring equipment and to allow EPA to inspect plants and records.

- Set procedures for dealing with violations and gave EPA authority to bring civil or criminal charges against violators and to assume enforcement over all facilities in a state if that state refused to act. Criminal penalties for violating a discharge permit, discharge limit or EPA order were set at up to a \$25,000 fine per day of the violation and up to a year in jail. For certain other violations, maximum penalties were \$2,500 in fines for each day of violation. In the case of second convictions, maximum penalties were raised to \$50,000 per day and up to two years in jail. Anyone convicted of knowingly making a false statement on an application or report, or tampering with a monitoring device, would be liable for a \$10,000 fine and up to six months in jail.

- Required EPA to designate hazardous materials which presented imminent hazards to public health or welfare. In the case of discharges of such materials which could not be cleaned up, the discharger was made subject to a fine of \$5,000 per barrel or \$50,000, whichever was greater, unless the discharge was caused by an act of God, an act of war, negligence by the federal government, or an act of a third party.

- Required federal facilities to meet effluent limitations similar to those affecting private sources of pollution unless the federal facilities were specifically exempted by the President.

- Required states to undertake programs to clean up pollution in lakes, and authorized for this program: fiscal 1972, \$50-million; fiscal 1973, \$100-million; fiscal 1974, \$150-million.

Title IV—Permits and Licenses

- Established a system for granting EPA permits to discharge pollutants in navigable waters and allowed states to establish comparable programs.

- Specified that any application by the Corps of Engineers for a permit to discharge dredged material must be accompanied by a certificate from the Secretary of the Army stating that the dumping of such material in navigable waters was the only reasonable alternative available; the permit would be granted unless the EPA administrator found that such discharge would harm municipal water supplies, wildlife, fisheries or recreation areas.

- Set procedures for granting EPA permits to dump materials into the oceans or coastal waters.

Title V—General Provisions

- Specified that if a pollution source presented an imminent or substantial danger to health, the EPA could issue an immediate abatement order.

- Allowed any citizen to bring a civil action against a person for violating an effluent limitation or a federal or state abatement order, or against the EPA administrator for failure to comply with the provisions of the bill. A state governor could bring suit against the administrator for failure to act on pollution in another state which adversely affected his state.

- Prohibited federal agencies from entering into contracts involving facilities that violated federal effluent limitations until EPA certified that the violation leading to a conviction no longer existed. The President could exempt a contract if he found that it would be in the national interest.

- Set procedures for EPA administrative action and judicial review. Trade secrets would be protected from public reporting.

- Retained the rights of states and interstate agencies to set stricter standards than those contained in federal law.

- Established an advisory committee on effluent standards and water quality information.

- Required annual reports by EPA to Congress on implementation of the bill's provisions.

- Authorized for programs not covered by specific authorizations in the bill: fiscal 1972, \$150-million; fiscal 1973, \$250-million; fiscal 1974, \$300-million; fiscal 1975, \$350-million.

- Required the General Accounting Office to report to Congress by March 1, 1973, on possible conflicts in research work on waste water treatment.

- Authorized the President to enter into international pollution control agreements.

- Established a program of long-term, low-interest loans to small business concerns for which it would be a hardship to install pollution abatement equipment. The bill authorized \$800-million for the Small Business Administration loan fund for this purpose.

House Committee Action

The House Public Works Committee March 14 by voice vote reported a bill (HR 11896—H Rept 92-911), the Federal Water Pollution Control Act Amendments of 1972, to provide a comprehensive program to clean up the nation's waters in the next two decades.

In its key provision, HR 11896 set national goals of eliminating all discharge of pollutants into U.S. waters by 1985, and of making the waters safe for fish, wildlife and recreation by 1981.

The bill required the National Academy of Sciences, within two years, to conduct a study of the environmental, technological, economic and social feasibility of meeting these goals, which could then be implemented by further congressional action.

The bill also established a federal-state discharge permit program and required the Environmental Protection Agency to set guidelines for state permit programs. No new permits would be issued under the 1899 Refuse Act.

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Companies would be required to use the "best practicable" technology to eliminate discharges by 1976 and the "best available" technology by 1985.

Local citizens would be allowed to file suit against violators of the act only if their interests were directly affected or if they had been actively engaged in the administrative process prior to the suit.

HR 11896 authorized total spending of \$24.6-billion, including \$18.4-billion in federal grants for construction of new municipal waste treatment plants and \$2.8-billion in retroactive grants for existing projects.

Despite the additional grant funds, environmentalists attacked the bill as being weaker than the Senate version. They were particularly upset over the dilution of the 1981 and 1985 standards and the restrictions on citizen suits.

Committee Views. In its 424-page report, the committee declared that "America's waters are in serious trouble, thanks to years of neglect, ignorance and public indifference."

Discussing the bill's objective, the committee report said the word "integrity" was "intended to convey a concept that refers to a condition in which the natural structure and function of ecosystems is maintained."

It defined "natural" as "that condition in existence before the activities of man invoked perturbations which prevented the system from returning to its original state of equilibrium."

Additional Views. Several members of the House Public Works Committee filed additional or supplemental views on HR 11896 with the committee report.

Teno Roncalio (D Wyo.) said a "serious, if not fatal, omission" of the bill was its failure to exempt agricultural irrigation discharges from the federal permit system until technology was developed to control these wastes.

Bella S. Abzug (D N.Y.) and Charles B. Rangel (D N.Y.) endorsed the Reuss-Dingell amendments and proposed several other amendments to the bill, including giving states power to prohibit sewage discharge from vessels, removing an oil industry exemption for well water pollution and providing criminal sanctions against willful or negligent violators of EPA pollution abatement orders.

In supplemental views, Roger H. Zion (R Ind.) and John H. Terry (R N.Y.) expressed apprehension about the "long-range economic impact" of the bill: "We need more detailed information on potential price increases, employment impacts, balance of trade effects and budget commitments which will result from passage of this legislation so that sound decisions can be made on the course we wish to follow. We have a responsibility to legislate a realistic program rather than legislate one which offers more promise than performance."

Provisions. As reported by the House Public Works Committee, HR 11896:

Title I

- Declared the bill's objective to restore and maintain the chemical, physical and biological integrity of the nation's waters.

- Declared national goals of eliminating discharge of pollutants into navigable waters by 1985, and achieving an interim goal of water quality safe for fish, shellfish, wildlife and recreation by 1981.

- Declared national policies of prohibiting discharge of toxic pollutants in toxic amounts, providing federal financial assistance to build public waste treatment

works, developing areawide waste treatment management plans and making a major research effort to develop technology to eliminate pollutant discharge.

- Declared the policy of Congress to preserve and protect the rights of the states in pollution control.

- Encouraged the President to take steps to help stop water pollution in foreign countries and in international waters.

