

CLEAN WATER NEWS

Paul Pinault, Chair of NACWA's Clean Water Funding Task Force and Executive Director of the Narragansett Bay Commission, Providence, RI, addresses attendees at NACWA's 2006 Winter Conference on recent Task Force initiatives. Pinault discussed the need for the implementation of a multi-pronged approach in solving the clean water funding gap through increased rates, improved utility management and a renewed commitment to invest in clean water from the federal government through The Clean Water Trust Act of 2005.



A Clear Commitment to America's Waters

February 2006

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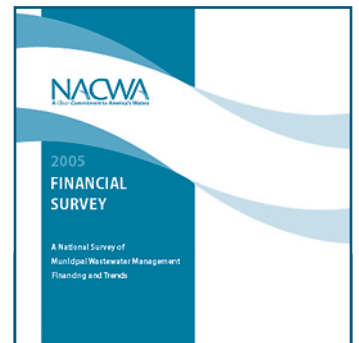
NACWA Releases Results From its Most Comprehensive Financial Survey to Date

NACWA's 2005 *Financial Survey* charts new territory with the addition of information on the status of asset management programs nationwide, comprehensive financial statement data, the status of security-related programs, staff licensing requirements, and energy use and costs. Since 1981, NACWA has performed this triennial survey of its membership in an effort to provide Association members, government officials, and the public, insight into the financing and management of clean water utilities and to track industry trends. Similar to previous *Surveys*, the 2005 *NACWA Financial Survey* also presents industry statistics and trend data on utility revenues, expenses, debt financing, capital needs, sewer service charges, residential and industrial rates and rate structures, staffing levels, and salaries.

Survey Documents Rising Costs, Rising Rates

Overall, the 2005 *Survey* data indicate that NACWA clean water agencies continue to face sustained increases in capital and operations and maintenance costs, long-term debt, and capital needs. While expenses will naturally increase due to inflationary pressures, the *Survey* data reveal that clean water utilities have experienced cost increases at levels two times or more than the rate of inflation over the past several years. These cost increases have translated into higher sewer bills for utility customers, outpacing the rate of inflation.

In the face of such budgetary challenges, the *Survey* shows that clean water utilities are testing the boundaries of innovation and efficiency through cost-saving



▲ NACWA's 2005 *Financial Survey* is a triennial survey of Association Members and provides insight into the financing and management of clean water utilities while tracking industry wide trends.

energy recovery initiatives, implementation of asset management programs, increased provision of reclaimed water services, implementation of utility management/excel-

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NACWA Unveils Changing Workforce Publication at 2006 Winter Conference

NACWA's 2006 Winter Conference, *Improving Knowledge Management in Today's Utility*, served as the forum for the release of a new publication, *The Changing Workforce... Seizing the Opportunity*. Published jointly by NACWA and the Association of Metropolitan Water Agencies (AMWA) the new handbook expands on a 2004 report, *The Changing Workforce ... Crisis*

& Opportunity. The original report identified a clear crisis facing utilities – the shrinking supply of available workers and the changing demographics of the workforce. The new handbook builds on the strategies presented in the first *Changing Workforce* publication and equips water/wastewater utilities with the

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NACWA Unveils Changing Workforce Publication at 2006 Winter Conference

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tools necessary to effectively develop and implement a systemic succession management program.

The *Handbook* contains strategies to assist utilities with developing and implementing a comprehensive succession management program aimed at attracting, developing and retaining a new generation of workers while retaining institutional knowl-

edge from retiring staff. It also presents tools and strategies proven to be effective in the utility industry, or appli-

“Ensuring an adequate supply of well-trained staff requires integration of approaches to recruitment, development and retention.”

cable to the utility industry. Most importantly, the handbook identifies why a strategy is successful and what organizational elements are necessary to support its implemen-

tation. *The Changing Workforce* publication also provides a bibliography section, which lists additional resources that

address workforce issues, as well as several informational case studies.

