

**Office of Inspector General  
Report of Audit**

**WATER**

**Region 8 Nonpoint Source Grant Oversight  
Needs Improvement**

**E1HWF7-08-0009-7100304**

**September 30, 1997**

**Inspector General Division  
Conducting the Audit**

**Central Audit Division  
Denver, Colorado**

**Region Covered**

**Region 8**

**Program Office Involved**

**Office of Water**

September 30, 1997

**MEMORANDUM**

**SUBJECT:** Region 8 Nonpoint Source Grant Oversight Needs Improvement  
Report Number E1HWF7-08-0009-7100304

**FROM:** Bennie S. Salem  
Divisional Inspector General

**TO:** William P. Yellowtail  
Regional Administrator  
Region 8

Attached is our report entitled *Region 8 Nonpoint Source Grant Oversight Needs Improvement*. The report includes recommendations to update state nonpoint source (NPS) management plans, develop and finalize NPS policy papers, and develop a strategy to build states' capacity to operate their NPS programs without reliance on section 319 funding. We found that Wyoming's lack of sufficient staff and its poor working relationship with Region 8 adversely impacted its NPS program. In addition, we found areas needing improvement in Utah's and Wyoming's financial management. We discussed our findings with your staff and issued a draft report. We summarized your comments and those from the three states we reviewed in the final report and included your complete response as Appendix I.

In accordance with Environmental Protection Agency (EPA) Order 2750, you as the action official, are required to provide this office a written response to the audit report within 90 days of the final audit report date. For corrective actions planned but not completed by the response date, reference to specific milestone dates will assist in deciding whether to close this report.

We appreciate the cooperation you and your staff provided throughout the audit. We especially appreciate the program staff's assistance and timely response during the audit. The program staff demonstrated a genuine interest in improving the NPS program.

This audit report contains findings that the Office of Inspector General (OIG) has identified and corrective actions OIG recommends. This audit report represents the opinion of OIG, and the findings contained in this audit report do not necessarily represent the final EPA position. Final determinations on matters in this audit report will be made by EPA managers in accordance with established EPA audit resolution procedures.

We have no objections to the release of this report to the public.

If you or your staff have any questions, please call me at (913) 551-7831 or Jeff Hart, Audit Manager in our Denver office, at 312-6169. Please refer to report number E1HWF7-08-0009-7100304 on any correspondence.

Attachment

# EXECUTIVE SUMMARY

## PURPOSE

Environmental Protection Agency (EPA) Region 8 nonpoint source (NPS) program staff requested that the Office of Inspector General (OIG) audit the Colorado, Utah, and Wyoming NPS grant expenditures. Because EPA planned to reduce its oversight of state NPS programs, regional program staff requested that OIG determine whether states ensured NPS costs were eligible for reimbursement..

## OBJECTIVES

Our audit objectives were to answer the following questions:

- ▶ Was Region 8's oversight sufficient to ensure state programs were accomplishing NPS pollution abatement and prevention objectives as stated in the Clean Water Act (CWA), EPA guidance, and regional guidance and policies?
- ▶ Did states ensure projects were in accordance with NPS objectives and consistent with state/EPA agreements and had individual projects accomplished their specific objectives?
- ▶ Were costs claimed allowable, reasonable, and allocable to the grant and in compliance with the grant terms and conditions and applicable federal statutes and regulations?
- ▶ Did state project managers obtain sufficient financial and programmatic information to ensure grant expenditures were appropriate?

## **RESULTS IN BRIEF**

Region 8 needed to require states to update their NPS management plans. Also, Region 8 needed to enforce program requirements. The Region needed to provide more program and technical assistance by developing policy papers that defined administrative costs and demonstration projects. Colorado, Utah, and Wyoming varied significantly in the level of resources applied to and commitment placed on their NPS programs. Wyoming did not commit sufficient resources to run an effective program, and the three states we reviewed had not developed adequate capacity to implement an NPS program without section 319 funding. We did not identify any questioned costs in our sample of NPS expenditures in Colorado and Wyoming but identified \$265,182 of ineligible costs in Utah's matching fund pool.

### **Region 8 Should Improve Oversight And Technical Assistance For State NPS Programs**

Region 8 should improve its oversight and enforcement of NPS program requirements, while moving toward providing more programmatic and technical assistance. The Region did not require and the states did not provide updated management plans due to anticipated CWA changes, states' low priority on updating management plans, and the lengthy assessment process for determining priorities. Region 8 sent unclear messages to states by not enforcing program requirements. The Region provided regional guidance and policy papers for the NPS program, but needed to define additional program terms so that states consistently implemented important portions of their NPS program. As a result, Region 8 and the states had limited assurance that states addressed the most significant nonpoint sources of pollution.

### **State NPS Program Management Was Mixed**

States' NPS program management and resource commitment varied significantly. The state projects we reviewed were generally in accordance with NPS objectives and accomplished their specific project objectives. However, the three states did not commit sufficient state resources to fully implement their programs without continued federal funding. EPA's practice of allowing states to carry forward NPS funds from prior years' grants discouraged states from developing their own capacity and identifying other sources of funding to sustain their NPS programs. In addition, Wyoming's program suffered from its differences with Region 8 over oversight and reporting requirements. Utah's NPS program could suffer in future years if Utah's priorities shift and Utah does not reallocate its resources based on those priorities. Without continued federal funding the three states could not continue to

implement their NPS program and ensure EPA and Congress that their programs addressed the most significant state NPS pollution problems.

### **Utah and Wyoming Needed To Improve Some Financial Management Practices**

Utah and Wyoming needed to improve some NPS program financial management practices. We did not question any costs in our sample of NPS expenditures in Colorado and Wyoming. We identified \$265,182 of ineligible costs in Utah's NPS project matching fund pools and identified areas needing improvement in Utah's and Wyoming's financial management practices. Utah's conservation association inadvertently included agricultural loan lines of credit in its NPS project matching fund pools. In addition, the association did not have supporting documentation for some costs and included other ineligible items in its project matching fund pools. Wyoming's burdensome contract amendment process resulted in one subgrantee performing work beyond the contract project period. Utah travel procedures did not require travelers to provide the purpose of their trip on in-state travel documents, and NPS project files did not include summary sheets for easy tracking of expenditures and related matching funds. Utah began reviewing its matching fund pools to remove ineligible costs and agreed to make necessary procedural changes in its travel procedures and project file management.

### **RECOMMENDATIONS**

The Regional Administrator should establish milestones for each state to update its management plan and work with Wyoming to ensure that its management plan identifies NPS pollution priorities. The Region, in coordination with the Office of Water, needs to finalize its policy paper on administrative costs and develop a policy paper that defines demonstration project. The Region 8 NPS staff needs to help states develop a plan to build states' capacity to operate an NPS program without reliance on section 319 funding. The Regional Administrator should require Wyoming to evaluate how it will meet NPS program commitments and work with Wyoming to realistically achieve program goals. The Regional Administrator needs to verify that Utah's matching funds are eligible prior to making final payment on any Utah NPS grant. In addition, the Regional Administrator should ensure that Wyoming and Utah make certain improvements to some of their financial management practices.

**AUDITEE COMMENTS  
AND  
OIG EVALUATION**

Region 8 and the three states generally agreed with the findings and recommendations. The Region and the states provided comments to clarify portions of the report and we have incorporated those comments and modified the report as appropriate.