- Directed the administrator of the Environmental Protection Agency (EPA) to help develop comprehensive programs for water pollution abatement by federal, state, interstate, municipal and industrial groups.

- Directed the administrator to develop practicable means of municipal sewage treatment and new pollution identification methods.

- Directed the administrator to establish research fellowships and make grants for occupational training.

- Directed the administrator to study oil spill removal and vessel sewage equipment, with the help of the Coast Guard.

- Directed the administrator to study water pollution by pesticides, waste oil, agriculture and thermal discharge.

- Authorized the administrator to make research and development grants to states and municipalities, not to exceed 75 percent of the cost of projects.

- Authorized the administrator to enter into agreements for mine acid or water pollution control demonstration projects.

- Authorized the administrator to enter into agreements for Great Lakes watershed pollution control projects, and directed the Army Corps of Engineers to develop a program to rehabilitate Lake Erie.

- Authorized the administrator to make grants to colleges for water pollution control training programs, and to award scholarships for undergraduate study.

- Authorized projects to control water pollution in Alaskan native villages.

Title II

- Authorized grants for construction of publicly owned treatment works applying the best practicable technology, with the federal share not to exceed 75 percent of costs.

- Required grant applicants to submit detailed plans for construction projects, which must conform with areawide or state pollution management plans.

- Authorized some reimbursement of states and municipalities for treatment work construction begun since 1956.

- Authorized appropriations of \$20-billion for construction of waste treatment works for fiscal years 1972-1975, including collector sewer systems.

- Directed the President to prepare a water resources plan for all basins in the United States by Jan. 1, 1980.

- Directed the EPA administrator to make an annual survey of the efficiency of treatment works constructed with federal grants under the bill.

Title III

- Required the establishment by Jan. 1, 1976, of effluent limitations for point sources (other than publicly owned treatment works) demanding the best practicable pollution control technology.

- Required publicly owned treatment works to have effluent limitations based on secondary treatment.

- Directed the President to seek international agreements for water pollution control, including treaties.
- Authorized loans to small business concerns for water pollution control facilities.
- Directed the President to study the feasibility of a separate environmental court system and report to Congress within one year.
- Directed the President to study the national policies and goals in the bill and report within two years.
- Established an Environmental Financing Authority to help finance the non-federal share of the costs of any waste treatment construction project, with a five-member board of directors whose chairman would be the secretary of the treasury.
- Prohibited sex discrimination in any program or activity receiving federal assistance under the bill.

House Floor Action

The House March 29, by a 380-14 roll-call vote, passed HR 11896 in much the same form as reported by the Public Works Committee. Passage came after extensive efforts by environmentalists, most of them unsuccessful, to toughen the committee bill. (*Vote 63, p. 20-H*)

Only four substantive amendments were accepted on the floor, during three days of debate, out of 20 amendments which were offered.

Those accepted:

- Increased authorizations in fiscal year 1972 for programs covered by the bill from \$6-million to \$11-million.
- Guaranteed public hearings by the Environmental Protection Agency in investigations of employee firings or lay-offs resulting from effluent limitations or orders.
- Required the EPA to encourage recycling, spray irrigation, land disposal and integrated facilities in waste treatment management.
- Allowed states to prohibit the discharge of all sewage by vessels in their navigable waters.

Among amendments that were rejected were those offered by House environmentalists to allow any citizen or public interest group to bring suit against polluters or the federal government, to require industry to use the "best available" waste treatment technology by 1981 and to give the EPA veto power over state-issued discharge permits.

Chief opponents of several major provisions in the version of the bill reported by the House Public Works Committee were Henry S. Reuss (D Wis.), chairman of the Government Operations Subcommittee on Conservation and Natural Resources, and John D. Dingell (D Mich.), chairman of the Merchant Marine Subcommittee on Fisheries and Wildlife Conservation. Reuss and Dingell proposed a Clean Water Package of six amendments to HR 11896.

None of the original amendments offered on the floor was adopted, however.

Dingell, who voted for HR 11896 on passage, told Congressional Quarterly that the final version of the bill was "a great deal less than satisfactory" and was the result of "probably the most massive lobbying effort I've ever seen around here." Dingell said: "Getting a bill out of conference is going to be immensely difficult;" he suggested that if House-Senate conferees could not succeed in

strengthening the measure, Congress might not pass any bill in 1972.

The Nixon Administration, including the Environmental Protection Agency and the Council on Environmental Quality, opposed most of the amendments to the bill and strongly endorsed the committee bill. The National Association of Manufacturers and most industries also opposed efforts to amend the House bill.

The coalition of environmental, labor, consumer and citizen groups which had lobbied for the Reuss-Dingell package of amendments criticized the bill passed by the House. Their leaders issued a statement saying HR 11896 "does not represent the will of the people or the majority of Americans. Rather it represents the will of campaign contributors who are the major polluters of this country."

DEBATE MARCH 27

Four hours of general debate on HR 11896 were held March 27 following adoption by voice vote of the rule (H Res 913) for consideration of the bill.

Most of those speaking were members of the Public Works Committee and backed the committee-reported bill without change.

Floor managers were Robert E. Jones (D Ala.) and William H. Harsha (R Ohio), ranking majority and minority members of the committee.

In an opening statement, Chairman John A. Blatnik (D Minn.) called HR 11896 a "landmark in the field of environmental legislation" and said that the committee took some 4,000 pages of testimony during hearings—"more than all the previous testimony taken by our committee in the entire history of the pollution control program."

Harsha said the bill "recognizes the fact that we must have a more effective approach to water quality control and that...programs must be consistent with competing national priorities" such as employment, prices and development. Harsha said the Public Works Committee had to balance economic, social and environmental needs.

"Amendments which might be offered," Harsha warned, "could disrupt this balance and lead to significant undesirable side effects, or could disrupt the standards and enforcement procedures and lead to a further deterioration of water quality."

Jones said the \$24.6-billion in total federal spending and contract obligation which would be authorized by the bill—"possibly the largest non-defense authorization in the history of the Congress"—was a figure arrived at after careful cost estimates.

Don H. Clausen (R Calif.) supported the bill but said that while both municipalities and industries would be required to pay the costs of achieving the "zero discharge" goal, the actual costs would be passed on to the middle-income taxpayers and consumers.

Robert A. Roe (D N.J.) said he wanted to "explode a myth" that HR 11896 was "weaker" than S 2770: "The House bill provides a host of measures that far exceed those measures provided in the Senate bill...and if they were not included in the House bill, the over-all water quality program would not be workable at all in the manner in which we envision it."

MARCH 28

Ten amendments to HR 11896 were offered on the floor during the second day of debate March 28; none was adopted. Among them were four amendments which were part of the Clean Water Package, offered by Reuss and Dingell, which were endorsed by some 40 members and about 30 environmental groups.

