

Maryland Association of Municipal Wastewater Agencies
Virginia Association of Municipal Wastewater Agencies
West Virginia Municipal Water Quality Association
Wet Weather Partnership

April 20, 2006

By Electronic and First Class Mail

Mr. Benjamin Grumbles
Assistant Administrator for Water
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

**Re: Amendment to Clean Water Act
To Address Potentially Adverse TMDL Ruling**

Dear Mr. Grumbles: *Ben,*

I hope you are doing well.

As you know, there is concern brewing that the U.S. Court of Appeals for the District of Columbia Circuit may soon rule that all TMDLs must express daily load allocations. Such a ruling would invalidate several TMDLs developed for District of Columbia waters and impair development and implementation of effective TMDLs throughout EPA Region III.

Our client members in the above associations are concerned that such a ruling could:

- Jeopardize existing TMDLs specifying non-daily loadings (e.g., nutrient TMDLs), and require those TMDLs to be redone
- Jeopardize State/EPA compliance with TMDL-related consent decrees
- Raise unnecessary complications for any future TMDL for the Chesapeake Bay
- Adversely affect DC WASA's CSO and nutrient control programs
- Inappropriately limit State/EPA flexibility in developing and implementing future TMDLs
- Trigger further litigation including Supreme Court review given the direct conflict with a recent ruling by the U.S. Court of Appeals for the Second Circuit.

We believe that it is prudent to prepare a contingency plan and that to maintain forward progress in the TMDL program, a clarification to the Clean Water Act is the most appropriate approach. This could be as simple as deleting the word "Daily" from the phrase "Total Maximum Daily Load" where that term is used in the Act. Additionally, we would support express authorization for EPA and the States to have the discretion to express TMDL loads based upon the relevant water quality standards, the nature of the pollutant and other appropriate factors.

Given the foregoing, we hope that you will concur that a refinement to the CWA TMDL language is advisable and that EPA will look for the earliest opportunity to collaborate with Congress toward the adoption of such a clarification.

Before we initiate our advocacy efforts regarding this matter, we will appreciate the opportunity to discuss this issue with the appropriate member(s) of your staff. I can be reached at 804/716-9021 to arrange such a meeting at the Agency's convenience.

Thank you for considering our concerns and this request to meet.

Sincerely,

A handwritten signature in cursive script that reads "Paul Calamita".

Paul Calamita