# TABLE OF CONTENTS

Page

EXECUTIVE SUMMARY ..... i

## CHAPTERS

1	INTRODUCTION .....	1
	PURPOSE .....	1
	BACKGROUND .....	2
	SCOPE AND METHODOLOGY .....	4
	PRIOR AUDIT REPORTS .....	5
2	REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS .....	7
	REGION 8 HAD NOT REQUIRED STATES TO UPDATE MANAGEMENT PLANS .....	8
	REGION 8 NEEDED TO ENFORCE PROGRAM REQUIREMENTS .....	10
	REGION 8 NEEDED TO ISSUE ADDITIONAL GUIDANCE TO BETTER DEFINE PROGRAM TERMS .....	14
	CONCLUSION .....	16
	RECOMMENDATIONS .....	17
	AUDITEE COMMENTS AND OIG EVALUATION .....	18
3	STATE NONPOINT SOURCE PROGRAM MANAGEMENT WAS MIXED .....	21
	STATES NEED TO PROVIDE STRONGER RESOURCE COMMITMENT ...	22
	WYOMING AND REGION 8'S RELATIONSHIP ADVERSELY IMPACTED WYOMING'S NPS PROGRAM .....	24
	UTAH'S NPS MANAGEMENT STRUCTURE SHOULD CORRELATE TO NPS PRIORITIES .....	26
	STATES VARIED NPS TASK FORCE COMPOSITION .....	27
	CONCLUSION .....	28
	RECOMMENDATIONS .....	29
	AUDITEE COMMENTS AND OIG EVALUATION .....	30

4	UTAH AND WYOMING NEEDED TO IMPROVE SOME FINANCIAL MANAGEMENT PRACTICES .....	31
	UTAH'S MATCHING FUND POOLS INCLUDED INELIGIBLE COSTS ....	32
	WYOMING NEEDED TO STREAMLINE ITS CONTRACT AMENDMENT PROCESS .....	34
	UTAH INITIATED ADMINISTRATIVE IMPROVEMENTS .....	35
	CONCLUSION .....	35
	RECOMMENDATIONS .....	36
	AUDITEE COMMENTS AND OIG EVALUATION .....	37

EXHIBIT

EXHIBIT I:	SCOPE AND METHODOLOGY .....	39
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APPENDICES

APPENDIX I:	EPA COMMENTS .....	41
APPENDIX II:	COLORADO COMMENTS .....	47
APPENDIX III:	UTAH COMMENTS .....	49
APPENDIX IV:	WYOMING COMMENTS .....	57
APPENDIX V:	ABBREVIATIONS .....	63
APPENDIX VI:	DISTRIBUTION .....	65

# CHAPTER 1

## INTRODUCTION

### PURPOSE

The Environmental Protection Agency (EPA) Region 8 nonpoint source (NPS) program staff requested that the Office of Inspector General (OIG) audit NPS programs in Colorado, Utah, and Wyoming and their subgrantees' program expenditures. Because EPA planned to reduce its oversight of state NPS programs, regional program staff requested that OIG determine whether states ensured NPS costs were eligible for reimbursement.

Our audit objectives were to answer the following questions:

- ▶ Was Region 8's oversight sufficient to ensure state programs were accomplishing NPS pollution abatement and prevention objectives as stated in the Clean Water Act (CWA), EPA guidance, and regional guidance and policies?
- ▶ Did states ensure projects were in accordance with NPS objectives and consistent with state/EPA agreements and had individual projects accomplished their specific objectives?
- ▶ Were costs claimed allowable, reasonable, and allocable to the grant and in compliance with the grant terms and conditions and applicable federal statutes and regulations?
- ▶ Did state project managers obtain sufficient financial and programmatic information to ensure grant expenditures were appropriate?

**BACKGROUND**

Congress enacted section 319 of the CWA in 1987, establishing a national program to control nonpoint sources of water pollution. Section 319 (h) provides grants to assist states in implementing their NPS management programs. Congress appropriated the first section 319 grant funds in fiscal 1990.

Under section 319, states address NPS pollution by assessing NPS pollution problems and related nonpoint sources and adopting and implementing management plans to reduce the pollution. A state NPS assessment report summarizes the pollution assessment and identifies the nonpoint sources responsible for the water quality problems. States base their NPS management programs on the NPS assessment reports. The management program outlines a strategy for implementing NPS controls to attain or maintain applicable water quality standards.

NPS pollution does not normally result from a discharge at a specific single location, and nonpoint sources are not regulated through the CWA permit program. NPS pollution is caused by rainfall or snow melt moving over or through the ground and carrying natural or human-made pollutants into lakes, rivers, other waterbodies, and groundwater. These pollutants often come from activities related to agriculture, silviculture, dams, water development projects, and urban and construction project runoff.

EPA provides NPS funding to states to finance two types of activities: (1) staffing and support funds to manage and enhance the NPS program, and (2) project funds to directly address NPS problems. States use NPS funds for enforcement, monitoring, technical assistance, education, and training. Most NPS projects are demonstration projects designed to show the effectiveness of a particular best management practice. Other NPS projects provide training or information and educational services. States contract with other state, local, and federal agencies, and educational and private institutions to carry out NPS projects and related activities.

The NPS program is for the most part a voluntary and non-regulatory program. EPA's primary approach to reducing NPS pollution is by identifying and applying best management practices.

## INTRODUCTION

Best management practices are methods, measures, or practices that reduce or eliminate nonpoint sources of pollution. These practices can be applied before or after NPS pollution becomes a problem. States may award funds to individuals only to implement demonstration projects. The intent of the demonstration project is to accelerate the transfer and adoption of best management practices. Neither EPA nor states can require individuals to implement these practices. EPA uses the results of demonstration projects to persuade other nonparticipating landowners to implement these practices without EPA funds.

CWA requires that the federal share of states' NPS program costs not exceed 60 percent. States must provide the remaining 40 percent of the NPS program costs from non-federal sources. The NPS program costs include both staffing and support activities as well as demonstration and other implementation projects. The 40 percent requirement applies to both staffing and support activities and projects. In most cases, states require individual landowners to contribute all or part of the matching funds for an individual project.

Region 8 works with states to implement the NPS program through its Ecosystems Protection and Remediation Office. Its community support unit works directly with state environmental departments to provide NPS grant management advice and NPS technical assistance. Colorado's and Wyoming's environmental agencies manage the majority of their state NPS programs. Utah's environmental department provides oversight for its program and contracts with the Utah agricultural department to manage about 70 percent of Utah's state NPS program.

Since 1989, EPA has issued several national guidance documents addressing the award and management of section 319 NPS grants. EPA's guidance emphasized throughout that the funds would be directed toward activities that resulted in demonstrated progress in achieving Congress' goal of controlling and abating NPS pollution. EPA's guidance stated that the grant funds were not considered entitlements and EPA would award grants based on priorities, criteria, and procedures that assured that the funds would be effectively used to achieve NPS program objectives.

## INTRODUCTION

In its guidance, EPA identified four broad objectives in awarding section 319 NPS grants. NPS grants are intended to support state activities for abating or preventing NPS pollution that have the greatest likelihood of producing early, demonstrable water quality results and reducing ecological and health risks in areas of greatest concern. Grants should be awarded and managed in a manner that encourages and rewards effective performance by the states and encourages the institutionalization of state and local NPS programs. In addition, state NPS programs should encourage strong relationships among federal, state, and local NPS and NPS-related programs and activities.

In its 1997 guidance, EPA stated that its role in the NPS program would shift away from grants oversight toward technical assistance and support. EPA's approach would be to work closely with states and give them programmatic and technical support as they moved toward a more independent level of program implementation. EPA would reduce its state oversight when a state adopted nine key program elements and demonstrated a proven track record of effective implementation.

## SCOPE AND METHODOLOGY

We conducted performance and financial audits of the Colorado, Utah, and Wyoming NPS programs. We performed our fieldwork from September 1996 to June 1997. We performed our fieldwork at Region 8 and Colorado Department of Public Health and Environment offices in Denver, Colorado; Utah Departments of Environmental Quality and Agriculture in Salt Lake City, Utah; and Wyoming Department of Environmental Quality in Cheyenne, Wyoming.

We conducted the audit in accordance with *Government Auditing Standards* (1994 Revision) issued by the Comptroller General of the United States. Accordingly, the review included tests of the accounting records and other auditing procedures as we considered necessary. Other than the issues discussed in this report, no other significant issues came to our attention that warranted expanding the scope of our audit.

Our audit did not include a complete review of states' internal control systems. We relied on states' 1994 and 1995 single audit reports to the extent possible in the performance of our audit. We analyzed a sample of incurred costs and related internal controls to assure compliance with federal statutory and regulatory criteria and with states' policies and procedures. Because of the inherent limitations in any system of internal accounting control, errors or irregularities may occur and not be detected. Except for the issues discussed in this report, nothing came to our attention that would cause us to believe states' procedures were not adequate for our purposes.

### PRIOR AUDIT REPORTS

Neither OIG nor the U.S. General Accounting Office (GAO) issued any reports addressing Region 8's NPS program. However, GAO issued several water quality-related audits that addressed NPS pollution.

In a June 30, 1995 report entitled *Agriculture and the Environment: Information on and Characteristics of Selected Watershed Projects*, GAO examined the lessons learned from nine innovative, successful watershed projects that addressed NPS pollution. Several of these projects included EPA grant funding. GAO found that the keys to reducing agricultural pollution from nonpoint sources included building citizen cooperation through education and getting stakeholders to participate in developing project goals. In addition, GAO found that some project participants believed that because of their communities' resistance to regulatory enforcement, voluntary efforts were the most feasible way of reducing NPS pollution.