1981 Waste Treatment Goal. The first amendment was offered by Reuss to require industries to use the best available waste treatment control technology by 1981, rather than leaving the 1981 goal contingent on later approval by Congress.

Reuss: "If we allow further delay, we will find that the cost of pollution control will increase. Polluters will be forced to install minimal treatment which may not be compatible with the future systems that may be necessary for 1981. Establishment of the 1981 requirement today will influence and encourage the use of greater technology at reasonable costs."

But Jim Wright (D Texas) said the amendment would remove "the very critical triggering factors" of the National Science Foundation study required by the bill, and that Congress should not act until it knew the environmental, sociological and economic costs.

Roger H. Zion (R Ind.) also opposed the Reuss amendment, saying it would "simply emasculate this legislation of its common sense approach to cleaning up our environment....Until we know more precisely what effect this bill will have on costs and employment, we have no right to commit future generations to its provisions."

Dingell observed that opponents of the amendment were "talking about an amendment other than that which is offered in the House today," because the 1981 requirement still would be subject to "reasonableness of cost." Dingell said HR 11896 "gives with the right hand and then takes away with the left" by basing the goals on a future study.

Gilbert Gude (R Md.): "If HR 11896 passes in its present form the polluters of the nation will be on notice that Congress has failed to bite the bullet and write a water pollution law that will bring results within the foreseeable future. These polluters will be on notice that delay and obfuscation are still available to them as they use our nation's waterways as open sewers."

The Reuss amendment was rejected by a 140-249 recorded teller vote. (*Vote 55(T)*, p. 18-H)

Criminal Penalties. Charles A. Vanik (D Ohio) proposed an amendment to make willful or negligent violators of EPA pollution abatement orders subject to the same criminal penalties as violators of the law itself. Vanik said his amendment, part of the Clean Water Package, would make the enforcement provisions of HR 11896 comparable to those in S 2770 and in other major pollution control laws, including the 1970 Clean Air Act Amendments (PL 91-604). Rejected by voice vote.

Mine Wastes. Ken Hechler (D W.Va.) offered an amendment to require the EPA to issue negotiations for the safe treatment and storage of mine water wastes from surface or underground coal mines. Hechler said his amendment was a "direct outgrowth" of the Buffalo Creek, W.Va., disaster of Feb. 26, 1972, in which a retaining dam containing waste water gave way, killing more than 120 persons.

The Hechler amendment was rejected by voice vote.

Impact Statements. Abzug offered one of the Clean Water Package amendments to require environmental impact statements, already required in certain areas under the National Environmental Policy Act of 1969 (PL 91-190), for all activities covered by HR 11896. A provision of the House bill would exempt "any activity" having a federal license or permit from the requirements of PL 91-190.

"I see no reason," Abzug said, "to sweep away the requirement of the environmental impact statement in so wide a variety of cases."

But Wright said her amendment would apply primarily to the Atomic Energy Commission, while other sections of the bill provided sufficiently strong restrictions on pollutant discharges.

The Abzug amendment was rejected by a 126-267 recorded teller vote. (*Vote 56(T)*, p. 18-H)

States' Rights. Lester L. Wolff (D N.Y.) and Bill Frenzel (R Minn.) proposed an amendment to allow states and localities to adopt more stringent standards for radiological and thermal discharges than those required by the federal government. "If there ever was a case for states' rights, this is it," Wolff said.

Frenzel said the amendment would allow states which were critical of Atomic Energy Commission discharge standards to protect their citizens with standards which "err on the side of safety."

Mike McCormack (D Wash.), a former nuclear research scientist, said that atomic power was vital to the nation's future and that AEC safety standards were sufficient. "The Wolff-Frenzel amendment would submit the life and death of any nuclear powerplant to the whim of any person, qualified or unqualified," and would substitute for the AEC's rational standards "what is at best semi-informed opinion and what is many times nothing more than hysteria." The amendment was rejected by a 36-106 standing vote.

User Charges. An amendment was offered by Jack H. McDonald (R Mich.) to exempt industrial users of municipal waste treatment plants from paying part of the capital costs for these plants, as provided by the bill. "Revenue must be generated from users on a proportionate basis that will take care of maintenance, operation and expansion. To charge industry a fee beyond that of user charges, however, is unfair. Businesses, like individuals, are taxpayers and deserve the benefit from federal grant programs as do other taxpayers."

John F. Seiberling (D Ohio) countered: "It would have the result that industrial users would be charged for maintenance and operation of treatment facilities but not for amortization of capital costs. This strikes me as being an unsound principle. Industrial polluters should not be placed in a position to require that local taxpayers subsidize a part of the capital cost of eliminating the pollution generated by industry as the price for obtaining federal assistance."

The McDonald amendment was rejected by a 66-337 recorded teller vote. (*Vote 57(T)*, p. 18-H)

State Programs. Bertram L. Podell (D N.Y.) offered an amendment to require state permit programs to be at least as stringent as federal programs.

Podell: "It is difficult to put a market price on environmental balance and clean water; it is by far

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easier to attach a dollar and cents figure to economic benefits of industrial expansion. Interstate competition for this industrial investment, with its emphasis on non-interference, low tax rates, tax discounts and incentives, and hints and illusions to flexible environmental policies and langud enforcement, is well known...." The amendment was rejected by voice vote.

Veto Power. Reuss offered another of the clean water amendments to require that standards for toxic pollutants be adopted before EPA turned the permit program over to states and that EPA have 60 days to review and veto any individual state permit; it would also eliminate the provision for immunity from prosecution until 1976 for polluters who applied for discharge permits.

Reuss: "EPA review of individual permits is essential to protect against the unfair competition which will result when some states weaken their pollution controls to lure industries from those states which have effective pollution control regulations. Such competition will harm not only the environment but also the industries of our country and the workers of our nation."

The amendment was rejected by a 154-251 recorded teller vote. (*Vote 58(T)*, p. 18-H)

EPA Approval. Lawrence G. Williams (R Pa.) offered two amendments voted on and rejected en bloc. One would have required the EPA administrator to approve all treatment works construction in advance, whether or not federal funds were involved; the other would have required the same approve for sewage systems.

Oil Wastes. Les Aspin (D Wis.) and Silvio O. Conte (R Mass.) offered an amendment to include groundwater pollution in the provisions of the bill and to include liquids used in oil waste injection wells in the definition of "pollutant." Aspin said: "What this bill does is cover the waste injection wells of every industry except oil," including the chemical and steel industries. "But...99 percent of all the waste injection wells in this country are oil industry waste injection wells." The amendment was rejected by a 34-86 standing vote.