Additional copies of the handbook may be purchased through NACWA's *Bookstore*

webpage which can be accessed on the toolbar at the top of the Association's homepage (www.nacwa.org). NACWA is offering a discounted price of \$75 for members and \$100 for non-members with the purchase of both *Changing Workforce* publications. ❖

NACWA Weighs in with White House on 'Guidance' Terminology

The issue of whether a federal agency 'guidance' document is truly guidance, providing greater explanation of an agency's policies or regulations, was the subject of a proposed bulletin issued by the Office of Information and Regulatory Affairs in the White House's Office of Management and Budget (OMB) in November 2005. The proposal comes in response to a growing concern over the number of guidance documents issued by federal agencies and the fine line between guidance and regulation. The proposed OMB bulletin, if finalized, will clearly define 'guidance' and 'significant guidance' setting forth a number of

practices for federal agencies to follow when developing and issuing these types of documents. One of these practices would mandate a formal public comment period for any economically significant guidance document, defined as a guidance imposing a cost of \$100 million dollars or more.

EPA 'Guidance' May Require Additional Review

The U.S. Environmental Protection Agency's (EPA's) Office of Water has generally conferred with OMB on major guidance documents and has increasingly used the *Federal Register* to announce their availability for review and comment. NACWA feels strongly, however, that the OMB bulletin will for-

malize these procedures and provide stakeholders with clear expectations. The Association's December 13 comments commended OMB for proposing the guidelines, but expressed concern that the required formal comment period for those guidance documents considered 'economically significant' did not go far enough. NACWA commented that economic impact should not be the only factor to consider when deciding whether to seek formal public comment and suggested that agencies also consider the complexity of the issue and the number of stakeholders it would potentially impact. The Association's comments also noted that guidance documents by their very nature should not impose additional costs.

A contentious issue surrounding the OMB bulletin was the perception that it would require more guidance documents to undergo formal OMB review thereby hindering a federal agency's ability to issue timely guidance, which is generally only required for major rulemakings. While NACWA believes that the bulletin does not set such OMB review requirements, many EPA offices already include OMB in the review process and the Association's comments recommended that this practice continue. NACWA's comments can be accessed by members through its website (www.nacwa.org) by selecting the *Clean Water Advocacy* icon from the tool bar. ❖

Legal Briefs

NACWA continues its strategic legal presence on behalf of the clean water community. These *Legal Briefs* detail relevant legal activity and new developments. Additional details on NACWA's cases can be found in the *Legal* section of NACWA's Member Pipeline at www.nacwa.org by clicking on *Litigation Tracking*.



⤴ NACWA's legal advocacy is supported by the Association's Targeted Action Fund (TAF) and demonstrates the timely initiatives that this fund allows NACWA to undertake on behalf of its members.

Appeals Court Hears Total Maximum "Daily" Load Case

On February 16, 2006, the U.S. Court of Appeals for the District of Columbia (D.C. or District) Circuit heard oral arguments in the appeal by Friends of the Earth (FOE) of the total maximum daily loads (TMDLs) for biochemical oxygen demand and total suspended solids for the District's Anacostia River. In *FOE v. EPA*, NACWA and the CSO Partnership (CSOP) filed an October 2005 *amicus curiae* brief rebutting FOE's position that Congress' use of the word "daily" in Clean Water Act (CWA) § 303(d) means

that TMDLs can *only* be expressed as true 24-hour loads in permits. NACWA and the CSOP's brief highlighted how FOE's interpretation undermines both the CWA § 402(p)(iii) program for municipal separate storm sewer systems and CWA § 402(q)'s program for combined sewer system long-term control plans. EPA and NACWA member agency the D.C. Water and Sewer Authority filed final briefs in this case in December 2005.

Minnesota Pre-TMDL Permitting Dispute Heightens

Activity continues in the case of *Cities of Annandale and Maple Lake (Cities) National Pollutant Discharge Elimination System (NPDES) Permit Issuance*, as national environmental ac-

tivist groups filed January 5 *amicus curiae* briefs before the Minnesota Supreme Court opposing the positions taken by NACWA, its Minnesota member agencies, and the Minnesota Pollution Control Agency (MPCA). The Minnesota Court of Appeals held last year that MPCA improperly determined the NPDES permit for the Cities would not cause or contribute to a violation of water quality standards in a CWA § 303(d) listed water. In this case, the Cities are combining two outdated facilities and replacing them with one, state-of-the-art facility. MPCA reached its conclusion by finding that the new discharge would be effectively "offset" by decreased discharges of the pollutant of concern by other entities in the waterbody. NACWA's December 2, 2005 *amicus curiae* brief supports the abil-

ity of permitting authorities to take such considerations in a watershed into account when issuing permits. To find against the MPCA would reduce the incentive for utilities to upgrade technology, and effectively impose a moratorium on permitting in § 303(d) listed waterbodies where TMDLs are years from completion. A decision in this important case is expected later this year.

