

RESPONSE TO THOMAS LERA's PRESENTATION  
ENTITLED "UPDATE ON SECTION 208"

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I would like to begin with a little background, going directly to the agricultural area rather than all of Section 208. As Tom Lera mentioned, the Federal Water Pollution Control Act has as a part of it the "Declaration of Goals and Policies." As amended, Section 101 states,

"The objective of this act is to restore and maintain the chemical, physical, and biological integrity of the nation's water."

And under that it says,

"It is the national policy that area-wide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each state."

Following on down under that planning process, "Area-wide Treatment Management," and that's your Section 208,

"For the purpose of developing and facilitating the development and implementation of area-wide waste treatment management plans, be, not later than one year after the date of designation of any organization under Subsection A of this Section, such organization shall have in operation and continuing, area-wide waste treatment management process,"

and that, New Mexico did do,

"and any plan prepared under such process shall include, but not be limited to,"

and here is where it comes to agriculture,

"a process to (1) identify, if appropriate,"

and there is some question sometimes as to the appropriateness of some of our actions,

"agriculturally and silviculturally related non-point sources of pollution, including return flows from irrigated agriculture and their cumulative effects, runoff from manure disposal areas and from land used for livestock and crop production; (2) set forth procedures and methods including land use requirements to control to the extent feasible such sources."

This brings you through the law up to the Section 208 as it applies to agriculture. The Water Quality Control Commission is the state agency designated as the planning agency. Under the Water Quality Control Commission, the Environmental Improvement Division is designated to implement and follow through on the plans. That's where we are as far as getting down to the plan.

The state plan was submitted in October, 1978, by Governor Apodaca. On March 1, 1979, we received a letter from the Regional Administrator, as Tom indicated, giving tentative approval, or approval with certain conditions. There are several comments that I will get to in a minute relative to our plan, but I have a note here from a commissioner that I will read. Not everyone feels that our state plan was as strong as it should have been. Not all of the commission members completely agreed with that.

In the commissioner's note, for example, "I do not believe that the plan goes far enough in carrying the state in the direction of greater control over its non-point water quality problems. The plan, which is more a program than a plan, calls in most cases for continuing studies. Any effort to initiate implementation is deferred. Data collection and studies have been underway for years. The danger we face is that, in the name of data collection, corrective action can be postponed indefinitely." Another point, "I do not believe that we have addressed the central issue of 208, the establishment of a regulatory program." So that is an opinion of our plan.

Some of the comments that came back from the region on non-point source pollution, and this is directed to irrigated agriculture, "Non-point source pollution problems from irrigated agriculture have not been quantitatively identified. A description of the seriousness of the effects of these waters has also not been identified. The state must complete the analysis of the severity of non-point source pollution problems from irrigated agriculture and make a relationship to the water quality standards. Additional data and analysis must be provided to support the conclusions of problems or no problems. Best management practices should be developed for those non-point source problem areas identified."

Another area that they point to is again the regulatory programs. "This element is not addressed in the initial plan, however should needs be established, the state must take necessary steps to address the problem."

So, those are some of the comments on just two areas of the proposed state plan. In the irrigated agriculture section of the plan as submitted by the state, we did not mention best management practices (BMP's). I think there was good reason for that. I did not feel that we had hard data upon which to establish these BMP's. If we go on identifying BMP's to try to solve problems, when we don't know what the problems are, I fear we might get into difficulty. Once best management practices are identified, they could well get established as regulations. Knowing irrigation farmers, I think they need more freedom than the best management practices that the staff first recommended would allow. Again, in my opinion, the data were not there to identify the problem areas in irrigated agriculture before we could go to a best management practice recommendation.

There are two things; one is that we could not identify a problem, the other that we could not have a regulatory part until we knew the problem we were trying to solve.

The sedimentation area was not addressed at all in our first submitted plan. Irrigated agriculture was addressed, but the rest of the agricultural sector was not. That sedimentation study has been completed, and we have a March 22nd preliminary draft. There were public hearings on the 18th of April in Santa Fe, and if my dates are correct, on the 22nd of May the Water Quality Control Commission will address this issue and make some kind of decision on it. It will not be a public hearing, it will simply be the Commission examining and passing judgement. As I look at that study, most of the information contained in the report is not based upon what I call hard data or research facts. Mostly, estimates were made on sedimentation. The estimates were based on soil types, slope, vegetative cover, and similar functions. Now that isn't to say that it's all bad, because I think the people that put this together are knowledgeable in this area. They did go to the county level and get a lot of input on this, but I guess what I'm saying is that they did not have the hard data that say, "This is what is going on out there." In the draft copy there are a number of best management practices recommended. In general, I would say the practices recommended are good. In fact, most of those recommended which came from the Soil Conservation Service, have been implemented by ranchers for a number of years. I even contend that, as a result of some of those practices, we might even be better off on sedimentation than if this thing had been turned loose for Mother Nature to handle. I think our ranchers have done a good job in many instances in implementing these best management practices that are being recommended now in the program. Some of those management practices are not always economical for an individual farmer or rancher. Society may have to move in and carry some of this burden. As Tom mentioned earlier, some of those 208 funds will be available for implementation of these plans.

When reflecting back to the Environmental Protection Agency and the cooperation between the federal agency and the state, I feel that it has improved in the last three or four years. I think the closer we get to New Mexico in the decision-making process, the better cooperation we have. We've found, in our pesticide work as well as in our water quality work, that some of the people back in Washington who make the decisions are not familiar with the West. Conditions back on the East Coast are extremely

different from what they are here, so previously there was an educational problem. The decisions being made now, however, are more by technical type people that are knowledgeable in the area and are working with us, not by the attorneys; so I am encouraged that we have had better cooperation in recent years with EPA than in the past.

Thank you.