MARCH 29

Contract Authority. George Mahon (D Texas), chairman of the House Appropriations Committee, offered an amendment to delete from the bill the \$18-billion, three-year contract authority for construction of new municipal waste treatment plants and substitute annual funding by Congress on a one-year advance basis. (Contract authority allows federal agencies to enter into contracts ahead of appropriations but requires appropriations in following years to liquidate the contracts.)

Mahon: "Funding by Congress each year—a year in advance—would provide maximum impact to keep the issue alive in Congress and among the people and would have far more impact on the executive branch than the one-shot, three-year contract authority."

Robert A. Roe (D N.J.), a member of the Public Works Committee which reported the bill, said the three-year authorization was vital to allow the states to proceed with construction projects without fear of cutbacks in federal funds.

"Every time we fritter away and waste our time, costs on construction will be going up," Roe said. "Then

who pays through the nose? It is the American taxpayer. Congress cannot fritter away time on this issue while the people of our country drown in their own will."

Charles Raper Jonas (R N.C.), a member of the Appropriations Committee, supported the Mahon amendment, saying it would be unwise for Congress "to vote \$18-billion in a blank check to the executive branch" of government.

Jamie L. Whitten (D Miss.), chairman of the Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection: "The bill without the Mahon amendment lessens our opportunity to review, to recommend or to require sound progress in an orderly manner.... The (EPA) administrator needs us to review his proposed program annually....For this Congress to push all this power on him and wash our hands of it is not to get the job done but can waste billions of dollars and get less than half the relief from water pollution we need."

John A. Blatnik (D Minn.), chairman of the Public Works Committee, opposed the amendment and pledged that there would be sufficient oversight of the funds: "EPA will have to come before the Committee on Appropriations and make a thorough accounting with reference to their use of this grant money, and to submit a progress report. In addition...we are going to have our own House investigating committee involved in reviewing the manner in which the program is operating and whether funds are being spent effectively."

John J. Rhodes (R Ariz.), a member of the Appropriations Committee: "If this amendment does not succeed and we get a bill with contract authority, I can imagine that those who have their favorite programs... and who ask for full funding...will now ask for contract authority to completely bypass the appropriations process. If we do that, we might just as well abolish the Appropriations Committee."

But the Mahon amendment was rejected by a recorded teller vote of 161-232, although a majority of Republicans backed the amendment: R 93-71; D 68-161 (ND 31-121; SD 37-40). (*Vote 59(T)*, p. 18-H)

Irrigation Water. Teno Roncalio (D Wyo.) offered an amendment to exempt agricultural irrigation water from the provisions of the bill. Roncalio said the saline and other wastes in agricultural runoff were not as serious a problem as industrial and municipal wastes.

"Even though I wholeheartedly support effluent control as the best method of controlling pollution...it is not now, at the present time, a practical method of controlling irrigation runoff," Roncalio said.

But Jerome R. Waldie (D Calif.) said the amendment would mean that "hundreds of thousands of farmers... will be dumping their residue into a pipe and that pipe transports it out of the basin and dumps it into a waterway." Not to require permits for such dumping, Waldie said, would be "desperately dangerous to every one of our states."

The Roncalio amendment was rejected by voice vote.

Employee Protection. William D. Ford (D Mich.) offered an amendment to require the Environmental Protection Agency to hold public hearings in connection with investigations of employee firings or lay-offs resulting from any effluent limitation or standard under the

bill. Ford said the amendment was "designed to free workers from the fear that an employer or corporation may cite environmental standards and orders as a reason for threatening to close their plants or reduce employment."

The amendment was opposed by Blatnik, who said the problem was a real one but that it needed a comprehensive examination by the committee.

However, the Ford amendment was adopted by a recorded teller vote of 275-117. (*Vote 60(T)*, p. 20-H)

Recycling. Guy Vander Jagt (R Mich.) offered an amendment to require the EPA administrator to encourage waste treatment management programs which utilized recycling, spray irrigation, land disposal and integrated waste disposal facilities.

Vander Jagt: "This will enable us to do something about the split personality in the bill before us because in the opening section of this bill we proclaim the goal of zero discharge of pollutants by 1985, but then we turn around and make this an open-ended program of billions and billions of dollars through the use of conventional equipment which can only give us dirty water..."

Robert E. Jones (D Ala.), chairman of the Flood Control and Internal Development Subcommittee, and William H. Harsha (R Ohio), ranking minority member of the committee, opposed the amendment as unnecessary, but it was adopted by a 250-130 recorded teller vote. (*Vote 61(T)*, p. 20-H)

Citizen Suits. Paul N. McCloskey Jr. (R Calif.) offered an amendment to broaden the rights of citizens to bring suits against polluters or against the EPA administrator. The committee bill limited suits to citizens who were residents of the geographic area and directly affected by the pollution or to groups which had been actively engaged in the administrative process. McCloskey said the bill "adds a new definition of 'citizen' for the first time in history....In my judgment, I believe the distinction made between citizens who can sue under the bill and citizens who cannot to be an improper, if not an unconstitutional, distinction."

Craig Hosmer (R Calif.): "We already have itinerant intervenors who go around the country and persons meddling in problems that have significance locally and not nationally...if this amendment were adopted, they could take over an installation and hold it for ransom, because of the delay in time involved in the litigation, and cause the expenditure of millions of dollars...."

The McCloskey amendment was rejected by voice vote.

Vessel Sewage. Ford (D Mich.) offered an amendment to allow any state to prohibit the discharge of all sewage from vessels into its navigable waters. Ford said it was a question of states' rights and that some states had great problems as a result of vessel sewage.

But other members opposed the amendment on the grounds that the Federal Water Quality Act of 1970 (PL 91-224) provided for federal vessel sewage regulations and that Congress should not reverse itself so quickly. Otis G. Pike (D N.Y.) asserted that the amendment would make interstate boat travel difficult: "For each state to use its own judgment...makes no more sense than to have 50 different gauges of railroad tracks or 50 different requirements for automobile carburetors."

The second Ford amendment was adopted by a 210-173 recorded teller vote. (*Vote 62(T)*, p. 20-H)

Reimbursement for Treatment Works. Cornelius E. Gallagher (D N.J.) offered an amendment to authorize \$17-million in federal reimbursement for publicly owned treatment works begun between 1952 and 1956. The bill provided reimbursement only for construction projects begun after June 30, 1956.

Gallagher said the amendment would allow Bayonne and Jersey City, N.J., to receive reimbursements for sewage treatment plants begun in 1952 and 1954: "In moving out in front in responding to the needs of their citizens these two communities showed commendable public spirit," Gallagher said. "But instead they are being penalized cruelly by being cut out altogether from reimbursements..."

Jones opposed the amendment: "We did not have an opportunity to go into the matter....Our committee is not informed upon this...we have not had the opportunity to make a total examination of the problem...." The amendment was rejected by a 16-72 standing vote.