CWA-SDWA Interplay Case Update

On December 14, 2005, due to expected changes to the permit being challenged, the Kentucky Environmental and Public Protection Cabinet (KEPPC) put this case, questioning how the CWA and the Safe Drinking Water Act (SDWA) work together, on hold until May. In *City of Cincinnati, OH (Greater Cincinnati Water Works (GCWW)) v. Sanitation District No. 1, KY (SD No. 1)*, GCWW appealed the NPDES and construction permits issued by the KEPPC to SD No. 1's planned regional wastewater facility. The facility will consolidate three outdated plants along the Ohio River. GCWW alleges that the NPDES permit should contain discharge limits for endocrine disrupters, *cryptosporidium*, *giardia*, viruses, and other pollutants for which no Kentucky water quality standards (WQS) exist. NACWA notified the KEPPC in early 2005 that the Association would like to file an *amicus curiae* brief should the case proceed. ♦



NACWA and WERF Release Guidance on Use Attainability Analyses

NACWA and the Water Environment Research Foundation (WERF) are pleased to announce the release of a new handbook on use attainability analyses, *Collaborative Water Quality Solutions: Exploring Use Attainability Analyses*. The *Handbook* provides clean water utilities with a practical roadmap to the use attainability analysis (UAA) process. The *Handbook* builds on previous work by both NACWA and WERF and is geared specifically to the unique nature of wastewater treatment facilities.

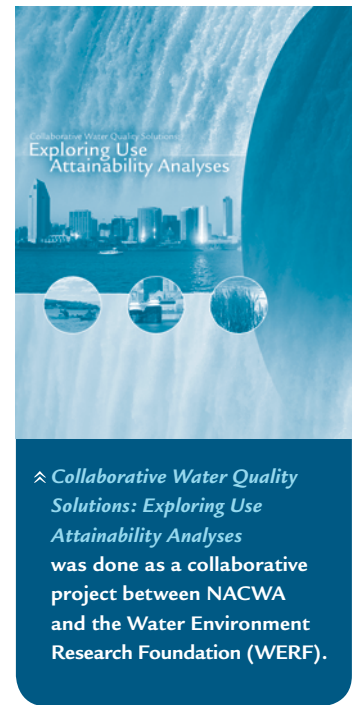
NACWA and WERF initiated this effort with the realization that true water quality protection can be achieved only when accurate and realistic water quality goals drive the process. The *Handbook*

will help utilities decide whether or not to consider sponsoring or participating in a UAA or if another approach, such as a variance, might be a better option. It contains pointers and case studies from real-world experiences that will help readers better apply the concepts to their specific situations while guiding utilities through the stakeholder involvement process. In fact, an entire chapter of the *Handbook* is dedicated to stakeholder involvement since knowledge and understanding of those stakeholders are critical before beginning the UAA process.

The *Handbook* covers several other important topics as well, including the timing and integration of a UAA with other regulatory programs, such as efforts under the Combined

Sewer Overflow (CSO) Control Policy and the total maximum daily load (TMDL) program. Other chapters are dedicated to discussing UAAs for aquatic life uses and uses related to human health, and an entire chapter is dedicated to economic considerations, which can often be the driving force for a UAA. It also provides valuable insight into the public involvement component of conducting a UAA.

A complimentary copy of the guidance has been forwarded to all NACWA member agencies and WERF subscribers. Additional copies are available for purchase through NACWA's *Bookstore* webpage accessible on the toolbar at the top of the Association's homepage (www.nacwa.org). 🌊



NACWA Congratulates 2005 Excellence in Management Recognition Program Honorees

NACWA's 2005 *Excellence in Management Recognition Program* honorees were recognized February 1 during an Awards Reception at the Association's 2006 Winter Conference in Palm Desert, Calif. The *Program* honors member agencies who have implemented successful

programs, over a three-year period, that address the range of management challenges faced by clean water facilities in today's competitive environment. The 2005 honorees demonstrate the clean water community's commitment to clean water progress and to improving utility management. 🌊



