

Sewage Projects

Impound Funds Released by Supreme Court

Washington

In the first impoundment case to reach the Supreme Court, the justices ruled unanimously yesterday that former President Nixon exceeded his authority when he withheld \$9 billion for sewage treatment plants.

A spokesman for the Environmental Protection Agency, which administers the pollution control program, said the EPA will immediately comply with the ruling by allocating the impounded money to the states.

California's share will amount to \$945 million.

Before the ruling, the Ford administration had planned to stretch out release of the funds over the next three years and had taken the first step, freeing \$4 billion, late last month.

But the high court decided, based on a detailed analysis of the 1972 federal Water Pollution Control Act, that Congress never gave the President authority to withhold or even delay any of the money.

Justice Byron R. White, writing for the court, said the 1972 law "was intended to provide a firm commitment of substantial sums within a relatively limited period of time in an effort to achieve an early solution of what was deemed an urgent problem."

"We cannot believe," White added, "that Congress at the last minute scuttled the entire effort by providing the executive with seemingly limitless power to withhold funds from allotment and obligation."

Passed over Mr. Nixon's veto in 1972, the act provided that the federal government would pay 75 per cent of the states' costs in building treatment plants.

Under the law's unusual financing system, Congress authorized \$18 billion for 1973, 1974 and 1975, and then left it to the head of the EPA to allot the money among the states.

Only after the states submitted plans for anti-pollution projects and ob-

tained EPA approval would Congress appropriate the money for each project.

The trouble arose when Mr. Nixon, complaining about inflation and "reckless congressional spending," ordered the EPA to allot only \$2 billion of the \$5 billion for fiscal 1973, \$3 billion of the \$6 billion for 1974 and \$4 billion of the \$7 billion for 1975.

New York City officials took the EPA to court and were later joined by Detroit authorities. They called the impoundments a last-ditch effort to kill an act the Nixon administration had opposed all the way through Congress.

Mr. Nixon's actions, they said, also made it impossible for the states to complete the long-range planning needed to meet 1977 and 1983 cleanup deadlines imposed by law.

The Supreme Court's decision upheld a ruling by the U.S. Court of Appeals here that the President and the EPA were required to allocate the full amounts on the timetable laid down by the statute.

The justices rejected the contention of Solicitor General Robert H. Bork that Mr. Nixon's position was supported by a specific phrase in the law which said that EPA shall allot funds "not to exceed" the authorized amount.

Bork said the phrase meant smaller amounts could be allocated.

But White gave this language a different interpretation.

He said it was meant only to recognize that applications from the states might

More Supreme Court news on Page 8.

not exhaust the maximum amounts set aside and was not intended to excuse the EPA from allotting the money in the first place.

The decision, tied closely to the wording of the sewage treatment law, did not deal with the widely debated issue of a President's constitutional power to impound funds appropriated by Congress.

That constitutional debate has been muted by the enactment last July of legislation that requires presidents to explain every impoundment to Congress in a special message. Then either house may block the chief executive by adopting a resolution rejecting the proposed impoundment.

An EPA official said the ruling, though freeing states to plan anti-pollution projects, would have little immediate effect on spending or employment in construction fields.

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