Amendments Accepted. March 29—William H. Harsha (R Ohio)—Increase the authorizations in fiscal year 1972 for programs covered by the bill from \$6-million to \$11-million. Voice vote.

William D. Ford (D Mich.)—Guarantee public hearings in Environmental Protection Agency (EPA) investigations of employee firings or lay-offs resulting from effluent limitations or orders. Recorded teller vote, 275-117.

Guy Vander Jagt (R Mich.)—Direct the EPA to encourage recycling, land disposal, spray irrigation and integrated systems in area waste treatment programs. Recorded teller, 250-130.

Ford (D Mich.)—Preserve the right of the states to prohibit the discharge of all sewage by vessels in the navigable waters over which the states had jurisdiction. Recorded teller, 210-173.

Amendments Rejected. March 28—Henry S. Reuss (D Wis.)—Require industries to use the best available waste treatment technology by 1981. Recorded teller vote, 140-249.

Charles A. Vanik (D Ohio)—Make willful or negligent violators of EPA pollution abatement orders subject to the same criminal penalties as violators of the law itself. Voice vote.

Ken Hechler (D W. Va.)—Require the EPA to issue regulations for the safe treatment and storage of mine water wastes from surface or underground coal mines. Voice.

Bella S. Abzug (D N.Y.)—Require environmental impact statements under the National Environmental Policy Act of 1969 for all activities covered by HR 11896. Recorded teller, 126-267.

Lester L. Wolff (D N.Y.)—Allow states and localities to adopt more stringent standards for radiological and thermal discharges than those required by the federal government. Standing vote, 36-106.

Jack H. McDonald (R Mich.)—Exempt industrial users of federally funded municipal waste treatment plants from paying part of the capital costs for these plants in addition to user charges. Recorded teller, 66-337.

Bertram L. Podell (D N.Y.)—Require state permit programs to be at least as stringent as federal programs. Voice.

Reuss—Require that standards for toxic pollutants and effluent limitations be adopted before EPA could transfer responsibility for permit programs to the states;

give EPA permit-by-permit veto power over state programs; eliminate a provision giving immunity until 1976 to polluters who applied for discharge permits. Recorded teller, 154-251.

Lawrence G. Williams (R Pa.)—Require the EPA administrator to approve all treatment works and construction of sewage systems in advance, whether or not federal funds were involved. Voice.

Les Aspin (D Wis.)—Include groundwater pollution in the provisions of the bill and include liquids used in oil waste injection wells in the definition of pollutant. Standing, 34-86.

March 29—George Mahon (D Texas)—Eliminate the \$18-billion, three-year federal contract authority for municipal waste treatment construction grants and substitute annual authorizations by Congress on a one-year advance basis. Recorded teller, 161-232.

Paul N. McCloskey Jr. (R Calif.)—Authorize \$6-million for demonstration programs and development of plans to protect Lake Tahoe Basin. Standing, 16-65.

Teno Roncalio (D Wyo.)—Exempt from the bill's permit requirements pollutant discharges resulting from agricultural irrigation. Voice.

McCloskey—Provide that any citizen, not just those included in the bill's definition of citizen, would be allowed to bring suit against polluters, the federal government or the EPA administrator. Voice.

Cornelius E. Gallagher (D N.J.)—Authorize \$17-million for reimbursement to municipalities for construction of publicly owned treatment works projects begun between 1952 and 1956. Standing, 16-72.

Conference Action

House and Senate conferees Sept. 28 issued their reports (H Rept 92-1465; S Rept 92-1236) on S 2770. The final agreement, which came Sept. 14 in the 40th meeting of the conference committee (the first was held May 11), represented a major compromise by the conferees. The House and Senate versions of S 2770 were so divergent that some predicted the bill would die in conference.

The conferees were led by Sen. Edmund S. Muskie (D Maine), chairman of the Public Works Subcommittee on Air and Water Pollution and original sponsor of S 2770, and Rep. Robert E. Jones (D Ala.), chairman of the Public Works Subcommittee on Flood Control and Internal Development and cosponsor of the original House version (HR 11896).

After the conferees reached general agreement on basic principles and provisions of the bill, House and Senate staff members had to hammer out specific language for the legislation and a joint explanatory statement for the conference report. Staffers met at least six times to discuss various points of disagreement. "We knocked heads for a few days," Leon G. Billings, a professional staff member of the Senate Public Works Committee, told Congressional Quarterly.

But Billings added: "I think it's fair to say that the conference agreement includes the best of both bills. And it's better than either bill." Billings said he thought the primary concession made by Senate conferees, out of about 20 major points of difference between the two versions, was to give the EPA discretion in initiating civil or criminal proceedings against violators rather than making such enforcement mandatory.

Richard W. Wilson, another Public Works staff member, told Congressional Quarterly that the Senate conferees made some concessions "in order to maintain the guts" of the Senate version—the emphasis on effluent limitations while maintaining water quality standards.

MAJOR AGREEMENTS

The following are the major compromises agreed upon by House and Senate conferees:

Zero Discharge. The final version declared a national "goal" of eliminating the discharge of pollutants by 1985 and an interim goal of achieving water quality that would be safe for fish, wildlife and recreation by 1983. The Senate bill had made the 1985 deadline a national "policy" and had set the interim goal for 1981. The House bill made 1985 and 1981 deadlines "goals" whose implementation would be dependent upon another vote by Congress after completion of a two-year national academies study.

Spending Levels. The conference version adopted the House authorization figure of \$24.7-billion including \$18-billion in contract obligation authority for federal grants to municipalities through fiscal year 1975 for construction of waste treatment plants and sewage collection systems, with the federal share 75 percent. The Senate bill had authorized a total of \$20-billion, including \$14-billion for construction grants (but not for collection systems), with a maximum 70-percent federal share.

Payment Method. The conference version authorized the EPA administrator to pay grants to a state after approving the state's plans, specifications and estimates, as in the House version. The Senate bill had called only for close coordination between EPA and the states. Existing law provided that EPA would issue payments only after 25 percent of the actual construction was completed, with other payments dependent on further construction. The conference report said the existing system "results in applicants absorbing enormous interest expense and other costs while awaiting the irregular flow of federal funds," and emphasized that the compromise method "represents a complete and thorough change of the present practice of making payments of the federal share of treatment works."

Grant Allocation. Conferees approved a House provision providing for allotment of grants on the basis of need as determined by the EPA. The Senate bill would have distributed grants according to state population.

Industry Deadlines. The conference version required all industries discharging pollutants into U.S. waters to install the best practicable control technology by July 1977 and the best available technology by July 1983. Both House and Senate versions had set deadlines of Jan. 1, 1976, and Jan. 1, 1981, respectively. The conference report said that EPA must consider the economic impact of effluent limitations on the categories or classes of industries affected and that industry should be able to seek relief from the requirements. "The burden will be on (industry) to show that modified requirements will represent the maximum use of technology within its economic capability and will result in reasonable further progress toward the elimination of the discharge of pollutants," the report said.

