

record, and for your information, a copy of a summary that has been prepared by a committee of State Attorneys General for the Interstate Conference on Water Problems on the Role of the States, from the States' side of this issue.

Very frankly, gentlemen, the issue that we are getting into is the possibility that somewhere along the way someone is going to contest some of these proceedings in court. And unless the program is established on a firm basis, a court case can bring our whole program to a complete stop, and that is something that none of us want.

So the issues are such that the States have raised them. This program was done under the guidance of this Interstate Conference on Water Problems by a committee that prepared it for their use, for their review. I have been one of those who have been asked to review it. This is why I have a copy of it.

I would like to make it available at this time, even though it is not a document that has yet been adopted by the Conference, but it will at least give you some background for discussion and consideration.

Mr. McCARTHY. Without objection, so ordered; to appear in the record at this point.

(Summary referred to follows:)

(To be considered for adoption by the Interstate Conference on Water Problems)

THE ROLE OF THE STATES IN REGARD TO THE SETTING OF WATER QUALITY STANDARDS
UNDER THE FEDERAL WATER POLLUTION CONTROL ACT

This memorandum is directed to a discussion of the role of the states in setting of water quality standards and the state's interrelation with the Federal Water Pollution Control Administration of the Department of the Interior. It is designed primarily to be a guide to state agencies in evaluating their approach to this task and to hopefully stimulate appropriate state agencies in reassessing their position and policies *vis a vis* the federal government.

It is becoming increasingly apparent that many states, through their respective water pollution control agencies, are becoming alarmed over certain activities of the federal government in regard to water quality standards, plans of implementation and the approval thereof by the Secretary of the Interior.

Looking at the federal act as it is presently written, testimony at various congressional hearings and the rejection by the Congress of various proposed amendments, several legal and historical facts become apparent, to wit:

(1) The concept of nationally uniform, federally proposed and adopted water quality standards is clearly prohibited.

(2) The states have pre-eminence and primary authority in the field of water pollution abatement and control.

Most states have, pursuant to the federal act as amended in October 1965, adopted water quality standards and plans of implementation and forwarded the same to the Secretary of the Interior. This was required to have been done by June 30, 1967. Federal guidelines were issued May 9, 1966 to the states to aid them in establishing these standards. These were reissued in January 1967. However, since the promulgation of standards by the states thereof and their submission to the Secretary, the federal administrators have come up with two new policies heretofore not made known to the states. These are the so-called "non-degradation" standard and the one requiring secondary treatment or its equivalent. The federal legal aspects of these two items are treated in the attached addendum and will not be discussed herein except to say that the Secretary of Interior is without authority to establish either of them.

The question then remains as to what should be the approach of the several states to the Secretary's insistence that these two items be included in their standards and plans of implementation, coupled with his refusal to approve state standards that lack them.

At the outset, it should be pointed out that any standards adopted by the several states are valid, legal and enforceable standards without the Secretary's