

INTERNATIONAL IMPLICATIONS

ON WATER USE IN AMERICA

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In 1992, Agenda 21 was adopted by the United Nations at its Earth Summit in Rio. [Chapter 18 of Agenda 21](#), dealing strictly with the protection of the quality and supply of freshwater resources, is having increased effect on use and management of water in the United States.

At the April 1, 1997 5th Session of the United Nations (UN) Commission on Sustainable Development, the U.S. State Department updated the UN on the United State's accomplishments in terms of implementing Agenda 21. To quote the State Department, "Watersheds are a primary concern of the President's Council for Sustainable Development." Please note for later reference that "watersheds are a primary concern". The U.S. Department went on to say:

"Agenda 21 sets ambitious objectives to meet the goal of satisfying the freshwater needs of sustainable development. The concept that is central to it, is for countries to move toward integrated water resources management, a holistic approach that treats water resources as an integral part of the ecosystem. The United States is working towards this goal. Many projects are being undertaken in these areas throughout the United States - such as the Great Lakes-St. Lawrence River Basin, the Columbia River system, the Missouri River system, the Alabama-Coosa-Tallapoosa and Apalachicola-Chattahoochee-Flint River basins, and the Everglades that take a more integrative look at managing these resources than has been done in the past."

"A watershed management approach is being proposed for incorporation into the primary federal statute regulating water quality."

As you will see, a number of initiatives have been launched by the administration in 1997 and early 1998 that are based on a watershed approach.

What does Agenda 21, Chapter 18 call for in terms of freshwater protection? First it calls for the regulation on the amount of water withdrawn annually from both groundwater and surface water sources. In terms of agriculture and other uses, Agenda 21 states that water withdrawals "must be limited to a percentage of total annual flow" Agenda 21 also states that percentage water withdrawal is an indicator of the health of biodiversity. If read literally, this statement means the lower the percentage of water withdrawn, the healthier biodiversity. As we are all aware,

agricultural irrigation practices increase vegetative production per acre. A common principle of wildlife biology is that wildlife populations are a function of the vegetative resources available. Agenda 21's assumption that water withdrawal is an indicator of the health of biodiversity therefore seems to contradict with common principles of biology.

Agenda 21 encourages governments to form "partnerships between public and private sectors and NGO's, aiming towards improved local capacity to protect water resources". Here in Texas, non-government organizations (NGO) such as Sierra Club have used litigation under environmental laws such as the Endangered Species Act to limit ground water withdrawal to a percentage of annual flow. The Texas legislature has also just recently finalized legislation in response to that litigation which regulates and controls withdrawal of groundwater.

The next two items that must be regulated according to Agenda 21 are very important in relationship to environmental and water issues affecting us today. Agenda 21 states that faecal coliform contamination of freshwater must be limited. Agenda 21 also states that nitrogen and phosphorus releases to freshwater must be limited. I will discuss these items in detail later in this speech.

At the February 23-27, 1998 Intersessional Working Group Meeting of the UN Commission of Sustainable Development on Strategic Approaches to Freshwater Management held in New York, the U.S. State Department reported that on October 18, 1997 Vice President Gore had announced his Clean Water Initiative. What this initiative means for Americans, is that EPA, USDA and other federal agencies are being allowed a vast expansion of regulatory authority under the non-point source pollution provisions of the Clean Water and the Coastal Zone Protection Acts.

The Vice President's Clean Water Initiative begins with the assumption that:

"Polluted runoff has for too long eluded control under conventional regulatory approaches. Communities need Federal help and partnership to protect water quality on a community-led watershed basis, rather than through piecemeal steps."

The piecemeal steps I believe he is referring too, is the fact that water belongs to you and the state, and water has "eluded" full federal control under traditional piecemeal applications of the Clean Water Act, Endangered Species Act, Wilderness Act, wetlands regulations and reservations of water by indigenous peoples under the Bureau of Indian Affairs. The Vice President directs federal agencies to develop within 120 days a comprehensive plan that promotes water quality protection on a watershed basis.

The Vice President's clean water plan is to encompass regulatory compliance, enforcement, budgetary, and where appropriate, incentives or market-based steps to meet its obligations. The U.S. Department of Agriculture and Department of the Interior are directed to develop a strategy to ensure proper stewardship of federally managed watersheds and to restore watersheds adversely affected by man's actions.