In an October 1990 report entitled *WATER POLLUTION: Greater EPA Leadership Needed to Reduce Nonpoint Source Pollution*, GAO found that insufficient monitoring data and political sensitivities in controlling local land uses that indirectly caused water pollution were barriers to state and local efforts to control NPS pollution. The report identified that EPA had developed an ambitious agenda to deal with the barriers, but resource constraints

## INTRODUCTION

significantly inhibited EPA's progress in implementing its agenda. The report recommended that EPA establish funding priorities among its water quality programs that would allow EPA to pursue key objectives of an effective NPS agenda.

## CHAPTER 2

### REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS

Region 8 should improve its oversight and enforcement of NPS program requirements, while moving toward providing more programmatic and technical assistance. Due to anticipated CWA changes, states' low priority on updating management plans, and the lengthy assessment process for determining priorities, the Region did not require and the states did not provide updated management plans. Region 8 sent unclear messages to states by not enforcing program requirements. The Region provided regional guidance and policy papers for the NPS program, but needed to define additional program terms so that states consistently implemented important portions of their NPS program. As a result, Region 8 and the states had limited assurance that states addressed the most significant nonpoint sources of pollution. Because EPA intended to increase state management responsibility for the NPS program, Region 8 needed to ensure states were implementing dynamic and effective NPS programs designed to achieve and maintain beneficial uses of water before significantly reducing oversight.

Beginning in 1997, EPA envisioned its role as shifting away from grants oversight and administration and focusing more on technical assistance and cooperation. EPA's 1997 NPS guidance listed nine key elements that states needed in their NPS program to be afforded substantially reduced oversight and maximum flexibility. One of the nine key elements required states to review, evaluate, and revise their NPS assessment reports and management plans at least every 5 years. Beginning in late fiscal 1996 and continuing into fiscal 1997, EPA encouraged each state to review and revise its NPS assessment reports and management plans.

Management plans are the link between problems identified in a state's assessment report and projects funded to address those problems. These plans should be working documents used to identify the highest priority areas and to fund those projects that have the greatest potential to reduce NPS pollution. According to

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

section 319, initial management plans described how a state proposed to implement its NPS program in the first four fiscal years. Region 8 guidance stated that each proposed project must be reviewed to determine how well the project conformed to priorities identified in the respective state's management plans.

**REGION 8 HAD NOT REQUIRED STATES TO UPDATE MANAGEMENT PLANS**

States in Region 8 had not updated their NPS management plans since their initial publication in 1989. Due to anticipated CWA changes in 1994, Region 8 had not required its states to provide the first required update to their plans. In fiscal 1996, EPA allowed states to use section 319 NPS funds to update their management plans. However, the three states we reviewed had not updated their plans. As a result, states' plans were outdated, and states could not reasonably ensure that the plans they established in 1989 were still valid in 1997.

Although Colorado's and Utah's initial NPS management plan adequately addressed all the required CWA elements, including identifying priority nonpoint sources, neither had developed an updated plan since Region 8's initial approval. Region 8 approved Colorado's and Utah's overall management plans in 1990 and 1989, respectively. In 1992, Colorado issued a supplement to its management plan and, in 1994, issued two supplements to address specific NPS activities. Utah issued an addendum to its management plan in March 1995. Utah recognized the need to update its management plan but believed that its 1989 management plan was still valid and that other mechanisms had kept its NPS program focused on the highest priorities. Utah stated that it monitored and assessed statewide water quality, prioritized problem areas, and worked closely with all stakeholders. The projects we reviewed for Colorado and Utah all related to priorities established in their management plans. However, the states still needed to update their management plans so that they had a single, comprehensive document that incorporated states' most current assessment of water quality, prioritized problem areas, and defined states' plans for addressing NPS pollution.

## **REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

Neither Colorado nor Utah planned to issue updated management plans before fiscal 1998. Colorado was reevaluating its priorities and conducting water quality assessments to determine if priorities had changed since its 1990 management plan. As a result of their monitoring and assessment activities, Colorado staff estimated that they would not have an updated management plan before 1998. Utah planned to revise its plan by June 1, 1998. Until both states update their management plans, they have limited assurance that priority projects are still being funded and projects are strengthening and balancing overall management plan goals and milestones.

Wyoming's initial 1989 management plan did not meet all CWA requirements and had not been updated. EPA approved parts of Wyoming's management plan in 1989 but identified significant problems in other parts. For example, Wyoming's management plan limited NPS planning and implementation activities to private sector representatives, while CWA and Region 8 strongly encouraged participation by all interested parties. In addition, Wyoming's management plan did not adequately identify the State's NPS priorities. The three Wyoming projects we reviewed were not easily tied to Wyoming's management plan because the plan did not adequately identify high priority NPS problems. State representatives agreed that the management plan did not adequately identify priorities and that funded projects were not easily tied to the management plan. They explained that initially they had few projects to fund and as a result funded all the projects that were submitted regardless of priority. Wyoming staff added that currently they received many more projects than they could possibly fund and that the projects were ranked as to priority. However, Wyoming had no strategy to ensure that its funded projects strengthened or expanded its NPS program, since its management plan did not adequately describe the State's strategy.

Wyoming stated that Region 8 approved a list of priorities in January 1990 and Wyoming used its 305(b) report to identify priority NPS problems. However, Wyoming's January 1990 list was a list of prioritized project proposals, not a list of prioritized NPS pollution. Further, these project proposals were not ranked according to any list of prioritized sources of NPS pollution.

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

Wyoming staff agreed that they needed to better assess nonpoint sources and update their management plan to better articulate their funding priorities.

Although Wyoming representatives recognized the deficiencies in the 1989 management plan, they had not placed a priority on developing an updated plan. In its 1995 and 1996 staffing and support workplans, Wyoming stated that it was “. . . anxious to rewrite its Nonpoint Source Management Plan. . . ” and that “[n]umerous deficiencies in the existing plan are apparent.” However, Wyoming stated in its 1995 workplan that rewriting the plan at this time would be fiscally irresponsible because it did not know what changes a revised CWA might impose. In its 1996 workplan, it stated that “. . . now is the prudent time to begin to address these deficiencies . . . ” in the Wyoming management plan. In its draft 1998-2000 state/EPA agreement, Wyoming indicated that it would update its management plan by October 1999. Wyoming needs to immediately begin updating its management plan to correct the deficiencies in its initial plan and to incorporate the current CWA requirements. Until Wyoming’s management plan meets current CWA requirements, Wyoming and Region 8 have no assurance that Wyoming’s NPS projects address the State’s most significant nonpoint sources of pollution.

**REGION 8 NEEDED TO ENFORCE PROGRAM REQUIREMENTS**

Region 8 sent unclear messages to states by not enforcing program requirements. Section 319 and NPS grant conditions required Region 8 to withhold NPS funds until states complied with grant conditions. However, the Region permitted Wyoming to use its remaining 1995 and 1996 NPS grant funds even though Wyoming had not complied with 1995 and 1996 NPS grant reporting conditions. Although Region 8 NPS program staff attempted to withhold these funds, the Assistant Regional Administrator for Ecosystems Protection and Remediation instructed his staff to release funds to the State. In addition, Region 8 senior management planned to release 1997 performance partnership grant (PPG) NPS funds, even though Wyoming had not submitted its 1997 staffing and support workplan due in January 1997 as agreed

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

in its 1997 state/EPA agreement, which was the basis for its 1997 PPG. Colorado and Utah had generally complied with all grant conditions.

Region 8 Needed to Withhold Funding Until Wyoming Complied with NPS Reporting Requirements

Region 8 senior management did not support Region 8 NPS program staff's attempt to withhold Wyoming's NPS grant funds. Section 319 (h) (11) and NPS grant conditions required states to submit annual progress reports. States' annual reports should describe progress in meeting NPS milestones and quantify improvements to water quality. Wyoming did not submit its fiscal 1995 or 1996 annual reports until March 1997, and the reports did not adequately describe the State's NPS program accomplishments. According to Region 8 NPS program guidance, the annual reports provide an opportunity for the states to describe NPS program progress and provide the critical information the Region needs to determine if states have made satisfactory progress as required under section 319 (h) (8). Although Wyoming finally provided its 1995 and 1996 annual reports, the reports did not comply with NPS annual progress reporting guidance.