« Pictured from left to right (back row) NACWA president, Donnie Wheeler, General Manager, Hampton Roads Sanitation District, Va.; 2005 Excellence in Management Recognition Program Honoree, Michael McGlinchy, Public Utilities Manager for the City of Akron Public Utilities Bureau, Ohio; Ralph Charlton, NACWA Awards Committee Chair and Director of Fiscal Services, Alexandria Sanitation Authority, Va.; 2005 Excellence in Management Recognition Program Honorees Rachel Luckey, Employee Development Coordinator, Mount Pleasant Waterworks, S.C.; Robert Campbell, Director, Metropolitan Sewer District of Greater Cincinnati, Ohio; Lois Canady, Human Resources Director, Mount Pleasant Water Works, S.C.; (front row) Dennis Porter, Assistant Director of Utility Services, City of Henderson, Department of Utility Services, Nev.; Barry Pomeroy, Director of Operations & Maintenance, Vallejo Sanitation and Flood Control District, Calif.; Don Theiler, Director, Wastewater Treatment Division, King County Wastewater Treatment Division - Department of Natural Resources and Parks, Wash.; and NACWA Executive Director, Ken Kirk. Also being honored with a 2005 Excellence in Management Recognition Program Award was Pine Bluff Wastewater Utility, Ark.

NACWA Financial Survey

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lence programs, and enhanced treatment. In fact, according to *Survey* data, implementation of an asset management program in some form among responding NACWA members is already in full-swing, with nearly all respondents indicating that they have completed asset lists, 92% indicating that they already use computerized maintenance management systems, and a full 73% of respondents indicating

that they have begun or plan to implement a comprehensive asset management program.

The *2005 Financial Survey* CD includes a hyper-linked version of the survey report, which allows users to navigate to any report section from the Table of Contents. The CD also features Excel spreadsheet files allowing users to analyze survey data. The *2005 NACWA Financial Survey* CD is now available and can be purchased online by accessing the

Bookstore link at the top of the toolbar on NACWA's homepage (www.nacwa.org). As a benefit of NACWA membership, a complimentary copy of the *Survey* CD has been mailed to Association members.

NACWA's *Financial Survey* would not be possible without the contributions of several key member agency representatives. The following individuals contributed significant time and expertise to the *Survey* and the final report: Jon W. Schellpfeffer,

Director, Madison Metropolitan Sewerage District, Wis.; Brian I. Crewdson, Assistant to the General Manager, Anchorage Water and Wastewater Utility, Alaska; Tim Houghton, Executive Assistant, City and County of Honolulu, Department of Environmental Services, Hawaii; W. Malcolm Steeves, Director, Mobile Area Water and Sewer System, Ala.; and, Ralph L. Charlton, Director of Fiscal Services, Alexandria Sanitation Authority, Va. ♦

Financial Survey Data Now Available on *CleanWater Central*™

Utilities can now access all of the information from the *2005 Financial Survey* and from previous surveys on the Association's *CleanWater Central*™ database (www.cleanwatercentral.org). NACWA members can access the *CleanWater Central*™ database with their NACWA website username and password. The site contains baseline data for hundreds of wastewater agencies and treatment facilities including: agency services, treatment processes used, service area descriptions, influent/effluent flows, staffing data, and biosolids management methods. *CleanWater Central*™ also includes a powerful data analysis and querying tool.

If your utility is not a subscriber of *CleanWater Central*™ and would like to receive full access to the site free of charge, simply visit www.cleanwatercentral.org and complete the online baseline survey by clicking on the 'Subscribe' link. NACWA also encourages subscribers to review their utility data currently included in the database and make any necessary updates to continue to receive the benefits of *CleanWater Central*™. ♦ (see related story on page 6)

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Join NACWA & WERF at the National Clean Water Policy Forum

Join your colleagues for the 2006 National Clean Water Policy Forum, May 2 - 3, 2006, where the National Association of Clean Water Agencies (NACWA) and the Water Environment Federation (WEF) together will provide a unique opportunity to access the latest federal legislative, legal and regulatory developments in the heart of the action - Washington, DC.

Included in the slate of exceptional speakers will be political analyst Charlie Cook. Cook's astute impartial observations have led The New York Times to call him "one of the best political handicappers in the nation".

Don't miss this opportunity to become more involved in current and emerging legislative, legal and regulatory issues!

