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June 4, 2004

Public Comment on Preliminary Report  
U.S. Commission on Ocean Policy  
1120 20th Street, NW  
Suite 200 North  
Washington, D.C. 20036

*VIA ELECTRONIC MAIL*

**RE: AMSA COMMENTS ON U.S. COMMISSION ON OCEAN POLICY  
PRELIMINARY REPORT**

Dear Sir or Madam:

The Association of Metropolitan Sewerage Agencies (AMSA) is pleased to provide comments on the U.S. Commission on Ocean Policy's Preliminary Report (the Report). AMSA agrees with many of the recommended policies outlined in the Report, including the need for a national water quality monitoring network, a more focused federal effort to control nonpoint sources of pollution, and the need for long-term federal funding to overcome the infrastructure funding gap, including consideration of a trust fund as a funding mechanism. AMSA believes these are among a variety of significant areas of mutual interest where the Association and the Commission can work together to achieve these common goals.

AMSA, however, has one fundamental concern with the Report — Recommendation 14-1, which calls on the U.S. Environmental Protection Agency (EPA) and states to require advanced nutrient removal for wastewater treatment plant discharges into nutrient-impaired waters. A one-size-fits-all technological approach to nutrient removal: 1) is an ineffective method to deal with nutrient impairment, 2) is counter to EPA's approach to nutrient control, and 3) ignores the need for state/local flexibility in setting and implementing nutrient criteria that account for widely varying ecological conditions.

To achieve meaningful water quality improvements, nutrient removal standards and requirements must be based on more than an assumed connection between a nutrient impairment and a discharge to that impaired water. Simply stated, imposing an

extremely expensive technology requirement on publicly owned treatment works (POTW) based solely on the existence of an impairment, without first deciphering the varying contributors to the impairment, will only divert needed money away from programs that have the potential to more effectively eliminate the impairment.

AMSA's more than 300 POTW members are public servants dedicated to protecting the environmental and public health of over 150 million Americans and to carrying out the important objectives of the Clean Water Act. AMSA's members share the Commission's goal of wanting to improve the health of the nation's waterways, including its coastal waters, and to seeing an end to nutrient impairment. AMSA is not against advanced nutrient removal at POTWs. In fact, many AMSA members are leading the way in their watersheds by installing equipment that will achieve best available technology levels of nutrient removal. These POTWs, however, have participated in broader watershed discussions that have identified POTWs as a source of nutrient impairment and have identified goals for reduction. AMSA simply does not want the Commission to recommend a national program that will ultimately hinder state and municipal abilities to achieve real water quality improvements at the watershed level.

### ***Flexibility in Nutrient Removal Planning, Implementation***

As written, the Commission's Recommendation 14-1 states, "The U.S. Environmental Protection Agency (EPA) and states should require advanced nutrient removal for wastewater treatment plant discharges into nutrient-impaired waters." There are numerous reasons why this recommendation should be altered to allow current efforts by the states to develop meaningful, site-specific nutrient criteria to continue.

Municipalities, states and the federal government, namely EPA, have all concluded that nutrient impairment is a complex issue requiring state and local flexibility. The same concentrations of nutrients can have widely disparate impacts based on a water's depth, the amount of sunlight the water receives, and other site-specific factors, making a one-size-fits-all technology standard inappropriate in the context of nutrients.

Also, there is an excellent discussion in the Commission's Report discussing how nutrient, and other, impairments are often caused largely by nonpoint sources. The report also discusses, correctly, how these pollution contributions must be addressed on a watershed basis to realistically address water quality, including nutrient impairment, issues. The focus on mandatory technology requirements ignores the multi-media nature of nutrient impairment (automobiles, air deposition, construction sites, stormwater and agricultural runoff, etc.) and focuses too narrowly on the easiest targets — POTWs — but not on the often most significant polluters — nonpoint sources.

AMSA believes that Recommendation 14-1 should be amended to underscore the need for a multi-media, watershed-based approach to nutrient removal and reaffirm current state efforts to develop meaningful nutrient criteria to protect the designated uses of the ir respective waterbodies. Without first establishing these standards, states will have no effective or equitable way of establishing nutrient reduction goals.