Region 8 did not withhold Wyoming's remaining 1995 and 1996 grant funds to enforce 1995 and 1996 reporting requirements, and withholding 1997 funds did not provide any incentive for Wyoming to comply. Region 8 advised all states in November 1996 to provide any delinquent annual reports before it would release 1997 NPS funds. The Region 8 Wyoming project officer attempted to withhold all of Wyoming's NPS payments under its 1995, 1996, and 1997 grants until Wyoming submitted acceptable reports. However, Region 8 senior managers allowed Wyoming to continue receiving funds from its 1995 and 1996 grants and only withheld Wyoming's 1997 grant funds. Withholding 1997 funds had no impact on Wyoming's ability to operate in 1997 since Wyoming continued to have funds available under its 1995 and 1996 grants. As a result, Wyoming had no additional incentive to comply with the reporting requirements. The Assistant Regional Administrator for Ecosystems Protection and Remediation stated that he directed his staff to release Wyoming's 1995 and 1996 funds because he estimated that withholding funds would adversely impact

## **REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

Wyoming's ability to continue NPS-related projects as well as other water quality projects (e.g., establishing total maximum daily loads).

Although Wyoming eventually provided the annual reports, they were not well organized and did not provide an adequate summary of Wyoming's NPS program. For example, Region 8's guidance on the content of annual NPS progress reports required states to describe the progress on reductions in NPS loadings and improvements in water quality and stream conditions. Wyoming's annual reports described staff activities, but did not describe project accomplishments. Because Region 8 was unwilling to withhold funds, Wyoming had no incentive to comply with the NPS requirements.

### **Region 8 Should Enforce NPS Program Commitments in Wyoming's State/EPA Agreement**

Region 8 also intended to provide Wyoming its 1997 NPS funds, even though Wyoming had not submitted its staffing and support workplan, due in January 1997, as agreed in its 1997 state/EPA agreement. Wyoming initially refused to submit its 1997 NPS staffing and support workplan because it believed this workplan duplicated information in its state/EPA agreement. However, the information in the state/EPA agreement was inadequate and Wyoming needed to provide firm commitments and sufficient detail for Region 8 to hold the State accountable. We agree that the State should not be required to prepare duplicative workplans. However, the document that a state provides for its workplan needs to provide sufficient information about the state's planned goals and activities. The information Wyoming submitted in July 1997 was inadequate and did not provide sufficient detail to hold the State accountable. Region 8 program staff requested a detailed staffing and support workplan from Wyoming because of Wyoming's past poor performance and Wyoming's intention to disinvest in the NPS program. According to EPA national PPG guidance, states were to use their categorical workplans as program commitments under a PPG. Further, these program commitments were to provide appropriate state accountability for the program and be quantifiable, measurable, and verifiable. Wyoming's commitments did not meet these criteria.

## **REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

Region 8 NPS program staff issued guidance that described the requirements of the NPS staffing and support workplan. The guidance listed specific elements that should be included in the workplan but allowed pertinent information in state/EPA agreements to be used to supplement the staffing and support workplan. The guidance stated that the term “on-going” was generally not an acceptable milestone, and it required a description of staff positions and budget. The information in the staffing and support workplan was needed to help the Region evaluate whether a state was demonstrating satisfactory progress and ensure that staffing and support funds were used to strengthen and expand the state’s NPS program.

Wyoming staff stated that they believed a separate NPS workplan was unnecessary and that the information included in their state/EPA agreement was sufficient. However, Region 8 NPS program staff noted that the level of detail in the state/EPA agreement did not sufficiently describe how Wyoming would use its staffing and support funds. As a result, Region 8 staff asked Wyoming to submit a staffing and support workplan similar to what Wyoming had provided in prior years. They noted that this information was particularly important since Wyoming planned to disinvest in the NPS program. The Region did not have adequate performance measures to hold the State accountable.

Region 8 NPS program staff informed Wyoming that they would not release funds until the Region received an acceptable workplan. In its 1997 state/EPA agreement, Wyoming agreed to “[s]ubmit workplans for the FY-97 funds, including staffing and support, to EPA. . .” by January 1997. The agreement also noted that Wyoming budgeted \$5,400 of section 319 funds to develop the workplan. In July 1997, Wyoming provided a revised organizational chart and summary of NPS staff time allocations in lieu of a staffing and support workplan per a verbal agreement with Region 8 managers. During Wyoming’s mid-year evaluation, Region 8 managers and Wyoming had agreed that this information would be sufficient to meet the needs of a staffing and support workplan even though Region 8’s NPS program staff stated that this information would not be sufficient to hold the State accountable.

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

The information contained in Wyoming's state/EPA agreement, revised organizational chart, and summary of NPS staff time allocations did not adequately describe how Wyoming would use staffing and support funds to accomplish program goals. It identified many milestones as "ongoing," did not provide staff position descriptions or identify which staff would be responsible for which activities, and did not provide sufficient information about monitoring and assessment activities. A Region 8 manager stated that the Region could still require Wyoming to provide additional information related to monitoring and assessment work because Wyoming committed to do so in its state/EPA agreement. Wyoming needed to provide a staffing and support workplan as it agreed in its state/EPA agreement or supplement its state/EPA agreement with appropriate activities and performance measures.

**REGION 8 NEEDED TO ISSUE ADDITIONAL GUIDANCE TO BETTER DEFINE PROGRAM TERMS**

State representatives interpreted program terms and implemented important program practices inconsistently because key program terms were undefined. States needed additional guidance to consistently and effectively implement the NPS program. In response to states' concerns and questions, Region 8 developed eight policy papers between 1994 and 1996 that established NPS program guidelines. Region 8 finalized six of the eight policy papers. The policy papers defined acceptable practices as well as eligible costs. However, the Region did not finalize its policy on administrative costs and did not define what qualified as a demonstration project.

EPA changed its policy in 1997 and prohibited regions from issuing supplemental guidance. EPA's 1994 NPS program guidance stated that regions may provide supplemental regional guidance to advise states on regional priorities and procedures. However, EPA's 1997 national guidance stated that to provide a nationally consistent approach, regions would no longer be allowed to issue supplemental guidance without headquarters concurrence. As a result, the Region discontinued issuing policy papers.

**Administrative Costs Were Not Defined**

Without a definition of administrative costs, states defined administrative costs differently and could not ensure they complied

## **REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

with congressional limits. Neither the law, EPA, nor the Region adequately defined administrative costs. Congress limited the amount states could spend on administrative costs to ten percent and excluded some costs from the limitation. Although eligible for NPS reimbursement, the law excluded enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs from the ten percent administrative cost limit. However, Congress did not define what should be included in the administrative cost limitation. Region 8 representatives explained that Congress did not want excessive administrative costs and intended the majority of funds to be spent on NPS projects.

Without specific guidance, each of the states had interpreted administrative costs differently. Wyoming took a very conservative approach and closely scrutinized all administrative type expenditures. Colorado and Utah were less concerned about tracking administrative costs because they believed most of their costs fell within congressional exclusions. Because of the states' different interpretations, the Region could not determine whether states' administrative costs exceeded Congress' ten percent limitation or not.

### **Demonstration Project Was Defined Differently**

States' interpretation of what qualified as a demonstration project differed because the Region had not defined demonstration project. For example, the Region needed to define whether or not a watershed qualified as a demonstration project. If an entire watershed could be properly defined as a demonstration project, then states should be permitted to address all NPS pollution problems within that watershed. In addition, if a watershed qualified as a demonstration project, states theoretically should be permitted to fund similar best management practices in the same geographical area; i.e., within the same watershed. If a watershed could not qualify as a demonstration project, similar practices should not be funded in the same watershed. A demonstration project is intended to show the effectiveness of a particular NPS pollution control practice.

EPA encouraged states to *assess* NPS pollution by watershed, but warned that watershed *projects* should be small enough to address

## **REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

all or most sources of pollution within the watershed. While EPA recognized the need to demonstrate the effectiveness of the same best management practice in different geographic areas, it did not determine whether the same practice in the same geographic area qualified for NPS funding.

Utah defined a watershed as a demonstration project while Colorado and Wyoming did not. Utah's watershed demonstration project included many individual landowner projects within that watershed. Some of these individual projects implemented the same practice in the same geographic area. For example, Utah funded several projects in close proximity to each other to keep animal waste out of streams. Although these projects improved water quality, funding more than one was unnecessary to demonstrate that a particular practice worked in that watershed. Utah representatives explained that funding many similar individual landowner projects in the same watershed was necessary to demonstrate water quality improvements on a watershed basis. Although Utah had a rationale for defining a demonstration project as an entire watershed area, EPA needs to define its approach and determine the appropriate definition for a demonstration project. Definition of this term can have a significant impact on a state's program implementation. In Colorado and Wyoming, a demonstration project primarily consisted of a single landowner implementing a particular best management practice.

