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Association of
Metropolitan
Sewerage Agencies

June 6, 2003

John P. Suarez
Assistant Administrator
Office of Enforcement & Compliance Assurance
U.S. EPA, Ariel Rios Building, Mail Code 2201A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

VIA FACSIMILE and REGULAR U.S. MAIL

RE: NATIONAL BLENDING POLICY

Dear Assistant Administrator Suarez:

I thank you and the staff of the Office of Enforcement and Compliance Assurance (OECA) for the time you took to meet with the Association of Metropolitan Sewerage Agencies (AMSA) on May 30 regarding the blending of peak wet weather flows and the U.S. Environmental Protection Agency's (EPA) pending guidance on blending. As AMSA noted during our meeting, it is essential that EPA release for public comment a clear national blending policy as soon as possible.

AMSA continues to assert that any EPA guidance on blending must recognize that blending is not a bypass under 40 CFR 122.41 and is not subject to the formal "no feasible alternative" provision in the bypass regulation. During our meeting you expressed lingering concerns about the enforceability of permits with a definition of "treatment facility" that "changes" based upon dry or wet weather conditions and the confusion that might result when determining if an illegal bypass has occurred. AMSA maintains, however, that National Pollutant Discharge Elimination System (NPDES) permits are sufficient to establish clear, enforceable requirements regarding blending. If a formal "no feasible alternative" metric, akin to that contained in the bypass regulation, is added to the list of conditions in the Office of Water's draft guidance, as recommended by OECA, no additional clarity would

result, and the guidance would be significantly more difficult to comply with than the existing bypass regulation. Such a move on EPA's part would act as a *de facto* prohibition on blending for most communities — an unworkable approach.

Certainly, AMSA agrees that wastewater treatment agencies should evaluate all of the options available to them to manage wet weather flows. As AMSA outlined in our meeting, much of the analysis that would comprise a "no feasible alternative" determination is already a component of wastewater treatment plant and wet weather management planning processes. Blending is a complicated practice that requires additional resources to implement, and the decision to blend must be weighed together with the other options available to manage wet weather flows, including storage, additional treatment capacity, and collection system rehabilitation. Blending complements these other management practices, but does not replace them.

AMSA also acknowledges that additional scientific study is necessary to further characterize the levels of pathogens in wet weather flows. However, blending is a technique that has been practiced for over thirty years without adversely impacting human health or water quality. To prohibit blending or impose requirements that would severely limit the use of blending would result in the discharge of more raw sewage into the environment during wet weather events. This is clearly a step backward in terms of water quality and the protection of human health.

AMSA again thanks you and your staff for meeting with us on this critical issue. We again urge EPA to resolve its remaining issues quickly and release the draft guidance for comment as soon as possible. Should you have any further questions regarding AMSA's position on this issue, please call me at 202/833-4653.

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: Linda Fisher, Deputy Administrator, EPA
Tracy Mehan, Assistant Administrator, Office of Water, EPA