Joint Conference MSAWWA-MWPCA (Montana Water Association-Massachusetts Water Pollution Control Association)

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Senator * or Department*: **BAUCUS**

Instructions:
Prepare one form for insertion at the beginning of each record series.
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Record Type*: Speeches & Remarks

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* "required information"
WATER AND WASTEWATER -- THE POLITICAL ARENA

The topic that I have been asked to address -- Water and Wastewater in the Political Arena -- is difficult for me to come to grips with. I have a tough time thinking of clean water as a political issue. Coming from Montana, it seems like more of a birthright.

Apparently, I am not alone in this feeling. Last December, pollster Lou Harris testified to the Environmental Pollution Subcommittee of the Senate Environment and Public Works Committee. Harris said his nationwide study confirmed that water pollution control is among the top priorities for Americans. He described its support as like being for "mother, God, and country."

In fact, Harris gave members of Congress some pretty blunt advice in his poll. He observed:

By any measure, there can be little doubt from these results of the determination and insistence of the American people to sustain
AND TO CONTINUE THE CLEAN WATER ACT. ANY EASING OR WEAKENING OF THE ACT WILL BE VIEWED AS A VIOLATION OF A CLEARLY EXPRESSED PUBLIC MANDATE.

LIKE IT OR NOT, THOUGH, POLLUTION CONTROL HAS FALLEN INTO THE HOTTEST POLITICAL TURMOIL WASHINGTON HAS SEEN IN MONTHS.

THE EPA MESS

I REFER, OF COURSE, TO THE MESS AT EPA -- APPROPRIATELY DUBBED BY THE PRESS AS "SEWERGATE." THE AGENCY IS IN SHAMBLES.

A WITNESS AT THE EPA BUDGET HEARING CAPTURED MY OWN FEELING OF REGRET. HE SAID:

"WE ARE UNABLE TO RECALL A SINGLE INSTANCE IN WHICH A TOP-LEVEL OFFICIAL AT THE ENVIRONMENTAL PROTECTION AGENCY WAS FIRED, FORCED TO RESIGN, TAINTED WITH SCANDAL, OR FORCED TO WITHDRAW BEFORE HIS NOMINATION WAS CONFIRMED DURING THE FIRST TEN YEARS OF THE AGENCY'S EXISTENCE."

* * *

AN AGENCY WHOSE REPUTATION FOR INTEGRITY WAS IMPECCABLE HAS BEEN SULLIED."

IN THIS CONTEXT, TWO POINTS DESERVE ATTENTION.
First, this is not some sort of partisan vendetta we are pursuing. EPA was born in a Republican Administration. During its first decade, the Agency was managed by three administrators, two Republicans and one Democrat. They directed EPA on as non-partisan, non-political a course as possible.

The events of the last few months have turned that course 180 degrees.

Instead of cooperation between EPA and Congress, we have had contempt citations. Instead of talk of "best available technology," we have been confronted with shredders.

Instead of a public health priority, we have heard of "political sensitivity" alerts on enforcement actions.

Secondly, it is time to put EPA out of the headlines and back into the business of protecting human health and safety and the quality of the environment. Those of you here today know all too well the size of the job remaining.

I am pleased that the Administration has nominated a person of the stature of William Ruckelshaus to head EPA.
Congress is in no mood to confirm another set of Keystone S who are more interested in slashing the Agency’s budget than in controlling toxic pollutants.

The new Administrator will face a very full agenda. Two years of controversy have stalled out virtually every important initiative in the environmental arena:

- After more than two years of review, amendments to the Clean Air Act are showing virtually no signs of life.
- Action on amendments to the Clean Water Act has been delayed by oversight hearings on EPA.
- Agency requests for basic research and development funding are down a full 34 percent from 1981, leaving the means of preventing future disasters out of our reach.
- Hazardous waste clean-up around the country has suffered as Superfund has been dragged through the mud.

Clearly, the new Administrator faces some tough sledding.

But the job is not impossible.

A reasonable budget proposal should replace the starvation diet the Agency has been on. A new budget tied with an attitude of dedication, first and foremost, to environmental quality will produce light-years of progress.
CLEAN WATER ACT

THE RAGING CONFLICT OVER ENVIRONMENTAL PERSONALITIES RATHER THAN POLICIES HAS WAYLAID CONSIDERATION OF TWO SIGNIFICANT MEASURES.