### **CONCLUSION**

Region 8 should not significantly reduce its oversight until states comply with all NPS program requirements. Region 8 had not required updated management plans and had not enforced program requirements. Without up-to-date management plans neither states nor the Region could ensure the highest priority NPS problems were addressed. Although Region 8 program staff had attempted to enforce program requirements, Region 8 senior management had not supported staff decisions. By continuing to fund Wyoming despite its poor performance and noncompliance with program requirements, Region 8 sent a message to other states that continued NPS funding was not dependent upon effective NPS program management. The Region needed to define other key

## **REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

program practices and terms for states to consistently and effectively implement NPS programs. Also, the Region should continue to issue guidance, in coordination with EPA's Office of Water, to help define important program terms. Region 8 should discuss nationally significant terms such as administrative costs and demonstration projects with EPA's Office of Water.

### **RECOMMENDATIONS**

We recommend that the Regional Administrator:

1. Establish milestone dates for each state to complete updated NPS management plans and, if necessary, withhold funds from states that do not meet agreed upon dates.
2. Require Wyoming to develop a management plan that identifies priorities.
3. Withhold grant funding for Wyoming or any state that does not meet programmatic requirements.
4. Require that Wyoming add either a 1997 staffing and support workplan or additional performance measures in its state/EPA agreement that Wyoming can realistically accomplish during the year.
5. In coordination with the Office of Water, finalize the Region 8 policy paper on administrative costs. Advise Office of Water of the potential for misunderstanding in other states and ask the Office of Water staff to consider issuing a national policy paper.
6. Develop a policy paper defining a demonstration project and submit for headquarters approval.

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL ASSISTANCE FOR STATE NPS PROGRAMS**

**AUDITEE COMMENTS  
AND OIG EVALUATION**

Region 8 agreed with the findings and concurred with the recommendations. The Region provided comments to clarify portions of the report and we have incorporated those comments and modified the report as appropriate.

Wyoming and Utah also provided comments to clarify portions of the report. We have incorporated those comments and modified the report as appropriate. Colorado's response noted that the report did not have any recommendations directly related to it and therefore did not provide any detailed comments.

In its response to the draft report, the Region stated that Wyoming's 1997 state/EPA agreement had milestone dates for NPS program activities that were time critical and work items that were listed as "ongoing" or "as needed" generally could be quantified in program reports and verified by examining program records and interviewing appropriate staff.

We believe that work items listed as "ongoing" or "as needed" are not sufficient milestones to hold the state accountable. Region 8's own guidance states these are not acceptable milestones and program commitments must be measurable. In addition, waiting until a state quantifies these work items in its program reports at the end of the year is not an effective method to hold a state accountable. The Region must monitor performance during the year and take action as appropriate.

In its response, the Region also stated that it would be much more effective for Wyoming to have a single document for its record of commitments. We agree and strongly suggest that the Region avoid duplication of any paperwork. However, the single document used for commitments must include goals and activities that are quantifiable, measurable, and verifiable. Wyoming had not provided sufficient information for Region 8 to hold Wyoming accountable in its 1997 state/EPA agreement. Although Region 8 program staff provided specific guidance on the information they needed to adequately monitor the State's progress, Wyoming did not provide the requested information.

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL  
ASSISTANCE FOR STATE NPS PROGRAMS**

Wyoming and Utah disagreed with the recommendations that suggested the Region withhold funds. Wyoming stated that withholding funds without regards to the substance and significance of the deficiency was not a solution. Utah stated that it would not be a good idea to withhold funds if the State missed a deadline because it would negatively affect the partnership relationship. We agree with the states and recommend that the Region withhold funds only if other alternatives to obtain compliance and adequate performance have not succeeded. We agree that the Region and the states need to work as partners in accomplishing program goals. However, EPA should not reward states that are not adequately performing and not accomplishing program goals.

In its response, Wyoming stated that incompatibilities between the State's computer system and EPA's Grants Reporting and Tracking System used for NPS reporting affected the State's efficiency in reporting. Wyoming believed it could better meet reporting requirements if Region 8 agreed to accept all reporting requirements through the Grants Reporting and Tracking System. We agree that EPA should streamline reporting requirements where possible especially if this can be done through the existing Grants Reporting and Tracking System. However, Wyoming must provide timely reports that include the information necessary to assess program accomplishments either in written or electronic form.

**REGION 8 SHOULD IMPROVE OVERSIGHT AND TECHNICAL  
ASSISTANCE FOR STATE NPS PROGRAMS**

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# CHAPTER 3

## STATE NONPOINT SOURCE PROGRAM MANAGEMENT WAS MIXED

States' NPS program management and resource commitment varied significantly. The state projects we reviewed were generally in accordance with overall NPS program objectives, and project reports we reviewed indicated projects had accomplished their specific project objectives. However, the three states did not commit sufficient state resources to fully implement their programs without continued federal funding. EPA's practice of allowing states to carry forward NPS funds from prior years' grants discouraged states from developing their own capacity and identifying other sources of funding to sustain their NPS programs. In addition, Wyoming's program suffered from its differences with Region 8 over oversight and reporting requirements. Utah's NPS program could suffer in future years if its priorities shift and Utah does not reallocate its resources based on those priorities. Wyoming and Utah did not include adequate representation for all interested groups on their NPS task forces. Without continued federal funding the three states could not continue to implement their NPS programs and ensure EPA and Congress that their programs addressed the most significant state NPS pollution problems.

EPA's guidance consistently emphasized strong state program management. Strong state management of NPS programs required sufficient staff and effective coordination among all interested parties to address NPS pollution. One of EPA's priorities in awarding NPS staffing and support funds was to build long-term state and local capacity to implement state NPS programs, regardless of the availability of federal funding. EPA emphasized the importance of having NPS staff available for NPS monitoring, planning, technical assistance, and information and education. The nine key elements in EPA's 1997 guidance included efficiently and effectively managing and implementing an NPS program and establishing strong working partnerships with local, state, and federal agencies, and private sector groups.

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

**STATES NEED TO  
PROVIDE STRONGER  
RESOURCE  
COMMITMENT**

Each of the three states relied primarily on EPA funding to manage their NPS programs. While Colorado and Utah invested some state funds, Wyoming did not invest any state funds to help manage its NPS program. All three states recognized they lacked state resources to fully implement the NPS program and kept varying reserves of EPA staffing and support grant funds in case EPA reduced or limited NPS funding. Using EPA funding and their own state appropriations, Colorado and Utah had sufficient staff to manage their NPS programs. However, Wyoming did not have sufficient staff to effectively manage its NPS program. Without sufficient staff, Wyoming could not provide timely and appropriate annual progress and financial reports. In addition, none of the states were building the long-term state capacity necessary to effectively implement their NPS programs without continued EPA assistance.

None of the three states contributed sufficient resources to the NPS program to ensure that they could maintain an NPS program without federal funds. For example, all three states carried forward funds from the prior years' grants to have funding available in the event that EPA discontinued NPS funding. These reserves provided the states with some funds to complete projects already started in case EPA funding stopped. Although EPA approved of states accumulating these funds, this policy discouraged states from developing their own capacity to sustain NPS programs without federal funding. By contributing their own state appropriations, Colorado and Utah had a better foundation for developing long-term capacity to manage their NPS programs than Wyoming. However, all three states needed to further develop their capability to implement their programs without federal funds.

Wyoming had not devoted sufficient staff to effectively manage its NPS program. Each of the three states received \$375,000 in their fiscal 1995 NPS staffing and support grants. Colorado and Utah each used their entire \$375,000 plus their own state appropriations to support four and eight full-time staff, respectively. Wyoming used about \$250,000 of the staffing and support funds and had only one full-time NPS staff person. As a result, Wyoming was unable

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

to meet NPS program requirements. For example, Wyoming's annual reports were late and not well organized and its financial status reports were inaccurate and difficult to read.

According to the Wyoming environmental department director, Wyoming's legislature had not approved any additional staff for the NPS program. However, the director stated that he had the authority to allocate staff within his department as necessary. The director had not determined that the NPS program was a high enough priority to provide additional NPS staff. In February 1996, Region 8 sent Wyoming a letter stating that it believed Wyoming was disinvesting in NPS program management. Region 8 cited Wyoming's loss of staff and unwillingness to devote staff time for staffing and support workplan commitments as evidence of Wyoming's lack of program commitment. The Region's letter further stated that Wyoming's senior management needed to address these concerns in order for Wyoming to move toward an effective partnership with EPA.

