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Executive Director
Ken Kirk

March 4, 2003

Ms. Phyllis Harris
Principal Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Ariel Rios Building 2201A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: NATIONAL BLENDING POLICY

Dear Ms. Harris:

I thank you and the staff of the Office of Enforcement and Compliance Assurance (OECA) for the time you took to meet with us on February 13 on the critical issue of peak flow blending at publicly owned treatment works (POTWs). As the Association of Metropolitan Sewerage Agencies (AMSA) has consistently stated, and as we re-emphasized during our meeting, it is essential that the U.S. Environmental Protection Agency (EPA) expeditiously proceed to release a clear national blending policy for public comment. This policy should:

- state that that blending is not a bypass under 40 CFR § 122.41(m), so long as the POTW meets appropriate conditions; and
- authorize permitting agencies to incorporate blending as an "alternative flow routing scenario" in permits.

As you know, POTWs are designed and built to function efficiently under normal, and even increased, flow volumes. Many POTWs designed to blend in fact were funded and approved by EPA through federal grants. When significant storm events exceed the design capacity, blending allows these POTWs to maximize flows through the plant, provide the greatest treatment possible to the flow, and still meet NPDES permit effluent limitations. If blending is prohibited, POTWs will be forced to reject peak flows once a plant reaches its design capacity, forcing the flows to be released in the collection system without any treatment. This is unquestionably an environmental step backwards.

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We understand your belief that POTWs blend more frequently today than in the past, and your view that this increase is largely due to poor collection system maintenance and excessive inflow and infiltration. As we noted in our meeting, given that many collection systems are not operated or owned by the same authority as the POTW, prohibiting blending at the POTW is a highly indirect route to achieving the collection system improvements you desire. We believe the best way for EPA to improve collection system operation and maintenance – thereby reducing some blending occurrences – is for the Agency to publish for public comment a proposed, comprehensive sanitary sewer overflow (SSO) regulation. A final SSO rule will bring thousands of satellite collection systems into the NPDES program for the first time, and among other things, require the implementation of capacity, management, operations and maintenance (CMOM) programs to address collection system weaknesses. AMSA reiterates our long-standing support for the SSO proposed rule with an expanded preamble to allow full discussion of all SSO issues and concerns, and again strongly urges the Agency to move this important regulatory package forward.

We recognize that in enforcement proceedings you have successfully required communities to make significant investments to build peak flow storage facilities and to overhaul their collection systems and plants. We do not believe an EPA policy clarifying that blending is not subject to the bypass regulation undermines EPA's wet weather enforcement activities. A policy clarifying that blending is a legal wet weather management technique and that places reasonable conditions on the practice allows EPA and the states to focus enforcement efforts on those facilities that are causing environmental harm – rather than on the POTWs meeting their permit limitations while effectively managing peak flow events.

We again urge EPA's prompt action on this important matter. Should you have further questions regarding AMSA's views, please call me at 202/833-4653.

Sincerely,

A handwritten signature in black ink, appearing to read "K 100" or similar, written in a cursive, stylized font.

Ken Kirk
Executive Director

Cc: The Honorable Christine Todd Whitman, Administrator
G. Tracy Mehan, Assistant Administrator, Office of Water
James Hanlon, Director, Office of Wastewater Management
Jessica L. Furey, Associate Administrator, Office of Policy, Economics, and Innovation