Water Quality Standards. The conference version provided for limitations on the amount of effluents a plant could discharge—the Senate approach—in addition to continuation of existing water quality standards—the House position. Provision was made for revision of existing standards and adoption of new ones in the future.

User Permits. The conference version, as well as the House and Senate versions, exempted industrial users of municipal waste treatment plants from the requirement to obtain a user permit. But conferees required municipal plants to identify all industrial users and their effluents and made violations of the standards enforceable against industry.

Federal Enforcement. Conferees gave the EPA administrator discretion in initiating civil or criminal actions against polluters, as in the House bill. The Senate version required the administrator to issue compliance orders or bring suits against violators.

Thermal Discharges. The conference version required the EPA to issue regulations to control thermal discharges, as in the House bill, but authorized the administrator to waive the requirements if a power plant, after a public hearing, demonstrated that the thermal discharge could be greater without harming a balanced population of fish, shellfish and wildlife.

Permit Programs. The conference version authorized the EPA to issue permits for the discharge of pollutants into U.S. waters or in the oceans and seas along U.S. coastlines, and directed the administrator to set guidelines for state permit programs. During the interim period, the EPA would have a permit-by-permit veto power over state programs, as in the Senate bill. After the guidelines were issued, EPA could veto individual permits only if they did not conform to the guidelines or if the governor of a downstream state demonstrated that his waters were being polluted by the permitted discharge.

Citizen Suits. Conferees allowed citizen suits against violators of mandatory provisions of the bill if the citizen or group had an interest which was adversely affected; this was in accordance with the April 1972 Supreme Court decision in *Sierra Club v. Morton*. The Senate bill allowed any citizen to sue, while the House permitted suits only by those whose interests were directly affected or who had been actively engaged in the administrative process.

Environmental Impact Statements. Conferees provided that except for federal grants for construction of publicly owned treatment plants and permits issued for pollutant discharges from new sources, no EPA actions would be subject to the requirements for environmental impact statements under the National Environmental Policy Act (PL 91-190), known as NEPA.

The report said: "In the administration of (S 2770), EPA will be required to establish numerous guidelines, standards and limitations.... Virtually every action required of the administrator...involves some degree of agency discretion, judgments involving a complex balancing of factors that include technological considerations, economic considerations and others.... If the actions of the administrator under this act were subject to the requirements of NEPA, administration of the act would be greatly impeded."

Environmental Financing. Conferees included a House provision establishing an environmental financing authority under the secretary of the treasury to help

states finance the non-federal share of waste treatment projects. There was no comparable Senate provision. The conference report said the new authority "shall not compete with private bond underwriters in the municipal bond market" and should not provide aid to a community that "could borrow money on the open market at reasonable rates." The authority "should be exercised only as a last resort," the report said.

Final Action

HOUSE. Before adopting the conference report by a 366-11 roll call Oct. 4, the House by voice vote approved a resolution (H Res 1146) waiving points of order against the report. The resolution was necessary because conferees added substantive language to the bill that was neither in House nor Senate versions, a violation of House Rule XXVIII. John B. Anderson (R Ill.), a member of the Rules Committee, listed 12 specific violations of the rule.

After adoption of the resolution, several members discussed some of the conference compromises for the purpose of establishing legislative history.

Jones, floor manager of the report, called it "a landmark in environmental legislation." Concerning the NEPA exemption provision, he said Congress had never intended that EPA be subject to the requirements of the 1969 law. If that interpretation was made, Jones said, "the very purpose of this bill...would be imperiled." But he stressed that other federal agencies still would be required to comply with the 1969 law.

Other members made efforts to forestall a possible presidential veto which had been hinted by the White House. Blatnik said S 2770 had been referred to as "an enormously costly bill.... But we have no choice. We must act now, and must be willing to pay the bill now—or face the task of paying later when, perhaps, no amount of money will be enough.... The time has passed when either the Congress or the executive branch can afford to waste time, or shop for a bargain basement solution to water pollution control."

Harsha stressed the need for large expenditures on waste treatment plant construction but pointed out that the conferees had decreed that appropriations were not to exceed \$18-million "to emphasize the President's flexibility to control the rate of spending." Harsha also said the administration was free to impound funds or to control spending by disapproval of plans, specifications and estimates.

George Mahon (D Texas), chairman of the Appropriations Committee, expressed "disappointment that direct appropriations were not substituted for backdoor spending" (through contract authority) and said total authorizations were too high.

SENATE. The Senate by unanimous vote also adopted the report with little floor debate. Muskie stressed the bill's importance, saying: "Our planet is beset with a cancer which threatens our very existence and which will not respond to the kind of treatment that has been prescribed in the past."

Muskie also mentioned the need for greater expenditures, pointedly remarking that "there are still those in high places who question whether we can afford to spend this money. Can we afford clean water? Can we afford rivers and lakes and streams and oceans which continue

to make possible life on this planet? Can we afford life itself? Those questions were never asked as we destroyed the waters of our nation, and they deserve no answers as we finally move to restore and renew them. Those questions answer themselves. And those who say that raising the amounts of money called for in this legislation may require higher taxes, or that spending this much money may contribute to inflation simply do not understand the language of this crisis."

Muskie said the conferees tried "to reduce the possibility that this legislation would be vetoed" by adding amendments loosening expenditure requirements. He said "any decision by the President to veto this legislation would be based on the regulatory aspects of this legislation.... The President may choose to veto this legislation on the basis of the stringent regulations it would impose on industrial polluters."

Muskie also mentioned the possibility of a pocket veto: "By pursuing this course of inaction, the President could effectively ignore the action of the Congress; that is his prerogative. But he cannot ignore the problem; and all a pocket veto will mean is that before Congress can act again, more lakes and streams will die, more rivers and bays will drown in human and industrial wastes and more precious time will be lost in a battle where time is running out on our future."

Lloyd Bentsen (D Texas) said that although he intended to vote for the conference report, he objected to the fund distribution formula being based on need rather than population—as in the original Senate bill. Texas could lose up to \$500-million over the next three years by the conference agreement, Bentsen said. "The irony of the compromise is that it punishes those states which have taken the initiative to establish adequate water pollution control programs in the past. The states which have been lax and delinquent in cleaning up their waters will be rewarded."

James L. Buckley (Cons-R N.Y.) said he was "tremendously concerned over the insertion in the bill of a totally novel provision which appeared nowhere in either the Senate or House version"—the NEPA exemption. Buckley called the provision "hasty and ill-considered" and "bad precedent."