Unless it invests some state funds, Wyoming will be unable to build the long-term capacity needed to effectively manage its NPS program. Rather than using state appropriations, Wyoming used excess matching funds contributed by landowners for specific NPS projects to meet its state staffing and support matching fund requirement. Although the Region approved Wyoming's approach, this funding method had a detrimental effect on Wyoming's NPS program. In its 1995 and 1996 workplans for staffing and support funds, Wyoming stated that staff layoffs would occur without federal funding for the NPS program. Wyoming's staffing and support workplans added that the source of matching funds for the NPS staff was solely from excess matching funds on individual NPS projects and that the excess matching funds would only last for 2 more years. Wyoming staff stated that one of the benefits of including the NPS staffing and support funds in the State's 1997 PPG was that they could then easily meet their matching fund requirement for the PPG grant and not have to provide any NPS-specific matching funds. In other words, Wyoming could appropriately use excess non-federal funds from other programs as

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

matching funds for the NPS program. Wyoming could continue meeting its match requirement without investing any state funds to build capacity in its NPS program.

A full-time NPS information and education coordinator would improve Wyoming's NPS program. Colorado and Utah had full-time coordinators, while Wyoming did not. Because the NPS program was primarily voluntary and non-regulatory, states needed to develop a strong information and education component as part of a balanced state NPS program. A coordinator could be beneficial to getting quality project proposals submitted, disseminating information on successful projects, and educating the public on the NPS program. In Wyoming, where local and private organizations negatively viewed state and federal government, a coordinator could be critical to a successful NPS program. Wyoming's environmental department director agreed that an information and education coordinator was needed.

In its response to our draft report, Wyoming stated that it had hired two additional staff and planned to hire a third staff person in the future. Of the two staff already hired, 6/10ths of a full-time equivalent was dedicated solely to NPS. Wyoming planned for the third staff position to be dedicated solely to NPS technical assistance, education, and liaison activities. Wyoming also was contracting for expertise to develop the detailed components of its information and education strategy.

**WYOMING AND  
REGION 8'S  
RELATIONSHIP  
ADVERSELY  
IMPACTED WYOMING'S  
NPS PROGRAM**

The working relationship between Wyoming and Region 8 was adversarial due to differing perceptions of oversight and reporting requirements. Wyoming perceived the Region as trying to micro-manage the State's NPS program. In contrast, regional staff stated that Wyoming was not adequately managing its NPS program and not complying with all reporting requirements. Wyoming staff believed that temporary assignment of an EPA employee to the State would help build and maintain an improved relationship with the Region.

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

Wyoming representatives believed that the Region 8 NPS program staff micro-managed the State's NPS program, but Region 8 staff stated that Wyoming's products were not always complete. According to Wyoming staff, Region 8 staff comments on project proposals and proposed best management practices were often late and usually after all other comments had been reviewed and incorporated. In addition, regional comments were often editorial preferences and contained no real value, according to Wyoming staff. In contrast, regional program staff stated that proposal reviews were resource-intensive because Wyoming did not always include the required elements in its proposals. The Wyoming water program administrator stated that Wyoming would prefer that EPA be less involved in project proposals. During Wyoming's mid-year evaluation in July 1997, he asked that the Region only approve or deny project proposals and provide no comments.

Wyoming and Region 8 had different perceptions of adequate reporting. Wyoming staff stated that they complied with the mandated requirements, but they were not required to nor would they fulfill what they perceived as additional Regional requirements. Regional staff stated that they did not require Wyoming to report any more information than the other states in Region 8 or more than what was included in each state's grant conditions. For example, the Region required states to report specific project accomplishments. Region 8 clearly communicated the importance of reporting project accomplishments including how an individual project reduced NPS pollution. Wyoming believed reporting on staff activities met the Region's requirement and was not responsive to requests for project accomplishments.

Wyoming stated that Region 8 should reduce its oversight. Wyoming also requested in its 1998 state/EPA agreement that an EPA employee be temporarily assigned to the State. Wyoming stated that an EPA staff person working directly with the State on NPS issues would help both agencies better understand each other's issues, concerns, and problems.

**UTAH'S NPS  
MANAGEMENT  
STRUCTURE  
SHOULD CORRELATE  
TO NPS PRIORITIES**

Utah staff agreed that they should continuously examine their NPS management structure and shift resources as priorities change. Utah's management structure differed significantly from Colorado's and Wyoming's. Colorado and Wyoming managed their NPS program through their environmental departments. Utah's environmental department contracted with Utah's agriculture department to manage about 70 percent of Utah's NPS projects. However, if Utah's priorities shifted and it reduced the number of agricultural projects, Utah would need to reallocate staff between its environmental and agriculture departments.

Utah allocated its staff between its environmental and agriculture departments to provide better working relationships with landowners. Utah's NPS staffing and support funds combined with state appropriated funds supported four staff positions in the environmental department and four staff positions in the agriculture departments. Agriculture contracted with the Utah Association of Conservation Districts to manage individual landowner projects and track project matching funds. This approach provided an effective mechanism that gained the trust and cooperation of landowners because they were more accustomed to working with agriculture and the conservation association. According to a conservation association representative, landowners were more willing to work with agriculture and the conservation association because of landowners' negative perception of the environmental department as a regulatory agency.

As Utah prepares its new management plan, Utah's staff agreed that they should reexamine their management structure and reallocate staff as necessary to correspond with priorities. For example, if other sources of NPS pollution become a higher priority than agriculture, Utah should increase its environmental department NPS staff and reduce its agriculture NPS staff. Similarly, if agricultural projects become an even higher priority, Utah should decrease its environmental department NPS staff and increase agriculture NPS staff. Utah stated that in the past it had done reviews of its management structure as part of preparing its annual workplans and defining the roles between its environmental and agriculture departments. Utah staff said they would do a similar review when they revised their management plan in 1998.

**STATES VARIED NPS  
TASK FORCE  
COMPOSITION**

Wyoming and Utah staff had to seek alternatives outside their NPS task forces to involve all interested parties in their NPS programs. Unlike Colorado, Wyoming's and Utah's NPS task force did not include representation from all parties interested in NPS pollution control. Wyoming's task force excluded local, state, and federal government membership, and Utah's task force excluded representatives from private industry. Because Colorado's task force included representation from all groups, Colorado could more easily ensure that it considered everyone's views.

EPA and Region 8 guidance encourages states to involve all parties in managing states' NPS programs. Section 319 (b) (3) encourages states to involve local, public, and private agencies or organizations in the development and implementation of their management program. EPA's 1997 guidance encourages strong working partnerships and collaboration with appropriate state, interstate, tribal, regional, and local entities including conservation districts, private sector groups, citizens groups, and federal agencies.

In its response to the draft report, Wyoming stated that it did have a mechanism to involve government agencies in its NPS program. Wyoming added that the Region 8 Administrator had praised its task force. Wyoming stated that the federal and state agencies received copies of all proposals with a request for input prior to task force ranking and invited the agencies to attend task force meetings. We have pointed out that Wyoming excludes federal and local government agencies, not so much as a criticism, but as an example of where a state had to take additional steps to ensure that all interested agencies and groups are involved in the state's NPS program. Wyoming should continue to use mechanisms to involve interested parties in NPS activities because its task force does not have direct representation from all groups.

Utah stated in its response to the draft report that it would assess its task force role, function, and structure. Utah staff stated that they were considering including private interests from agricultural commodity groups and extending invitations to other groups such

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

as the environmental communities. Utah stated that its watershed approach framework promoted locally led conservation and community based environmental leadership. Utah planned to use its framework as the basis for including all interested parties in addressing Utah's NPS pollution.

We did not evaluate these additional measures Wyoming and Utah took to involve interested parties in their NPS programs. However, we believe that the Region and the states should work together to evaluate whether these additional measures result in adequate participation.

**CONCLUSION**

Adequate resources are a critical element to the success of state NPS programs. Colorado and Utah invested some state funds, while Wyoming did not invest any state resources in managing its NPS program. All three states relied on section 319 funds to manage the NPS program but needed to develop their own state capacity to manage their programs. The three states established different management structures to implement their NPS programs. Colorado and Utah devoted four and eight full-time staff, respectively, to their NPS programs, while Wyoming devoted one full-time staff person. Wyoming did not have sufficient staff and the current staff did not have adequate time to complete program requirements. The lack of a dedicated information and education coordinator and other full-time NPS staff hindered Wyoming's ability to implement an effective NPS program. Wyoming and Region 8 needed to reconcile their differing perceptions of an appropriate level of oversight and agree on reporting requirements. Wyoming and Region 8 had not established realistic goals or agreed on an appropriate level of EPA involvement in Wyoming's NPS program. Colorado, Utah, and Wyoming composed their task forces differently. Because Wyoming's and Utah's task forces did not include full representation of all interested parties, the Region

and the states should work together to determine whether the additional measures Wyoming and Utah have taken and plan to take result in adequate participation from all interested parties.