Agencies are also required to ensure that their actions and activities in no manner contribute to sprawl or other forms of development. An interesting point is made in the State Department report to the UN. In that report, it is pointed out, the Nature Conservancy and the National Biological Survey are actively analyzing any negative impacts that dams may be having on fisheries, endangered species and biodiversity in general. Requiring that federal agencies ensure that their actions in no manner contribute to sprawl and development may have considerable implications on Federal Energy Regulatory Commission (FERC) permitting and permit renewal of hydroelectric and irrigation dams. In fact, Secretary Babbitt has stated in speeches and to the media that there will be no new dams permitted under his administration. The Department of the Interior also made requests last year for appropriations for the removal of several dams across the United States. In November 1997, FERC authorized the removal of the 917 foot Edwards Dam in Maine, stating the environmental damage to striped bass and salmon greatly outweighed the 160-year-old dam's benefits. In December 1997, work began to remove the Quaker Neck Dam on North Carolina's Neuse River. Three small dams in Michigan and Wisconsin were not reauthorized and are slated for removal. The NGO organizations such as Sierra Club are currently demanding removal of the Glen Canyon dam in Arizona, the Elwha and Glines Canyon dams in Washington, the Savage Rapids dam in Oregon, the Rodman dam in Florida and three more dams in Maine.

Under the Clean Water Initiative, agencies are also directed to develop strategies that eliminate unnecessary roads, address runoff from abandoned mines and ensure coordinated watershed management strategies "regardless of jurisdictional boundaries." In January 1998, the U.S. Forest Service (USFS) was the first federal agency to announce that it was not only placing a moratorium on road construction, but also on the reconstruction of roads in "roadless areas" until such time as new regulations can be put in place. The reason roads exist in a "roadless area" is found in USFS definitions. Under the Forest Service definition, a "roadless area is an area where there are no improved roads maintained for travel." The two key words in this definition are "improved" and "maintained". Therefore, it is possible that if maintenance or "reconstruction" of a road under USFS definition is prohibited, the Forest Service will no longer have to consider a road a road, and "roadless areas" can be vastly expanded.

In an internal memorandum, Forest Service Chief, Mike Dombeck stated, "we will take every opportunity to tie with the VP's Clean Water Initiative and indeed provide a media event for the VP to showcase the initiative on national forest lands." Dombeck also stated that the watershed protection aspects of the agenda should be emphasized, "especially [in] relat[ionship] to wildlife protection, water quality and watersheds."

A legal review of the Forest Service "roadless" proposal completed by ASI and its attorneys, shows that the U.S. Forest Service has no legal authority to put in place a moratorium on road building and reconstruction. This right is reserved by Congress, and Congress alone. Secondly, if the USFS moves forward with its proposal, the Forest Service will be violating the National Forest Management Act, Federal Lands Policy Management Act, Federal Road & Trails Act, Multiple Use & Sustained Yield Act, General Mining Law and NEPA. The bottom line is the USFS moratorium is ILLEGAL.

The Vice President's Clean Water Initiative goes on to state that there will be a net gain of 100,000 acres of wetlands *per year* by the year 2005. Remember wetlands are federally regulated, thus the federal government under this single proposal intends to expand its regulatory authority over millions of additional acres.

The initiative also states that two million miles of buffer strips protecting water from agricultural runoff will be put in place by the year 2002. There are three million miles of rivers and streams in the United States, with one-third of the United States currently owned by the federal government. This directive could mean that every river and stream crossing private and state land in America will have a buffer zone placed around it.

USDA Natural Resource Conservation Service has already announced its stream buffer strip initiative and is currently working with private landowners to implement it. Proposals are currently moving forward that will place these private land buffer zones into programs like the Conservation Reserve Program (CRP). In fact the Vice President's Clean Water Initiative redirects CRP and EQUIP programs to not only address highly erodible lands, but to also provide habitat for endangered species, fish and wildlife.

Agenda 21, Chapter 18 states that nitrogen and phosphorus releases into freshwater must be limited. Under the Clean Water Initiative, EPA is directed to implement a criteria system and actions addressing nitrogen and phosphorus runoff by the year 2000. In two years, the EPA may be telling you where, when, and if, you can use fertilizer. Remember that one-half of the increases made in agricultural production during this century were attributed to herbicide and fertilizer use, so this action item could have major ramifications on all Americans.

The last point made in the Vice President's Clean Water Initiative involves the regulation of livestock feeding operations. Agenda 21, Chapter 18 states that faecal coliforms must be limited. On March 5, 1998, EPA announced that under the Clean Water Initiative it has developed a draft strategy to regulate animal feed operations.

EPA will begin requiring the permitting of animal waste discharge under the Clean Water Act. This action will not only control faecal coliforms, but as stated in EPA's March 5 news release:

"Reductions in animal waste runoff will decrease the amount of excess nutrients (nitrogen and phosphorus) entering surface water bodies."

At first these regulations are to only apply to concentrated animal feeding operations (CAFO) larger than 1,000 cattle or 5,000 sheep. But EPA states that it will also apply to operations within an area of critical concern. The EPA, however, does not define areas of critical concern. These areas may be impaired waterways as defined by the EPA itself, or ESA critical habitat as defined by the U.S. Fish & Wildlife Service, or endangered ecosystems as defined by the National Biological Service, or all of the above. This draft strategy could eventually impact all 450,000 livestock feeding operation in the United States, and if NGO organizations have their way in litigation, apply to all grazing allotments, farms and ranches.

