

the state and the right of municipalities, industries and individuals to the reasonable use of such waters so as to promote the continued growth and development of the state, in industry, agriculture, health, recreation and conservation of natural resources . . ." (Act No. 574, Acts of Alabama, 1965).

The disturbing feature of the statement requested by the Secretary is that its adoption would subjugate the state water pollution control agency to the Department of the Interior and confer to that Department the right to decide what is desirable or necessary for economic or social development of the state. *In this sense, the statement is not a degradation policy but is a conferment of authority.* In essence the state water pollution control agency would become nothing more than a "middle-man" or clearing-house between the Federal Government, represented by the Department of the Interior, and the industry, municipality or private individual whose project constitutes a new or increased source of pollution. Not only would the Department of the Interior decide who could discharge wastes and where the discharge could be made but would also have the final word regarding treatment requirements. The wording of the statement leaves no doubt but that its provisions would apply to all interstate waters, not just those of existing high quality. I should remind you that the definition of interstate waters as applied by the Department of Interior is that a stream only needs to cross the boundary between two states to become an interstate waterway over its entire length. As examples, the Coosa, Tallapoosa and Tombigbee Rivers are interstate waterways of Alabama because of their origins in adjoining states although neither of these streams flow from Alabama into an adjoining state. There are several smaller streams in Alabama which also fall in this category and the Alabama River is considered to be an interstate waterway because it is formed by the Coosa and Tallapoosa Rivers, which are interstate waterways by the above definition.

If our interpretations of the powers the Secretary's statement would vest in the Department of the Interior strike you as those of an alarmist, I suggest you ask yourself, or more importantly inquire of the Secretary, if the Department of the Interior intends to: (1) require notification of all proposed developments likely to constitute new or increased sources of pollution of interstate waters; (2) require the submission of proposals to the Federal Water Pollution Control Administration; (3) unilaterally decide as to the adequacy of proposed treatment methods; (4) deny the proposed development in the event the Federal Water Pollution Control Administration is not satisfied with the proposal; and, (5) reserve the right to decide what is necessary for the economic and social development of an area within a state. Finally, the intent of Congress as expressed in Subsection (b) of Section 1, Federal Water Pollution Control Act, as amended, is "to recognize, preserve and protect the primary responsibilities and rights of the states in preventing and controlling water pollution . . ." We conscientiously question the compatibility of the Secretary of the Interior's approach with the intent of Congress. We further question the right of the Secretary to withhold approval of water quality standards from a state which does not include his water quality degradation statement as a part of its standards.

We regret burdening you with our problems but, under the circumstances, apparently have no alternative but to seek your advice and counsel.

Your very truly,

IRA L. MYERS, M.D.,
Chairman, Water Improvement Commission.

COVINGTON & BURLING,
Washington, D.C., April 4, 1968.

MR. JAMES G. WATT,
Secretary, Natural Resources Committee, Chamber of Commerce of the United States of America, Washington, D.C.

DEAR MR. WATT: You have requested our opinion whether the Secretary of Interior is authorized to determine that State water quality standards are not consistent with the Federal Water Pollution Control Act on the ground that they fail to include (1) an effluent standard relating to the quality of matter permitted to be discharged into interstate waters, or (2) a uniform standard of "nondegradation" as published by the Secretary.

In our view the answer to both parts of this question is No. The Secretary has no authority under the Federal Water Pollution Control Act, as amended by