

Illegality of Nixon Impound Upheld

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The U.S. Court of Appeals here yesterday upheld a district court ruling that President Nixon is illegally impounding \$6 billion in water pollution control funds.

The ruling by the appeals court, its first decision on the impoundment issue, contrasts with an opinion last month by a federal appeals court in Richmond, Va., on the same impoundment action. That court ordered further hearings by a federal judge to determine if the money was illegally held by the President.

Yesterday's ruling came in a suit filed by the cities of New York and Detroit asking that they be given their full allotment of federal water pollution planning funds. The suit was later certified as a class action by U.S. District Judge Oliver Gasch and his ruling applied to all areas affected by the impoundment.

The Richmond ruling came in a suit filed by an environmentalist group, but U.S. District Judge Robert Merhige Jr. limited the ruling to Virginia.

The money was authorized by Congress to be allocated among the various states so municipalities could enter contracts for the construction of waste treatment works.

While the act authorized \$11 billion to be allotted over a two-year period, President Nixon directed the Environmental Protection Agency administrator to reduce the amount to be actually allotted to the states to \$5 billion.

Under the act, project proposals that would be financed with the allotted money would then have to be specifically approved by the EPA and money then would have to be appropriated by Congress for the project.

In its ruling, the appeals court here specified that it was not ordering the money to be spent, but rather that it be allotted to the states so they could plan water pollution projects.

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