

Governor Love said:

Colorado does not feel that any State should be asked to give to a Federal agency or department the authority to control the economic growth and development of that State. As we interpret this statement, this is exactly what we feel you are asking us to do. We strongly feel that the economic growth and development of any State should be within the prerogatives of that State and that State and that State alone. We feel that to carry out such a policy is in direct opposition to section 1(c) of the Federal Water Quality Act which states: "Nothing in this Act shall be construed as impairing nor in any manner affecting any right or jurisdiction of the States in respect to the waters, including boundary waters, of such States."

Governor Rhodes commented:

Your [Secretary Udall] suggested inclusion of the Department of the Interior as an agency for the enforcement of Ohio water quality standards appears to call for a legally impossible delegation of authority by the Ohio Water Pollution Control Board.

In order to resolve the legal questions involved in both the secondary treatment requirement and nondegradation policy, and to restore some reasonableness of the Federal water quality program, the national chamber, on behalf of many member State and national associations, sought an opinion from the law firm of Covington & Burling to define more clearly the role of the National and State governments and the obligation of water users under the applicable laws.

Summarizing its findings, the legal opinion of Covington & Burling states:

The Secretary has no authority under the Federal Water Pollution Control Act, as amended by the Water Quality Act of 1965, to insist that a State include in its water quality standards applicable to interstate waters either an effluent standard—such as an absolute requirement of secondary treatment or its equivalent—or a requirement that waters whose existing quality is better than the established standards will be maintained at their existing high quality.

It is the national chamber's desire, and the desire of many State officials, that there be a reorientation of the current program administration so that the legal requirements and intent of the Water Quality Act of 1965 be fulfilled. The States, through their adoption of State pollution control laws and State water quality standards, have expressed their desire to work within the framework of the Water Quality Act, and to pursue the goals stated in that act.

The national chamber urges that the States be allowed to pursue those goals.

Thank you, Mr. Chairman.

Mr. McCARTHY. Thank you, Mr. Coffey.

Mr. Blatnik, any questions?

Mr. BLATNIK. No questions.

Mr. McCARTHY. Mr. McEwen?

Mr. McEWEN. Mr. Coffey, I want to thank you for that fine statement. There were some exhibits that you wanted to put into the record.

Mr. COFFEY. That would be the letters of the Governors and the memorandum from Covington & Burling.

Mr. McEWEN. The letters of the Governors and the legal memorandum from your attorneys here in Washington?

Mr. COFFEY. Yes, sir.

Mr. McEWEN. I would ask, Mr. Chairman, that they be incorporated and made a part of the record.

(Letters and memorandums referred to may be found on p. 152.)