



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 29 2002

OFFICE OF
GENERAL COUNSEL

Karen Budd-Falen
Marc R. Stimpert
Budd-Falen Law Offices, P.C.
300 East 18th Street
Post Office Box 346
Cheyenne, Wyoming 82003-0346


Dear Ms. Budd-Falen and Mr. Stimpert:

This is in response to your request for clarification from U.S. EPA concerning the legal effect of the Clean Water Action Plan, which was published by EPA and the Department of Agriculture, along with several other federal agencies, in February 1998. Following is our response to the issue you have raised.

The Clean Water Action Plan provided broad guidance to several federal agencies on how they should attempt to address the continuing nationwide problem of water pollution using their existing authorities. It included a listing of a large number of action items that the agencies intended to undertake. However, the Clean Water Action Plan did not impose any legally enforceable obligations and was not itself a source of substantive authority for the listed agency actions; nor did it waive or supercede any substantive or procedural requirements. The implementation of each action item listed in the Plan is based on authorities in existing statutes (such as the Clean Water Act) and is subject to applicable requirements under the applicable authorizing statute as well as the Administrative Procedure Act, the National Environmental Policy Act and any other relevant law.

We trust that this answers your question about the Clean Water Action Plan. If you have any further questions about this matter, please feel free to contact Susan Lepow or Carrie Wehling of my staff. They can be reached at (202) 564-5472 and (202) 564-5492, respectively.

Sincerely,



Robert E. Fabricant
General Counsel

cc: G. Tracy Mehan, III