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

**RECOMMENDATIONS**

We recommend that the Regional Administrator:

1. Provide technical assistance to help states develop a plan that will build states' capacity to operate an NPS program without section 319 funding. The plan should include identifying and obtaining other sources of funding, providing adequate staff support, obtaining senior managers' commitment and support, and carrying out provisions in states' NPS management plans.
2. Determine an appropriate maximum amount of EPA staffing and support grant funds that states may hold in reserve and monitor the amount of unexpended staffing and support funds held in reserve by each state to avoid excessive amounts.
3. Urge Wyoming's environmental department director to provide a full-time information and education coordinator position for the NPS program. If the State is unwilling to provide a full-time coordinator, assist Wyoming in identifying critical coordinator functions and encourage the director to provide existing staff adequate time to carry out these duties.
4. Determine if Wyoming's staffing and support activities adequately support the award of \$375,000, and if not, reduce Wyoming's staffing and support funds to correlate with planned activities and staff level.
5. Assist Wyoming's environmental department director in determining what Wyoming can realistically accomplish with the level of staff in the NPS program. Help identify shortfalls, and determine what level of Region 8 staff involvement is needed to help Wyoming implement an effective

**STATE NONPOINT SOURCE PROGRAM  
MANAGEMENT WAS MIXED**

NPS program.

6. Develop a strategy to improve Region 8 and Wyoming NPS staff's working relationship.
7. Provide technical assistance to help Utah reexamine its management structure and allocation of resources when it develops its updated management plan.
8. Require Wyoming and Utah to specify how they will include the interests of all parties in addressing NPS pollution when the states' update their management plans.

**AUDITEE COMMENTS  
AND OIG EVALUATION**

Region 8 agreed with the findings and concurred with the recommendations. The Region provided comments to clarify portions of the report, and we have incorporated those comments and modified the report as appropriate.

Wyoming and Utah also provided comments to clarify portions of the report. We have incorporated those comments and modified the report as appropriate. We did not have recommendations directed to Colorado.

Utah did not agree with recommendation number 2 and stated that the State should have the flexibility to manage its staffing and support reserve without EPA mandating a prescribed amount. Utah noted that some reserve was necessary because Region 8 did not typically award grants until mid-year. However, we believe that these reserves should not be excessive and that the Region and states should work together to determine whether states' reserves are excessive.

# CHAPTER 4

## UTAH AND WYOMING NEEDED TO IMPROVE SOME FINANCIAL MANAGEMENT PRACTICES

Utah and Wyoming needed to improve some NPS program financial management practices. We did not question any costs in our sample of NPS expenditures in Colorado and Wyoming. We identified \$265,182 of ineligible costs in Utah's NPS project matching fund pools and identified areas needing improvement in Utah's and Wyoming's financial management practices. Utah's conservation association inadvertently included agricultural loan lines of credit in its NPS project matching fund pools. In addition, the association did not have supporting documentation for some costs and included other ineligible items in its project matching fund pools. Wyoming's burdensome contract amendment process resulted in one subgrantee performing work beyond the contract project period. Utah travel procedures did not require travelers to provide the purpose of their trip on in-state travel documents. Also, Utah's NPS project files did not include summary sheets for easy tracking of expenditures and related matching funds. Utah began reviewing its matching fund pools to remove ineligible costs and agreed to make necessary procedural changes in its travel procedures and project file management.

States must comply with NPS grant conditions and general grant regulations at 40 Code of Federal Regulations (CFR) Parts 31 and 35. EPA guidance states that regions must hold states responsible for all NPS program expenditures and accomplishments. The state agency receiving the grant is responsible even if it contracts with other state agencies or individuals to carry out NPS activities. Section 319 (h) (3) provides that the federal cost share shall not exceed 60 percent of the total costs and the state's 40 percent matching fund must come from non-federal sources. In addition, 40 CFR Part 31.24 requires that states' matching fund contribution, either cash or in-kind contributions, must be for allowable costs.

**UTAH AND WYOMING NEEDED TO IMPROVE SOME  
FINANCIAL MANAGEMENT PRACTICES**

**UTAH'S MATCHING  
FUND POOLS  
INCLUDED INELIGIBLE  
COSTS**

We questioned \$265,182 of ineligible costs included in Utah's matching fund pools. Utah's conservation association included costs that were not eligible for EPA reimbursement in its matching fund pools. The association staff believed that as long as any expenditure improved water quality it could be used as part of Utah's matching fund. By including ineligible costs in its matching fund pools, Utah may not be able to meet future matching fund requirements. Region 8 needs to ensure that Utah's final financial status reports include only eligible and allowable costs for state match. Because Utah's NPS grants are not closed, the State has time to ensure all costs used for match are eligible for NPS program reimbursement. In addition, Utah needs to determine whether it will continue to require its subgrantees to contribute less than the full matching fund requirement.

We determined ineligible costs in the association's matching fund pools for two of the four watersheds the association managed. In one matching fund pool, we questioned \$152,798 in lines of credit for agricultural loans. These lines of credit were not actual expenditures. Therefore, Utah could not use these funds as matching funds. We also questioned \$112,384 in the second watershed's matching fund pool because the association could not provide any supporting documentation. We identified, but did not quantify, other items in the matching fund pools that were not eligible under the 319 NPS program. For example, EPA and Utah had agreed some expenditures were ineligible for EPA reimbursement, but the association representatives believed these expenditures were eligible as matching funds if the expenditures benefited water quality within the watershed. Also, prior to our audit, the association staff was unaware of regional policy papers that helped define eligible and ineligible costs. Based on our sample, we believe that the two matching fund pools we sampled as well as those for watersheds we did not review may contain additional ineligible costs.

## UTAH AND WYOMING NEEDED TO IMPROVE SOME FINANCIAL MANAGEMENT PRACTICES

Utah may not have to repay the ineligible matching funds we identified because most of the NPS grants are still open, Utah has matching funds in excess of what was currently required, and Utah has time to ensure eligible matching funds are sufficient to cover program expenditures. However, several of these grants will close September 30, 1997. Utah needs to review its matching fund pools, deduct ineligible matching funds, and determine if it will need to contribute additional matching funds to meet the matching funds requirement. During the course of our audit, the association staff along with Utah's environmental and agricultural staff began to identify and remove all ineligible costs from their matching fund pools and obtained copies of Region 8 policy papers that defined eligible and ineligible project costs. Utah staff planned to submit to Region 8 the results of their review by October 31, 1997, for those matching fund pools included in our audit. Utah staff planned to complete their review of other matching fund pools by December 15, 1997.

Section 319 required grant recipients to contribute 40 percent of NPS program expenditures. Utah met its 40 percent matching requirement by having landowners contribute 25 percent and other state and local sources contribute 15 percent. These funds accumulated in the association's matching fund pools.

The association's matching fund pools consisted of costs that other landowners incurred but EPA did not reimburse. The matching fund pools also included the dollar value of in-kind activities from other projects within a watershed that related to water quality. These matching funds and in-kind activities were not actual funds received but rather a running tally of credits to the matching fund pools.

The association may no longer have positive balances in its matching pools once it reviews the pools and eliminates all ineligible items. Without a balance in the matching fund pools, the association will not have a funding source for its matching fund contribution and may not be able to provide the additional matching funds for landowners' projects. The association staff needs to determine whether they will be able to continue contributing the additional 15 percent matching fund contribution on landowner

**UTAH AND WYOMING NEEDED TO IMPROVE SOME  
FINANCIAL MANAGEMENT PRACTICES**

projects or if the association should begin requiring landowners to contribute the full 40 percent of matching funds. Utah is currently reviewing its contribution ratio to determine if landowners should contribute more than 25 percent. Utah plans to have a decision by October 1, 1997.

**WYOMING NEEDED TO  
STREAMLINE ITS  
CONTRACT  
AMENDMENT PROCESS**

Wyoming needed to streamline its contract amendment process. Because of its burdensome process, Wyoming was unable to timely amend one of the three contracts we reviewed. As a result, Wyoming reimbursed one subgrantee \$81,068 for work that was performed beyond the contract's original project period.

