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UPDATE ON SECTION 208

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I'm going to talk about the 208 program. 208 is a section in the Clean Water Act. The Clean Water Act was originally called the Federal Water Pollution Control Act, and it was adopted by Congress in 1972. Initially, President Nixon vetoed the act and sent it back to Congress. Congress overruled the veto and enacted the law.

There are several sections in the act that lead up to 208. There is Section 106 which is the State Water Pollution Control Program. There is Section 201 which is the Construction Grant Program that provides funds for building sewage treatment plants. Approximately \$11 billion have been spent in the nation today building sewage treatment plants. It's the largest national public works program in the history of the United States. There is Section 303 which allows the states to set water quality standards to obtain those uses. Then there is Section 208.

Section 208 is the umbrella section. It's an area-wide or state-wide water quality management program. As a comparison, Section 201, the Construction of Wastewater Treatment Plants, deals only with issues of municipalities, a single-point source. When you have several point sources within a watershed, you have an area-wide problem.

Back in 1976, the state of New Mexico made a commitment to enter into the 208 program and was awarded a grant from EPA for approximately \$1.14 million. They completed the plan, except for four portions which will be completed this month. The plan has several significant accomplishments. One of them was a study on silviculture with determination of best or current management practices to control water pollution problems resulting from silviculture practices. New Mexico also completed a state-wide rural sewage management study, specifically, several state-wide recommendations to alleviate the pollutional effect of septic tanks. They've initiated a very strong groundwater monitoring program in the Grants mineral belt area. The state approved the plan, certified it to EPA, and EPA approved it conditionally. The reason we approved it conditionally was that we felt that there were additional issues within the study areas that needed additional research. This further substantiates Professor Carruthers' point that we need additional research; we need additional data, in order to determine whether or not we have a significant problem. If it is found that we have a significant problem, then we have to come up with a sound course of action in order to make a decision to resolve that problem.

Nationally, there are about two hundred twenty five 208 programs on-going; that includes state-wide and area-wide programs. An area-wide program, for instance, may be a council of governments; it may be one county. Madison County in Wisconsin is an area-wide; the Dallas-Fort Worth region is an area-wide. So there are about 225 of these around the nation. To date, 155 have been completed. Out of those, there have been 87 certified by the states; and EPA has approved 49 of them.

Although these are some good figures, OMB (the Office of Management and Budget) is asking us some very serious questions. So far we've obligated approximately \$200 million for 208 plans nation-wide, including Alaska, Hawaii, and the trust territories. What have we gotten for this \$200 million? We've developed a lot of very valuable information to determine whether or not we have problems and if we have problems, how to reach a solution. OMB is asking us, "Well, now that you've identified the problems, what are you going to do? How are you going to solve them? Why do you need more money to do it?"

We need more money to keep the program going. The 208 program is not a static program; it's a very dynamic program. Technology is continually changing. With changes in technology, the political situation is continually changing. Ongoing planning is needed in order to make policy and decisions. The 208 program is supposed to address water quality problems of the states. The bottom line objective is to achieve an acceptable level of water quality and this acceptable level is fishable/swimable. That is defined by the states in their water quality standards - what they feel fishable and swimable waters are. If an acceptable water quality is not achieved, the consequences are fairly obvious: there may be increased health hazards; there may be a reduction in the economic growth; and there may be an overall decline in the quality of life in an area. If we achieve water quality goals, ongoing planning is needed because it is a dynamic world that we live in. Technological changes and shifts in resource availability are happening every day. The ongoing planning process is an effective means of integrating activities such as design and construction of wastewater treatment plants, monitoring of stream water qualities, and performing assessments. The 208 program isn't going to be a one-shot program. It's here to stay. The results can be used in other areas.

Recently there was the court case of Gonzales versus the United States Government and ABAG (Association of Bay Area Governments in San Francisco), No. C-76-2039 (N. D. CAL., Oct. 26, 1978). Mr. Gonzales challenged the government saying that some of the 208 funds were used to support other programs, for instance, air quality activities. The court stated that the problems of air, solid waste, and water pollution are enormous and that only a coordinated attack on these and other problems have a possibility of success. As planning in these programs continues, the 208 plans must be revised and reviewed in order to mount a coordinated attack on these inter-related problems. The 208 program can be used and will be used to address other issues besides water.