Henry M. Jackson (D Wash.) also objected to the NEPA exemption provision, inserting in the *Record* a long statement detailing his complaints. "EPA should certainly be required to undertake the same open, balancing decision-making which NEPA has required of other agencies."

Veto Message

In his veto message, shortly before midnight Oct. 17, the President said S 2770 was "a bill whose laudable intent is outweighed by its unconscionable \$24-billion price tag," which he called "staggering, budget-wrecking."

The veto message came shortly after the Senate, by a 39-27 roll-call vote, rejected the House-Senate conference report on a bill (HR 16810) setting a federal spending ceiling and giving the President authority to decide where spending cuts should be made. (p. 419)

In an 11:30 p.m. press conference, domestic affairs adviser John D. Ehrlichman said the President had instructed him to deliver the veto message if the spending

ceiling was rejected. Ehrlichman said that if the Senate had passed the spending limitation, he was supposed to contact Nixon for further instructions. In response to a question, he denied that the veto was a "retaliatory act."

In his veto message, Nixon said: "Legislation which would continue our efforts to raise water quality, but which would do so through extreme and needless over-spending, does not serve the public interest." He said it would "exact a price from the consumer in the form of inflated living costs, or from the taxpayer in the form of a new federal tax bite, or both." He said that "any spending bill this year which would lead to higher prices and higher taxes defies signature by this President."

Nixon continued: "The defeat of my proposal for a spending ceiling showed that many senators and congressmen are simply AWOL in our fight against higher taxes.... They seem to forget that it is their constituents' pockets from which the higher taxes must come as a result of their votes this week.... Taxpayers must be sad to learn that a majority are charge account congressmen."

In his message, Nixon prepared for the possibility that the veto might be overridden: "I have nailed my colors to the mast on this issue; the political winds can blow where they may.... Even if this bill is rammed into law over the better judgment of the executive... certain provisions of S 2770 confer a measure of spending discretion and flexibility upon the President, and if forced to administer this legislation I mean to use those provisions to put the brakes on budget-wrecking expenditures as much as possible."

Although the bill's price tag more than tripled the President's 1971 proposal, there was immediate speculation that the veto was motivated by other than fiscal considerations, particularly since the bill contained authorizations over a three-year period but did not actually appropriate the money.

Democratic presidential candidate George S. McGovern (D S.D.) called the veto a "mean-spirited action by a President who has always put special interests before the public interest." McGovern said the veto was "a fitting symbol of the current administration's failure to provide national leadership to stop the incessant deterioration of our environment," and it revealed the administration's environmental efforts "for what they are—hypocritical platitudes coupled with spineless action."

The veto came against the advice of Environmental Protection Agency Administrator William D. Ruckelshaus, who "strongly" recommended the bill's approval in an Oct. 11 report to the Office of Management and Budget, copies of which circulated on Capitol Hill. "The enrolled bill is not perfect," Ruckelshaus wrote. "We can mutually disagree with some of its priorities and requirements. But, I think we can meld it into a 'good bill.' I believe it important that we do so." He said the bill "continues the existing program and is faithful to the intent of the administration's proposal."

VETO OVERRIDE

Congress gave the President a resounding defeat Oct. 18 by voting overwhelmingly to override his veto of the water pollution bill. The Senate vote, 52-12, came in the early morning hours, several hours after the President's veto. About 12 hours later, in the afternoon, the House voted 247-23 to override, enacting the bill into law.

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Floor debate on the veto in the Senate alternated between criticism of the President's action by his opponents and defense of the veto by his supporters. House floor statements were mostly critical.

Some members speculated that Nixon must have expected—or even wanted—Congress to override his veto of the controversial \$24.7-billion measure. By having a veto overridden, some explained, Nixon could have it both ways: first claim an effort to hold down spending, inflation and taxes, then later take credit for implementing the massive pollution control program. And if anything went wrong, he could still say: "I-told-you-so."

In his veto message, Nixon said the action was tied to the Senate's rejection of a bill (HR 16810) setting a federal spending ceiling and giving the President authority to decide where spending cuts should be made. But on Oct. 19, the day after Congress adjourned, Nixon announced that he intended to withhold or impound appropriated funds despite the legislators' refusal to grant him specific authority. He said this power was implicit in a section of HR 16810 requiring the President to tell Congress when funds were impounded, which ones and for what purpose. (*Story p. 419*)

Senate. The Senate, by a 52-12 roll call, voted to override the veto at 1:30 a.m. on Oct. 18 (legislative day Oct. 17), about two hours after the presidential veto was announced.

Edmund S. Muskie (D Maine), the original sponsor of S 2770, said the President's veto message "states quite plainly that he believes this bill represents overspending," but "the amount authorized in this legislation...is based on a very careful evaluation of needs, including estimates submitted by the administration itself." Muskie said all funds authorized were subject to the control of the President and the Appropriations Committees, "so there is plenty of flexibility in this bill for the President and the Congress to control spending." Muskie said it would take seven years to spend the money that would be subject to contract authority in the next three years under the bill.

Muskie cited the third annual report of the President's own Council on Environmental Quality, which "has told him that it will cost more in the end to quit than to fight." Muskie said the report "underlines two flaws in the President's logic: First, investments in pollution control are not inflationary; in fact, we would actually spend more of our money and more of our resources in failing to invest in pollution control than we would by making the investments authorized in this legislation.... The second flaw...is the implication that we can save money by postponing our investment in adequate pollution control.... If we entertain any serious hopes of preserving life on this planet, the water pollution bill will have to be paid—soon."

Hugh Scott (R Pa.) challenged Muskie and supported the veto, citing in particular a provision to reimburse local governments \$70-million for waste treatment construction done between 1956 and 1966, which Scott called a "budget-busting operation."

Also speaking in favor of the President's veto were Norris Cotton (R N.H.) James B. Allen (D Ala.) and John C. Stennis (D Miss.).

Cotton: "If the head of the EPA acts more quickly and more expeditiously than Congress acts...he can obligate us, and I do not know what the appropriating committee is to do about it."

Allen: "I feel that this bill goes far too far, far too fast.... I believe that this veto message and this debate tonight have indicated that this bill is not needed at this time. There is no emergency situation."

Stennis: "I do not want this debate to end without somebody mentioning: Where are we going to get the money? Who is going to vote to raise the taxes to pay for the money in this bill?"

But speaking in favor of overriding the veto were numerous other senators, including Jennings Randolph (D W. Va.), John Sherman Cooper (R Ky.), James L. Buckley (Cons-R N.Y.), Harrison A. Williams Jr. (D N.J.) and Charles H. Percy (R Ill.).

Buckley said the delay in new water pollution control legislation "has already proven enormously costly.... We are simply beyond the point where we can afford further delays."

Williams: "While Mr. Nixon tells us that the water pollution bill is vastly too expensive, he pursues and spends freely in areas which are much more closely questioned here by all Americans. The Department of Defense is the prime example."

