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Ken Kirk

February 28, 2007

EPA Docket Center

Enforcement and Compliance Docket and Information Center

Mail Code 2201T

1200 Pennsylvania Ave., NW.,

Washington, DC 20460

Via email: docket.oeca@epa.gov

Dear Sir or Madam:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed national enforcement and compliance assurance priorities for fiscal years 2008 – 2010. NACWA's nearly 300 public wastewater treatment agency members understand firsthand the challenges associated with controlling combined sewer and sanitary sewer overflows (CSOs and SSOs) and managing stormwater discharges. NACWA and its members also understand the importance of enforcement and compliance assurance as an available tool for ensuring the environment is protected. However, NACWA believes that EPA's insistence on targeting its enforcement efforts on municipal wet weather issues, in particular sanitary sewer overflows, for another three years as proposed, is in fact leading to negative consequences for the environment.

NACWA's members begin each fiscal year with a finite set of resources. Those resources must be allocated to their core functions and to long-term efforts designed to make further improvements to water quality for their community. Unfortunately, NACWA's members do not have complete control over how those resources are spent. In fact, rigorous enforcement targeted at an ever-decreasing volume of SSOs is funneling precious funding from more environmentally beneficial projects, like stormwater mitigation, CSO reduction, or nonpoint source controls. NACWA continues to believe that municipalities must have more control to prioritize these types of spending decisions based on what will provide the maximum benefit to the watershed.

For SSOs, the lack of Federal leadership in developing a national policy on SSOs has, in large part, led to this imbalance in watershed priorities. Without a national standard that sets clear objectives for wastewater collection system management, EPA's enforcement officials have relied on a strict interpretation of the Clean Water

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Act – that any wastewater discharged from a sanitary sewer that has not received full secondary treatment is illegal. This zero overflow approach to managing collection systems is not only considered technically infeasible even by EPA's own Office of Wastewater Management, but it also forces communities to spend disproportionate amounts of funding chasing an unachievable goal while neglecting higher priority environmental and public needs.

There have been examples where the government has provided municipalities with more control over how wet weather-related investments are made. A recent consent decree with a CSO community does allow priorities to be set based on a watershed approach. While the agreement still seeks to eliminate SSOs, the community will be able to consider the needs of the watershed when it identifies remedial measures and to establish priorities for spending. But this was a single case in which the community had to vigorously negotiate for such an approach. NACWA believes that EPA should focus less on "addressing" a certain percentage of combined or sanitary sewer systems in the coming fiscal years, and instead build on these successful examples and begin to implement what has largely remained a rhetorical device – namely the watershed approach. Doing so will allow EPA and municipalities to achieve their mutual goals of improved environmental and public health protection.

NACWA is currently working on several initiatives that will provide further insight into how the clean water community believes a more integrated approach is needed to make additional and sustainable water quality improvements. Please contact me at 202/833-4653 if you would like to discuss these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk".

Ken Kirk

Executive Director