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May 16, 2003

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VIA FACSIMILE and REGULAR U.S. MAIL

RE: NATIONAL BLENDING POLICY

Executive Director
Ken Kirk

Dear Deputy Administrator Fisher:

On behalf of the Association of Metropolitan Sewerage Agencies (AMSA), I write to urge you to release for public comment the Office of Water's policy on blending peak flows at publicly owned treatment works (POTWs). Release of this draft policy is essential to many of AMSA's nearly 300 POTW member agencies who face inconsistent enforcement and permitting approaches to blending by the U.S. Environmental Protection Agency (EPA) Regions. As recommended by your office, AMSA has scheduled a meeting with Assistant Administrator J.P. Suarez for May 30, to discuss the need for a consistent national policy that recognizes blending as a viable option to treat peak excess flows.

Blending has been an essential wastewater management practice for decades. During peak wet weather conditions, a POTW receives significantly greater flow volumes than in dry weather. As EPA knows, most treatment plants were not built to store this peak excess flow for later treatment and processing the excess flow through the biological units would result in "wash out" of the units and loss of functionality for days and even weeks, causing adverse environmental impacts. Blending, however, provides an environmental safeguard by allowing a POTW to provide a minimum level of treatment to these heavy flows and still fully comply with the facility's Clean Water Act (CWA) effluent limitations contained in its National Pollutant Discharge Elimination System (NPDES) permit. This makes

blending an environmentally sound management practice for wet weather flows, as final effluent limits are met, valuable plant assets are protected, and the highest possible volume of wastewater receives treatment.

By far the most important consideration for EPA in deciding how to proceed with its blending guidance is whether a prohibition on blending will in fact improve the quality of the nation's waters. There is no evidence to suggest that blended wastewater flows pose an increased risk to human health or the environment. While a small portion of a blended flow has not undergone full secondary treatment, POTWs that blend must continue to meet their NPDES secondary treatment permit limits and disinfection requirements. While a prohibition on blending may ultimately ensure that more peak flows receive full secondary treatment, overall water quality will remain unchanged as POTWs must continue to meet the same permit limits, with or without blending.

Simply prohibiting blending will not result in all peak excess flows receiving secondary treatment overnight. It will take time to design and construct the systems necessary to store and/or treat these flows. In the interim, wastewater treatment agencies will have to do something with the excess flow from wet weather events. To protect POTW biological units from wash out, the excess flow in many communities will have to be diverted without receiving any treatment directly into receiving waters. For some communities, being unable to blend means an increase in system backups and basement flooding. The net result would be more discharges of raw sewage into the environment during wet weather events. In some cases, the additional structures needed to accommodate these peak flows may not be a viable alternative. For example, the limited amount of land available to many urban wastewater agencies would make it virtually impossible to build the large storage or treatment units needed to manage all peak flows. Furthermore, the nature of biological treatment simply does not lend itself to large units that sit idle until they are needed in the event of a large storm.

In addition to the environmental and land use implications that a prohibition on blending would have, it is also critical to understand the enormous financial burdens a prohibition would place on the nation's already cash-strapped municipalities. Any prohibition on blending will require cities across the country to find billions of dollars in public funds to resize their facilities to capture and fully treat all peak excess flows, despite no evidence of environmental benefit. By EPA's own estimate, these costs could exceed \$80 billion dollars, dramatically exacerbating the already insurmountable wastewater infrastructure funding gap that EPA itself estimates to be in the hundreds of billions of dollars.

Blending historically has been authorized and funded by the federal government. Over eighty percent of AMSA members who operate plants designed to blend received state or federal funds to install blending facilities and over 30 percent hold current permits that specifically authorize blending.

In fact, EPA's own regulations and the underlying statutory authority clearly do not prohibit the practice of blending. EPA has acknowledged that the practice of blending is not prohibited by Section 301(b)(1)(B) of the Clean Water Act (CWA) or 40 CFR Part 133, the statutory and regulatory provisions governing the secondary treatment of wastewater, and that blending was not considered when the bypass rules in 40 CFR 122.41(m) were developed. Furthermore, EPA has stated that permits can "account for

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blending” and that “blending may be approved” (March 7, 2001 Letter from Diane Regas, Acting Assistant Administrator, EPA Office of Water to the Honorable Bill Frist, U.S. Senate). However, the lack of a clear, consistent national policy has resulted in a patchwork of approaches by the EPA Regions.

AMSA supports the release of a draft policy that recognizes blending as a viable wet weather practice, and confirms that blending is not prohibited by the CWA bypass regulations. While AMSA has concerns with some of the draft provisions it has seen, the Association generally supports the approach taken in EPA’s December 21, 2001 draft wet weather guidance, that requires the final discharge to meet effluent limitations and authorizes permitting agencies to incorporate blending as an alternative flow routing scenario or treatment scheme in permits.

Thank you for your consideration. Please feel free to call me at 202/833-4653 if you should have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk". The signature is stylized with a large "K" and a cursive "Kirk".

Ken Kirk
Executive Director

cc: G. Tracy Mehan, Assistant Administrator, Office of Water
J.P. Suarez, Assistant Administrator, Office of Enforcement & Compliance Assurance