The key to the 208 program is implementation. We have spent over \$200 million on the 208 program and we do not want the 208 plans to result in unimplemented plans. The 208 plans are not going to be put on the shelf and collect dust.

In order to make the 208 plans work, various management agencies, whether they be state or local, have to implement the portions that they have direct responsibility for. The state or local agencies have to be accountable to insure that these plans and responsibilities are carried out. In light of this, EPA has targeted to the state of New Mexico about another \$1.3 million over the next two years for ongoing planning studies. We feel, and I think the state also feels, that these funds may only be the tip of the iceberg in the amount of funds that are needed to solve and determine whether or not we have problems.

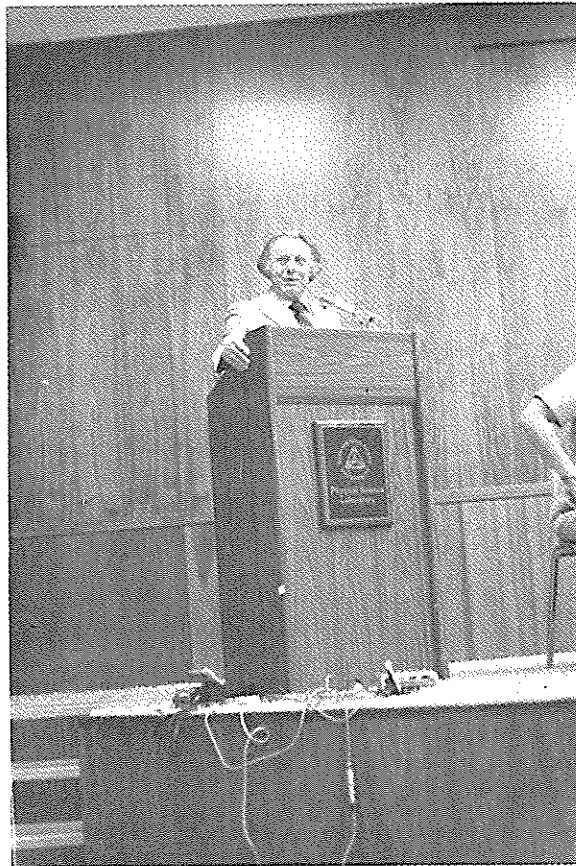
Some of the areas that we are going to address in the ongoing program are going to be: Is the irrigated agriculture a problem? If so, how do we resolve it? Are the toxic wastes in the middle Rio Grande a problem? If so, how do we solve those? What are we going to do with the groundwater problems in the Grants mineral belt area? Or is there a problem?

The 208 program, along with the other Clean Water Act programs, the Clean Air Act programs, the Safe Drinking Water Act programs, and the Resource Conservation and Recovery Act programs (which cover solid waste and hazardous materials) are only a few of EPA responsibilities. EPA is divided into a division of functions. We have a water division; we have an air and hazardous materials division; we have an enforcement division; we have a surveillance and analysis division. We try to coordinate activities between divisions, but sometimes we are not successful.

What we have developed as an outgrowth of the 208 program is an internal control mechanism; it's an internal control mechanism that's used both at the state and federal level. This control mechanism has resulted in a very carefully balanced scale of shared functional responsibilities at the state and federal level. The title of this shared responsibility document is "The State-EPA Agreement." It is something brand new that has come out in the past three years. The document is basically a management tool that the state and the federal government can use jointly; it's a bilateral agreement. It's also a communications document. The agreement highlights specific environmental, health, or institutional issues at the state level and how they want to address them and resolve them. It is a document where commitments are addressed, both on the state level and the federal level. There are some activities in it where the federal government will take the lead and the states will assist us and at the same time there are other activities that the states will take the initiative with federal assistance. Hopefully, through this agreement, we can provide a linkage among the various programs: solid waste, drinking water, clean water - and we can resolve some of the problems that the state of New Mexico faces. EPA can provide some

financial and technical assistance to the state to address these issues and to solve them. In order for this system to work effectively, however, the lines of responsibility need to be very clearly defined for both the state and federal agencies.

To close, I'd like to recall what one of my college professors in graduate school told me. His name was Richard Murphy. He said, "When left to themselves, things always go from bad to worse," and I hope that we don't reach that situation in New Mexico.



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