The Policy Forum will be preceded on April 30 and May 1 by NACWA and WEF committee meetings and NACWA's National Environmental Achievement and Peak Performance Awards events, a Water is Life and Infrastructure Makes it Happen Briefing, and a Welcome Reception.

Reserve your hotel room today by contacting the Capital Hilton at 202.393.1000 to guarantee the special conference rate of \$219 single/double. Be sure to mention you are a participant in the 2006 National Clean Water Policy Forum. The hotel reservation deadline is Friday, April 7, 2006. Online conference registration is now available.

Please visit www.nacwa.org or www.wef.org to view a detailed preliminary agenda and plan your attendance. We look forward to seeing you in Washington! ♦




NACWA Expresses Concern Over Potential Removal Credit Changes

Responding to pressure from industry and the Office of Management and Budget (OMB), the U.S. Environmental Protection Agency (EPA) issued an Advanced Notice of Proposed Rulemaking (ANPRM) in the fall of 2005, discussing possible changes to the removal credit provisions in 40 CFR Part 403 of the Clean Water Act (CWA). The Agency specifically sought comment on whether to add new pollut-

ants to the list of contaminants eligible for removal credits. Industry representatives continue to believe that an expanded list of pollutants may lead to an increase in the number of removal credits granted.

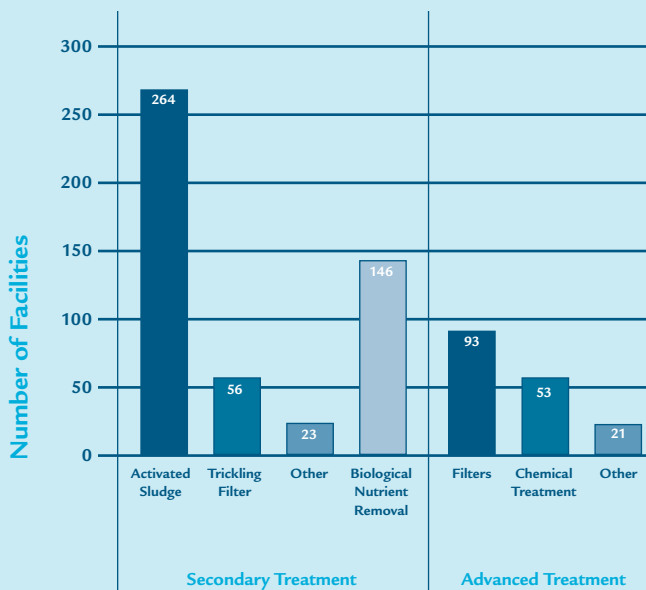
NACWA's December 13, 2005, comments on the notice expressed concern with the entire removal credit provision, noting that clean water agencies have generally found no compelling reason to assume the additional liability associ-

ated with granting a credit. The seldom used provision allows a clean water agency, under certain circumstances, to allow an industrial discharger to exceed pretreatment standards because the treatment facility has been shown to consistently remove a particular pollutant. Instead of expanding the list, NACWA suggested that the granting of removal credits must be subjected to additional review at the local level to ensure that

plant-specific issues are addressed. Concerns with regard to the beneficial reuse of biosolids also must play a vital role in determining whether a removal credit should be granted. NACWA, through its Pretreatment & Hazardous Waste Committee, will continue to monitor this issue; however, it is unlikely that EPA will pursue a rulemaking. 

CleanWater Central™ Clips

Treatment Processes Used



Source: 2006 CleanWater Central™ www.cleanwatercentral.org



Attendees at NACWA's 2006 Winter Conference not only had the opportunity to hear about recent Task Force initiatives from Paul Pinalt, Chair of NACWA's Clean Water Funding Task Force, but also heard perspectives from both within and outside the clean water community on the key concepts that utilities can employ to retain and reuse critical institutional knowledge during the panel, *Addressing a Utility's Need for Knowledge Management*. Panelists included (from left to right) NACWA Board Member and Director of Wastewater for the East Bay Municipal Utility District, Oakland, Calif., Dave Williams; Terry Brueck, President and CEO of EMA, Inc., Saint Paul, Minn.; Jerry Landon, Senior Consultant of Organizational Effectiveness at the Tennessee Valley Authority, Knoxville, Tenn.; and Elizabeth Bialek, Senior Civil Engineer with the East Bay Municipal Utility District, Oakland Calif.