THE CLEAN WATER ACT AND THE SAFE DRINKING WATER ACT ARE BOTH A LONG WAY FROM ANY FINAL LEGISLATIVE ACTION. LET ME BRING YOU UP TO DATE.

TEN YEARS HAVE PASSED SINCE THE PASSAGE OF THE CLEAN WATER ACT. IN 1972, THE NATIONAL FERVOR FOR WATER QUALITY WAS BOLDLY STATED IN THE SENATE COMMITTEE'S REPORT. IT SAID, "NO ONE HAS THE RIGHT TO POLLUTE. . . (P)OLLUTION CONTINUES BECAUSE OF TECHNOLOGICAL LIMITS, NOT BECAUSE OF ANY INHERENT RIGHT TO USE THE NATION'S WATERWAYS FOR THE PURPOSE OF DISPOSING WASTE."

IF SHEER DOLLAR POWER IS ANY INDICATION, AMERICA'S COMMITMENT TO THIS PRINCIPLE HAS NOT FLAGGED.

THE CONSTRUCTION GRANTS PROGRAM REPRESENTS THE LARGEST NON-MILITARY PUBLIC WORKS PROGRAM SINCE THE INTERSTATE HIGHWAY SYSTEM. EPA HAS OBLIGATED MORE THAN $35 BILLION FOR SEWAGE TREATMENT FACILITIES. STATE AND LOCAL CONTRIBUTIONS HAVE DRIVEN TOTAL SPENDING IN THE LAST DECADE TO $50 BILLION.
For this massive investment, what have we gotten?

Lots of brick and mortar -- some 4,000 facilities are already operating and as many as 6,000 are under construction.

However, July 1, 1983 is rapidly approaching and the goal of the 1972 Act of "fishable-swimmable" waters nationwide is still beyond our grasp.

It is estimated that another $90 billion might be necessary by the year 2000 to complete the construction grants program. But Congress, at the Administration's suggestion, cut back federal funding substantially, as you know.

The increased burden on local communities of absorbing 45 percent, rather than 25 percent, of construction costs is bringing very difficult questions into sharp focus.

Whether stringent, uniform sewage treatment standards are really necessary.

Whether this massive investment has really paid off in cleaner water.
Whether federal assistance is a one-shot need or a continuing commitment.

Whether local governments can even afford to operate and maintain modern facilities.

I have looked through the agenda for your conference. It is clear that you can provide solid responses to these questions. Your hands-on experiences will be especially helpful to me. The issues are highly technical and I claim no such expertise.

In talking with members of the Senate's Environmental Pollution Subcommittee, though, the prospect is that the committee will consider relatively limited amendments to the Act this year.

Hearings were to have been held last week, but they have been postponed until mid-April. By that time, there is some hope that an Administration position can be presented if the uproar at EPA has died down.

The Senate is considering extending the deadlines for complying with "best available technology" (BAT) requirements. One proposal is to delay the deadline from July 1, 1984 to three years after promulgation of final regs but, in no case, later than July 1, 1987.
More lenient amendments to give greater leeway to the steel industry, for example, have also been proposed. Their passage seems unlikely.

Pre-treating toxic wastes is controversial again this year. The proposal that seems to be gaining steam would allow city sewerage authorities greater flexibility in implementing local pretreatment systems. Stringent restrictions would be applied to any such exemptions, however.

Perhaps the most thorny issue that will be taken up is the question of moving toward a water quality basis and away from emphasis on cleanup technology.

As you recall, this question was at the heart of the 1972 debate that lead to the current approach. I question whether we can manage the science necessary to make a water quality approach work today any better than we could a decade ago.

Consideration will, of course, be given to other issues such as non-point source pollution, permit delegation and the wetlands program.

I also anticipate that an amendment will be offered to allow
CITIZEN TO SUE UNDER THE FEDERAL COMMON LAW OF NUISANCE. THE

DATE OF THESE PROPOSALS IS, AT THIS TIME, UNCLEAR.

