

THE ENVIRONMENTAL PROTECTION AGENCY AND THE STATES:  
A SPIRIT OF COOPERATION

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I appreciate the opportunity to be here with you today. A few weeks ago, the Washington Post published a cartoon on its editorial page. The drawing depicted three people speaking at a cocktail party, a woman introducing two men to each other saying, "This is Mr. Smith. He hasn't heard from his office in the last half hour, but he reportedly works for EPA."

Over the past two months, some of us haven't found a great deal of humor in such cartoons. We have the impression that Doonesbury went on vacation, leaving us stranded on the ledge.

We have now been entrusted to the capable hands of Mr. William D. Ruckelshaus and as soon as people at the U.S. Environmental Protection Agency (EPA) learn to spell his name, they can continue the work of environmental protection.

In truth, the agency has carried on a great deal of essential environmental work despite the headlines of the past few months. However, as you know better than I can explain to you, the essential work of environmental protection can succeed in Washington only as long as it has the effective support of interested groups and institutions--such as this one--around the country.

I have often marvelled at President Reagan's ability to find a suitable quotation from Alexis de Tocqueville every time he has a major national address. In reality, it's not that hard to do since Tocqueville

wrote on nearly every aspect of democratic life. For instance, his opening chapter of Democracy in America discusses the profound effect that the Mississippi River had on life in our early frontier. Tocqueville wrote:

The valley which is watered by the Mississippi seems formed to be the bed of this mighty river, which, like a god of antiquity, dispenses both good and evil in its course. On the shores of the stream, nature displays an inexhaustible fertility; in proportion as you recede from its banks, the powers of vegetation languish, the soil becomes poor, and the plants that survive have a sickly growth...the whole aspect of the country shows the powerful effects of water, by both its fertility and its barrenness.

Here in New Mexico, we don't require reminders from the great thinkers of western civilization to discern the importance of water for our way of life. What we sometimes wonder, however, is whether policies of the national government help or hinder the water resources of our people. At the EPA, we are primarily concerned with the effects that environmental policies have on the quality of water available to the American people.

The past year has been one of the busiest in the history of the EPA as far as productive activity affecting water is concerned. Given the relative scarcity of surface water in New Mexico, we don't have extensive evidence of these accomplishments in our state, but those of you who travel a bit can see cleaner rivers and lakes in virtually every state in the union.

The Federal Water Pollution Control Act--more commonly known as the Clean Water Act--was adopted in 1972. The law attacked the nation's water pollution problems on two main fronts. First, it established a

Construction Grants Program to enable municipalities to develop adequate systems for the treatment of their wastewaters. Through the assistance of the Construction Grants Program, nearly 85 percent of the affected cities and towns in the United States have come into compliance with the technology based pollution control requirements of the Clean Water Act.

The effort to improve municipal wastewater treatment is continuing under this administration. In late 1981, Congress enacted amendments to the Clean Water Act to stabilize this program, providing \$2.4 billion in annual funding to complete this work on a national level by the end of this decade. These amendments also reduced parts of the planning and paperwork that contributed to the expense of the program.

While Congress has been assisting the development of these municipal wastewater treatment facilities, private industries in the United States also have been required to comply with their own technological methods of wastewater treatment. In 1977, EPA issued a set of regulations known as BPT guidelines, or "Best Practicable Technology", for the treatment of industrial effluents. Under the requirements of the law--and a series of court decisions--EPA was also expected to issue a series of BAT--that's "Best Available Technology Economically Achievable"--guidelines to provide more sophisticated treatment for toxic effluents in industrial waste streams.

This turned into one of those "they said it couldn't be done" projects. The initial Clean Water Act had called for these BAT regulations within a year; however, by November 1982, we were well on the way. Today, half of those regulations are on the books and the rest have been

proposed. For the first time in its history, The EPA issued the guidelines in keeping with a court schedule with these regulations.

Industries have been very successful in their efforts to comply with the earlier BPT regulations. Fully 96 percent of the regulated facilities have installed the required equipment. This substantial investment on the part of our industries has complemented the efforts of American municipalities to reduce the discharge of wastes into the nation's lakes and streams, thereby improving the quality of waters for a wide variety of uses.

Improving the quality of surface waters is only half of the water quality concern of the American people. Fully half of all Americans depend on ground waters for their drinking water, irrigation of croplands, industrial uses and other forms of water consumption. As each of you is intensely aware, we in New Mexico have far greater reliance on ground waters than people in other sections of the country where surface waters are more abundant.

The quality of our underground water resources has been the leading concern of two pieces of legislation beyond the Clean Water Act and the Safe Drinking Water Act--although these laws have played a role in shaping our developing national ground water policy. The Resource Conservation and Recovery Act (RCRA), which regulates facilities engaged in the treatment, storage and/or disposal of solid wastes; and the Comprehensive Environmental Response, Compensation and Liability Act, better known as "superfund", also make ground water quality central issues of current environmental policy.