Wyoming reimbursed one subgrantee for work performed after the contract project period because of Wyoming's lengthy contract amendment process. Wyoming staff stated that they had approved the work and were aware that they needed to amend the contract to extend the project period. In addition, Wyoming's project files included documents that showed project officers had requested amendments to the contract for extending the project period. They explained that the contract amendment process was very time-consuming and often took as long to complete as an original contract. One Wyoming NPS program official stated that Wyoming and the subgrantee did not want to cause a delay in the project just because the paperwork took so long to process. Although Wyoming staff believed the total amount was less than \$81,000, they offered no support for a different amount. However, they agreed that the process took too long and needed to be streamlined.

Wyoming stated that its contract amendment process was essentially the same as awarding an original contract because it ensured that: (1) federal and state requirements were met, (2) an amendment was actually needed, and (3) everyone was aware of financial and legal responsibilities. We agree that these are important factors and encourage Wyoming to examine ways to streamline its process. Wyoming staff stated they were examining ways to expedite the process.

**UTAH AND WYOMING NEEDED TO IMPROVE SOME  
FINANCIAL MANAGEMENT PRACTICES**

**UTAH INITIATED  
ADMINISTRATIVE  
IMPROVEMENTS**

We identified two financial management issues that Utah began to correct during the course of our audit. Utah had begun making improvements in its travel procedures and project file maintenance. OMB Circular A-87 states that for costs to be allowable under federal awards, the costs must be adequately documented and allocable to the federal award. Utah's procedures did not require staff to provide the purpose of in-state travel on their travel authorization or reimbursement forms. The conservation association's project files did not include summary sheets that tracked project costs and matching funds. Without documentation of the purpose of in-state travel and summary sheets that tracked project costs and matching funds, it was difficult to determine the allocability of the costs to the NPS grants.

Utah did not require travelers to list the purpose of their trip on their travel authorizations or reimbursement forms. Although the travel cost documentation we reviewed did not include the purpose of in-state travel, Utah staff were able to provide justification for the trips. Utah staff agreed to document the justification for future in-state travel and make appropriate procedural changes.

The conservation association did not include project cost summary sheets in its project files. Although it maintained meticulous records of original invoices, project approval documents, and payment approval authorizations, the association did not summarize project costs. A summary sheet would provide an easy reference to determine total project expenditures and document matching funds. The association staff agreed that better file maintenance would help them keep track of program expenditures and agreed to begin using summary sheets immediately.

**CONCLUSION**

We identified \$265,182 of ineligible costs included in Utah's project matching fund pools. Utah may need to require the landowners to contribute the full 40 percent matching fund requirement if it is unable to provide eligible funds for match. Because of the length of time required to amend a contract, Wyoming reimbursed one contractor \$81,068 for work performed beyond the project period

## **UTAH AND WYOMING NEEDED TO IMPROVE SOME FINANCIAL MANAGEMENT PRACTICES**

stated in the original contract. Utah's effort to improve file management and in-state travel procedures will further strengthen Utah's financial management.

### **RECOMMENDATIONS**

We recommend that the Regional Administrator:

1. Verify that Utah has removed all ineligible costs from its matching fund pools and provide assistance to conservation association staff in determining eligible costs.
2. Review Region 8 policy papers with the Utah staff to ensure they understand what costs are eligible.
3. Before making final payment on any Utah NPS grant, verify that all Utah matching funds are eligible for NPS program participation.
4. Provide technical assistance to Utah's agriculture and environmental departments and conservation association in determining whether Utah or the conservation association should continue to contribute 15 percent of the matching funds requirement on each project or require subgrantees to contribute the full 40 percent required by the NPS program.
5. Provide technical assistance to Wyoming to streamline its contract amendment process to ensure project costs are not incurred outside the project period.
6. Verify that Utah has changed its in-state travel procedures to require justification and that the conservation association has included summary sheets in its project files.

**UTAH AND WYOMING NEEDED TO IMPROVE SOME  
FINANCIAL MANAGEMENT PRACTICES**

**AUDITEE COMMENTS  
AND OIG EVALUATION**

Region 8 agreed with the findings and concurred with the recommendations. The Region provided comments to clarify portions of the report, and we have incorporated those comments and modified the report as appropriate.

Wyoming and Utah also provided comments to clarify portions of the report. We have incorporated those comments and modified the report as appropriate. Colorado's response noted that the report did not have any recommendations directly related to it and therefore did not provide any detailed comments.

**UTAH AND WYOMING NEEDED TO IMPROVE SOME  
FINANCIAL MANAGEMENT PRACTICES**

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# **EXHIBIT I**

## **SCOPE AND METHODOLOGY**

To determine the sufficiency of Region 8's oversight, we interviewed the NPS program staff, reviewed project files, and discussed regional oversight with state representatives. We reviewed CWA, section 319 and EPA national guidance to determine program objectives and EPA's policy for implementation. We reviewed regional policy papers to determine whether regional staff provided adequate guidance on regional priorities and state concerns. We reviewed grant documents, work assignments, and correspondence between project officers and state staff to determine whether regional project officers sufficiently monitored state activities and discussed issues and concerns with state staff.

To determine whether states ensured projects were in accordance with NPS objectives and consistent with state/EPA agreements, we reviewed states' project selection processes, evaluated states' task force composition, and reviewed states' project files. We interviewed state project officers and NPS program managers to obtain information about establishing priorities and selecting projects. We attended a Colorado NPS task force meeting to observe its proceedings. We judgmentally selected two projects in Colorado and three each in Utah and Wyoming to determine whether individual projects accomplished their objectives. We selected these projects because they were completed or substantially completed and representative of significant state NPS issues. We visited project sites, observed the work performed, and discussed the projects with the subgrantees. We reviewed project reports and compared them to original project objectives. In addition, we compared the selected projects in each state to the management plan to determine whether the projects were part of the state's priorities.

To determine whether costs claimed were allowable, reasonable, and allocable to the NPS grants, we selected and tested a sample of costs claimed. We judgmentally selected a sample of costs claimed for the eight projects we reviewed for objective accomplishments and reviewed the supporting cost documentation. In addition, we judgmentally selected a sample of state staffing and support costs claimed under the grants to administer the state NPS program. These grants included Colorado grants C9008634-93 and C9008634-95, Utah grants C9008632-93 and C9008632-95, and Wyoming grant C9998306-95. We sampled staffing and support costs claimed during the period October 1, 1995, through September 30, 1996. For the staffing and support costs, we reviewed the source documentation for all sampled transactions including purchase orders, payment invoices, travel authorizations, travel vouchers, and timesheets. Because these grants have not been closed, our audit did not represent a final audit of costs claimed.

In addition to the audit of accounting transactions, we selected and tested transactions to determine the states' compliance with NPS grant terms and conditions and applicable federal statutes and regulations.

We reviewed the states' compliance with the financial reporting requirements and interviewed state

## EXHIBIT I - SCOPE AND METHODOLOGY

administrative and program staff to determine whether they appropriately implemented policies and procedures.

To determine whether state project managers obtained sufficient financial and programmatic information to ensure grant expenditures were appropriate, we interviewed state NPS program and financial staff, reviewed supporting cost documentation, and analyzed the states' subgrantee payment reimbursement process. We reviewed the progress reports subgrantees submitted to states regarding project progress and interviewed state staff about their project oversight. We reviewed subgrantees' processes for preparing and documenting payment requests. In Wyoming and Utah, we interviewed conservation district staff responsible for managing programs to determine whether they were adequately accounting for costs and providing sufficient information to state staff.

# **APPENDIX I**

## **EPA COMMENTS**

**APPENDIX I - EPA COMMENTS**

**APPENDIX I - EPA COMMENTS**

**APPENDIX I - EPA COMMENTS**

**APPENDIX I - EPA COMMENTS**

**APPENDIX I - EPA COMMENTS**

# **APPENDIX II**

## **COLORADO COMMENTS**

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# **APPENDIX III**

## **UTAH COMMENTS**

**APPENDIX III - UTAH COMMENTS**

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**APPENDIX III - UTAH COMMENTS**

**APPENDIX III - UTAH COMMENTS**

**APPENDIX III - UTAH COMMENTS**

**APPENDIX III - UTAH COMMENTS**

**APPENDIX IV**  
**WYOMING COMMENTS**

**APPENDIX IV - WYOMING COMMENTS**

**APPENDIX IV - WYOMING COMMENTS**

**APPENDIX IV - WYOMING COMMENTS**

**APPENDIX IV - WYOMING COMMENTS**

**APPENDIX IV - WYOMING COMMENTS**

# APPENDIX V

## ABBREVIATIONS

CFR	Code of Federal Regulations
CWA	Clean Water Act
EPA	Environmental Protection Agency
GAO	General Accounting Office
NPS	Nonpoint Source
OIG	Office of Inspector General
PPG	Performance Partnership Grant

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# APPENDIX VI

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