LET'S TURN NOW TO ANOTHER MEASURE THAT I KNOW IS OF INTEREST
TO YOU.

THE PASSAGE OF THE SAFE DRINKING WATER ACT IN 1974 MARKED AN
IMPORTANT COMMITMENT BY THE NATION TO INSURE A SAFE WATER SUPPLY
FOR ALL AMERICANS.

MAN COMMUNITIES IN MONTANA STILL ENJOY THE LUXURY OF
DRAWING WATER FROM CLEAR FLOWING MOUNTAIN STREAMS AND SPRINGS.
INDUSTRIALIZATION HAS NOT TREATED SOME PARTS OF THE COUNTRY AS
KINDLY, HOWEVER.

INCREASED EVIDENCE OF THE CUMULATIVE EFFECTS OF TOXICS IN
DRINKING WATER, ALONG WITH INCREASES IN WATERBORNE DISEASE SET
THE STAGE FOR THE FEDERAL ACT. AS I AM SURE YOU ARE AWARE,
QUESTIONS HAVE BEEN RAISED LATELY ABOUT THE EFFECTIVENESS OF THE
SAFE DRINKING WATER ACT.

TO GET TO THE BOTTOM OF THIS, A SUBCOMMITTEE ON WHICH I
SERVE HELD OVERSIGHT HEARINGS LAST YEAR. THE MOST HOTLY DEBATED
ISSUE WAS THE SUGGESTION TO ELIMINATE THE "ANY ADVERSE EFFECTS"
STANDARD FOR REGULATION TO AN "UNREASONABLE RISK" STANDARD.

AT THE CONCLUSION OF THE HEARINGS ON THIS QUESTION, THE
Chairman of the Subcommittee, Senator Gorton, withdrew his support for his own proposal. He stated:

"A change in the basis for standard setting would not improve the public health protection under the act. If this is the case, I see no compelling reason to support a change in standard setting. I feel that the only result of a change in standard setting will be additional litigation while the courts try to ascertain what the new legislation means."

On that basis, the Safe Drinking Water Regulatory Reform Act died last year. No new bill has been introduced in this Congress. Frankly, I do not anticipate any major legislative initiative—while the act is not perfect, an acceptable alternative has not been developed.

Groundwater

Any review of water issues in today's political arena would be extremely short-sighted if groundwater issues were ignored.
From New Jersey to Milltown, Montana, dramatic incidences of contamination have heightened public awareness of the fragile nature of groundwater supplies. In hearings before the Toxic Substances Subcommittee of which I am the ranking Democratic member, the gravity of the problem was forcefully described.

To date, the drinking water supplies for more than 2 million people have been lost due to contaminated ground water.

The source of the chemical and biological degradation of the nation’s ground water is well known. Since 1950, for example, 6 billion metric tons of hazardous waste have been disposed on or in land. The rate of hazardous waste disposal is growing 5 percent annually. And if that weren’t enough, septic tanks and cesspools discharge about 800 billion gallons of effluent into our ground water yearly.

This scenario is disturbing in its own right; when the foremost ground water experts agree that there is virtually no remedial action available for serious ground water contamination, it is frightening.

I firmly believe that this points us toward the necessity of establishing a national groundwater strategy aimed at stopping contamination before it occurs.

Difficult political decisions will be part and parcel of this effort. What is the appropriate role for federal, state and
Local governments? What is the impact of groundwater protection?

Local land use controls? What are our goals for groundwater protection?

As complex as the issue is, however, I am convinced that the time has passed when we can turn our backs on the threat.

Conclusion

The appointment of a new administrative team at the Environmental Protection Agency signals a potential watershed in public policy dealing with water quality. There is ample room for re-examining and improving of statutes such as the Clean Water and Safe Drinking Water Acts.

In fact, the reduction of Federal funding and involvement and the shift to state and local government control may prove to be a positive development. More innovative approaches toward treatment and more economical means of financing water cleanup is a very real possibility.

One underlying principle must be kept in mind, however. More often than not, Congress follows rather than leads. Americans in general and Montanans in particular have spoken loudly and clearly.

Deterioration in water quality is intolerable, cleanup is mandatory and we are willing to pay the price to maintain this fundamental element of our way of life.