Under RCRA, ground water quality considerations have been central to all regulations governing land disposal facilities, surface impoundments and land treatment facilities. Under regulations issued last July, anyone operating a land disposal facility must install sealed double liners to prevent any liquid within the landfill from leaching into surrounding ground waters. These regulations merely complement the requirements that had been issued with the original RCRA regulations in November 1980 for monitoring surrounding ground water.

Strict limits on the liquid content going into land disposal facilities and monitoring requirements to assess the quality of surrounding ground waters, along with liners, go a long way toward ensuring that we will be able to prevent the worst nightmares of ground water quality that concern many people.

Such nightmares, as is common with other areas of human uncertainty, thrive in the absence of adequate information. We know that when people talk of movement in waters on the surface, we are talking in terms of miles per day. Under the ground, we might be talking in terms of inches per year. Better understanding of ground water movements must be one of our leading research concerns.

Some people are under the impression that once a plume of some pollutant enters an underground aquifer, the entire aquifer is unsuitable for human use. This is not accurate in many respects, but we are not sure how many. We know, for example, that even in large bodies of surface water we can have wide variations in water quality from one shore to another. With water moving so much more slowly under the ground, it

makes sense that pollutants moving within that water would move correspondingly slower.

We know, too, that different grains of sands and other substances beneath the soil frequently filter many surface pollutants out of water moving through the earth. We don't always know what might come out, or how quickly, or with what variations in conditions.

Further, we know that different qualities of water are suitable for different kinds of uses. Some water might contain residues of pesticides, or fertilizers, or other material that would make that water useless for direct human drinking. That would not mean, however, that the same water could not be used to irrigate fields or for some other very valuable, noningestion purpose. We could use more research into the quality of water appropriate for different uses.

Where RCRA covers the regulation of currently operating waste disposal facilities, superfund covers abandoned or inactive facilities and attempts to guide national efforts to clean up those sites, remedying the damage that has occurred and preventing future damage as the task is completed. People here in New Mexico's Environmental Improvement Division are thoroughly familiar with the ground water concerns of superfund. They are deeply involved in ground water assessments that will shape the course of future responses to each of the four superfund sites in the state.

While we at EPA move vigorously to address some of the water quality concerns of the American people, we remain aware of the ways in which these quality concerns can affect water supply decisions. We make a conscious effort to separate these concerns and leave questions about the

development of new water resources in the hands of state and local governments where they have been throughout American history.

Last year, EPA began the development of a national ground water policy. Given the scope of the subject and the variety of interests concerned about the final shape of the policy, you might expect that the final policy will involve more than one agency and more than one year's preparation. The EPA is now awaiting comments and further Cabinet Council action. However, let me outline the five guiding principles that have shaped EPA's approach to the policy so far.

First, our policy must recognize the primary role of states in ground water protection.

Second, we should encourage voluntary state strategies for the protection of ground water resources and foster coordination among the various state institutions in protecting ground water policy.

Third, the level of ground water protection should consider projected future uses as well as current usage.

Fourth, EPA's role should emphasize coordination of our own existing authorities.

And fifth, EPA will not become involved in the important state responsibility of allocating ground water rights. Our duties center on the water quality concerns of the American people.

These are the major issues of water quality, both on the surface of the earth and under the ground, that the American people will confront in the coming years. We know that working through the New Mexico Water Resources Research Institute, you can make valuable contributions to the developing national discussions of these policies.

Talking about your continued work is somewhat easier than talking about how work will continue at EPA these days. We know that the work of environmental protection will go on but I know that many of you share reservations about whether the efforts of regulatory reform, increased reliance on our federal system, and considerations of balancing environmental regulation and economic growth can continue.

The overriding concerns of environmental protection are not partisan issues, and the environmental concerns that inspired the formation of EPA are not the same environmental concerns that the American people face in 1983. I would, however, like to share with you a few of the thoughts that our new administrator expressed to EPA employees the day after his nomination was announced.

Explaining why he decided to come back to EPA--after noting that his wife thinks he ought to be committed for doing so--Mr. Ruckelshaus told us:

...I have come to believe that over the years since leaving EPA, that how free societies deal with chronic problems of modern life like pollution, resource depletion and population pressures, will very much dictate whether free societies will remain free.

These chronic problems that persist, that are difficult to manage, the management of risk itself, is a very divisive, very emotional thing for a free society to face and what we need to do is get better at it. And we need to do all of these things in the context of freedom.

He added:

EPA should be in the forefront of preserving human health and the environment and at the same time never losing sight of our central focus on freedom.

That central message was woven throughout Mr. Ruckelshaus' text. He also reminded those of us who work with him at EPA:

The debate over whether we are going to protect human health and the environment ended 15 years ago...The issue today isn't whether we are going to clean up, but how...In discharging our responsibilities, we must never, never forget that we are public servants. Our job is to serve the people, not condemn them, not bully them.

I have enjoyed the opportunity to be with you today and I hope that I have helped a bit in indicating some of the directions of our national environmental concerns at EPA.