House. Floor speeches in the House consisted almost entirely of condemnations of the President's veto.

Robert E. Jones (D Ala.), chairman of the Public Works Subcommittee on Flood Control and Internal Development, said the nation "dare not postpone" cleaning up its waters. "Every day of inaction most certainly will add to the ultimate cost; another year of inaction may well destroy all hope of saving our environment. The price of action is high. But the price of inaction is a national disaster beyond all reckoning."

William H. Harsha (R Ohio), ranking minority member of the Public Works Committee, said the veto was "most disconcerting. If it were a question of money, I fail to see the logic both legislatively and environmentally. The price tag is not small, but neither is the problem—and the bulk of this money, \$18-billion, goes for sewage treatment plants.... It is the singlemost problem—inadequate municipal sewage treatment—which is the most widespread and acute. This cost is not only warranted; it is critically imperative."

Donald M. Fraser (D Minn.): "Rarely has the President shown poorer judgment—or a falser sense of economy—than in his decision to veto this measure. The problem will not go away. The longer we wait the more it will cost."

Ralph H. Metcalfe (D Ill.) criticized the President for linking the spending ceiling rejection to the water bill veto: "The President is attempting to blackmail the Congress...in an attempt to get a quid pro quo arrangement. Congress will get what it wants only if the President gets what he wants. This is a subversion of the will of the people and the needs of the nation."

Ronald V. Dellums (D Calif.) said the veto "shows clearly how phony is the Nixon commitment to the environment.... At least the President has not said he is against clean water. But, for him, the need for clean water is less important than billion dollar handouts to Lockheed and Penn Central, less important than the SST, less important than give-aways to foreign dictatorships and repressive regimes, less important than the highway program which strangles our central cities, and less important than the myriad of costly, unneeded defense boondoggles." ✓

Passage of Federal Water Pollution Bill This Session Doubted

By E. W. KENWORTHY Special to The New York Times
New York Times (1923-Current file); May 7, 1972.
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Passage of Federal Water Pollution Bill This Session Doubted

By E. W. KENWORTHY
Special to the New York Times

WASHINGTON, May 6—Differences in the House and Senate water pollution control bills are so fundamental that passage of legislation this session is in doubt.

The fate of the legislation will be determined by a conference committee that will begin next week to go over the House and Senate measures.

Much rides on the final product. One is the Federal share for sewage plants. The Administration asked \$3 billion for these years. The Senate bill authorizes \$1.8 billion, the House bill \$1.4 billion.

Without a bill, cities could still get Federal grants under a continuing authorization such as has been in effect since the old law expired in June, 1971. But the rate of Federal funding would be only \$2 billion a year.

The differences in money in the two bills are believed to be subject to compromise. More difficult to adjust are basic differences on pollution controls and many provisions in the House bill that the Senate conferees and environmental organizations regard as loopholes for industry.

Fearful that there may be no legislation, officials of the Environmental Protection Agency have been meeting the last two weeks with representatives of environmental groups, urging them to use their influence to get a compromise.

John R. Quarles, the agency's general counsel, and Gary Baise, its legislative liaison, have been insisting that the "similarities" in the two bills "are far more important" than the differences and assert that it would be "a tragedy" if the bill were lost because of a failure to agree "on details."

So far, the conservation groups have not been receptive to these arguments. They say that the Administration, including E.P.A.'s administrator, William D. Ruckelshaus, strenuously opposed the Senate bill and organized industrial opposition to it.

The environmental organizations believe that they are being asked to support a "compromise" that would be essentially the same as the House bill.

Following are a few of the differences that could result in a deadlock:

PERMIT SYSTEM. Both bills would abolish the system based on the Refuse Act of 1899, under which the Army Corps of Engineers must give a permit, subject to E.P.A. approval, for dumping wastes into navigable waters. They provide that the states shall issue such permits to industries if they are in compliance with the effluent limitations imposed by the 1972 Federal act.

However, the Senate bill gives E.P.A. the authority to veto a state permit. The House bill would allow such Federal veto only where a downstream state was adversely affected by and objected to another state's permit.

The Senate Public Works Committee and environmental groups contend that the E.P.A. veto is necessary to insure that states do not give permits to industries not meeting effluent standards. An E.P.A. document, marked "official use only," puts the agency's position in these words: "We do not favor the permit-by-permit Federal review of state permits."

Furthermore, the Senate bill includes in its definition of "discharge" for which permits must be obtained those pollutants that an industry may put into a public waste treatment system. The House bill denies such industrial pollutants discharged into public sewers.

The effect of this deletion, environmentalists contend, is to free such industries of the requirement for a discharge permit.

POLLUTION-DILUTION. The Senate bill states that water shall not be stored in a reservoir to release for diluting pollution downstream when this is a substitute for "adequate treatment" of the industrial waste "at the source." It says further that the need for such water quality storage shall be determined by the E.P.A. administrator.

The House bill, by contrast, requires that "consideration" be given to pollution-dilution in the planning of any reservoir by the Army Corps of Engineers or the Bureau of Reclamation of the Department of the Interior. It further states that the need for such water quality storage be determined by these two agencies, with "the advice" of the E.P.A. administrator.

The Senate committee and environmental groups oppose the House provision for two reasons. First, they contend that industry wants pollution-dilution because it is obviously cheaper for it than treating

wastes at the source.

Second, they contend that the Corps and the Bureau of Reclamation favor pollution-dilution because it gives them one more argument for competing dams—an added "benefit" to balance out a cost-benefit ratio that might otherwise be too heavily weighted on costs to justify the project.

CITIZEN SUITS. The Senate bill provides that any person can file a suit against alleged violators of the act. The House bill requires that, to have standing to sue, a person must come from the "geographic

area" where the alleged violation occurred and also have a "direct interest" in the violation.

It further provides that no organization, such as the Inland Water League, can file suit unless it has been actively engaged in administrative proceedings—for example, hearings on a permit for a nuclear power plant—from the outset.

While the above differences are important, the showdown in the conference committee is likely to come on the basic questions of control and enforcement.

Under the old law, states set

water quality standards, subject to E.P.A. approval, for a lake or stream. The standards take into account the so-called "beneficial uses" of the waterway, which might range from swimming to serving as a receptacle for industrial wastes. Consequently, the standard was based on the estimated capacity of the receiving water to "assimilate" wastes.

The Senate committee decided that this system was not working and could not stem up the nation's waters. It therefore substituted a system of effluent limitations to be achieved by a requirement that

industries use the "best practicable" control technology by 1976, and the "best available" considering the costs, by 1981.

While the House bill also provides for effluent limitations, it allows the 1976 requirement to be postponed for two years and allows the 1981 requirement "contingent upon another act of Congress following a study by the National Academy of Sciences."

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