The good news is --- the law under the Clean Water Act's non-point source provisions is still relatively undefined. Unlike other environmental laws, agriculture and resource dependent industry still have the opportunity to define this law within the courts, **IF WE TAKE ACTION NOW**. It is my contention that the administration, including the USFS, has exceeded its authority under these initiatives. It is time to remind the administration of the checks and balances placed by the U.S. Constitution on its powers, and it's time to remind the administration it is accountable to Congress and the people of this nation - not to Agenda 21.

President Clinton, by Executive Order, without statutory authority, adopted a federal program in September 1997 under which ten rivers a year will be designated as Heritage Rivers. A "River Navigator" - a federal advisor, will be assigned to each designated river, and 13 federal agencies will administer the program. They will not only administer the river, but the river's WATERSHED area. I will not go into much detail on this subject since Congressman Bonilla covered it so eloquently, but I would like to focus the audience's attention on House hearings that were held last year on the American Heritage River Initiative. During questioning, Council of Environmental Quality Chairman, Katie McGinty was purposely vague on what the full purpose and the source of the American Heritage Rivers Initiative was.

I would once again like to return to April 1, 1997, five months before the rivers initiative was put into effect, when the U.S. State Department updated the UN Commission on Sustainable Development on the United State's accomplishments in terms of implementing Agenda 21. The State Department stated that, "Watersheds are a primary concern of the President's Council for Sustainable Development." The State Department went on to say:

"Agenda 21 sets ambitious objectives to meet the goal of satisfying the freshwater needs of sustainable development. The concept that is central to it is for countries to move toward integrated water resources management, a holistic approach that treats water resources as an integral part of the ecosystem. The United States is working towards this goal."

The State Department noted that, "A watershed management approach is being proposed for incorporation into the primary federal statute regulating water quality."

The American Heritage Rivers and Clean Water Initiatives are both watershed management approaches. They are watershed initiatives that address the challenges laid out at the February 23-27, 1998 meeting of the Intersessional Working Group of the U.N. Commission on Sustainable Development on Strategic Approaches to Freshwater Management. Let me quote points 13 and 14 from of the chairperson's report:

"actions related to integrated water management need to take place at the local and national level. These actions should be closely related to other areas of natural resource management, including land, forestry and mountain development. Effective integrated water resources management should incorporate river basin, catchment, watershed and ecosystem approaches."

There is also a need to minimize impacts from human activities on coastal areas, estuarine and marine environments, and in mountainous areas.

All of the components, of the President and Vice President's freshwater initiatives are also found in the U.N. Commission on Sustainable Development's report on freshwater.

The danger of these initiatives lies in the fact that if the federal government is allowed to establish a "partnership" in the management of state water resources, they will next want primary regulatory authority over all water use. Actions such as the Federal Bureau of Reclamation's recent filing of a lawsuit against New Mexico and Texas regarding ownership of water in the lower Rio Grande suggests that this administration will not be satisfied until ownership and management of the water is removed from the states and federalized. The UN chairperson's report at the February 1998 meeting in New York takes this point one step farther. Under Section IV, "Actions and Means of Implementation", Point 17, the co-chairperson states:

"Governments are called upon to address the need for *achieving universal access* to water supply and sanitation."

"In formulating and implementing integrated water resources management policies and programs, there is a need to take into account actions to implement relevant conventions in force, in particular Conventions on Biological Diversity, Desertification, Climate Change, Wetlands (Ramsar) and International Trade in Endangered Species (CITES)."

In closing, history has provided us with repeated accounts of instances where the centralization of authority has always led to the collapse of the civilization itself, yet few today seem concerned with the President and Vice President's watershed initiatives which take steps towards such levels of centralization. History provides us with repeated accounts of how the collapse of agriculture has led to the collapse of the civilizations themselves. Yet few remember that fertilization and irrigation have been responsible for a doubling in America's ability to feed itself.

The President and Vice President's watershed initiatives are aimed at granting our regulatory agencies such powers as are needed to centralize watershed (land-use) authority. Centralized watershed authority, in effect, regulates our nation's food security.

Yet, the only safe thing most people can say about history is that they learn nothing from it. Each generation feels itself wiser and stronger than those of the past, and therefore immune to the hazards of history. Religion and philosophy, politics and science, education and economics have poured their individual balm upon the wounds of the world, and yet they suffer and struggle, deplore and despair. All the while, mute testimony of history stands wonderingly and helplessly by, because they ignore it. Look at the lessons and listen to the voices of past calamity. These were individual people just as you and I, living souls used as pawns in the game of personal power.

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