A mandated technological approach is also counter to the innovative methods of nutrient removal that states and municipalities are considering and developing. One example of such innovations include constructed wetlands, which are effective at removing nutrients and have a number of added benefits including habitat restoration, and an inherent aesthetic value. EPA has also recently announced its wetlands initiative, seeking to create, improve and protect 3,000,000 acres of wetlands over the next five years. Innovative approaches to nutrient-removal would be virtually eliminated by the expense of complying with an across-the-board policy based on the Commission's Recommendation 14-1.

Perhaps most importantly, however, is the fact that EPA has itself recognized the need to leave the development of site-specific nutrient-removal plans up to the states. States are required to submit these plans to EPA by the end of this year (2004). EPA must approve the plans and determine whether the state-proposed water quality standards are sufficient to protect designated uses. Recommendation 14-1 runs counter to EPA's current policy and to the collective wisdom of municipalities, states and the federal government, which have spent years and significant funds to understand nutrient-impairment issues.

Given these concerns, AMSA hopes that Recommendation 14-1 will be changed to reflect this collective wisdom and to reflect a flexible approach that allows states and the POTW community to determine the most effective means to reduce nutrient pollution on a watershed by watershed basis.

### **AMSA, Commission Should Work Together on Areas of Agreement**

AMSA's review of the Commission Report indicates that there are many areas of mutual agreement, all of which, unfortunately, could not be mentioned in these comments. While the Commission has the luxury of focusing on coastal waters, AMSA's members must look at the water quality of all the nation's waterways. AMSA does believe, however, that numerous recommendations in the Report are applicable to all waterways on a national basis and looks forward to working with the Commission on these issues.

### **Monitoring**

AMSA agrees with the Commission's Recommendations 15-1 and 15-3 that the appropriate federal agencies, including EPA, the U.S. Geological Survey (USGS) and the National Oceanic and Atmospheric Administration, must work together to develop a national water quality monitoring network that contains clearly defined goals, standard techniques and routine reviews of data obtained. AMSA has been working closely in coalition with other national and regional stakeholders to ensure full funding for key programs, such as USGS's National Water Quality Assessment program. AMSA also agrees that without both full funding and full interagency coordination, it remains a practical impossibility to appropriately assess the current state of the nation's waters, keep up with new and emerging contaminants, making it unnecessarily difficult to prioritize water quality projects.

### **Nonpoint Sources**

AMSA also fully agrees with the Commission's assessment that, similar to the need for increased interagency coordination on monitoring, a cooperative effort is needed to address nonpoint sources.

AMSA also agrees that if states fail to address nonpoint pollution, there should be a federal regulatory mechanism allowing the federal government to step in and ensure nonpoint pollution controls (Recommendation 14-10). The Report correctly points out that state agencies and legislatures must put teeth into nonpoint source pollution control measures.

According to EPA, nonpoint sources are responsible for the majority of impaired waters in the U.S. So long as we ignore this fact, the nation's waters, including coastal waters, will not be sufficiently improved. While AMSA agrees that incentives and/or disincentives (Recommendation 14-9) can be helpful and supports such programs, to ultimately address nonpoint sources, a federal program with teeth will ultimately need to be developed (Recommendation 14-10). In the absence of such a federal program, however, there is nothing stopping states from acting responsibly on this issue on their own. While the Report touches on the need for increased state action (page 165, 169), AMSA believes this discussion can be strengthened.

### **Infrastructure Funding**

AMSA on its own, and as a co-founder of the Water Infrastructure Network, a coalition of nearly 50 labor, municipal, environmental, engineering and industry groups, has worked consistently over the past several years to educate the public, policymakers and key stakeholders on the wastewater infrastructure funding gap. AMSA appreciates the Report's insertion of a discussion on this issue and views increased SRF funding (Recommendation 14-4) as a positive step toward a long-term solution.

AMSA believes that to overcome the long-term infrastructure funding gap, the federal government must make a long-term recommitment to clean water funding and AMSA believes a dedicated trust fund for clean water is a viable option. As such, AMSA was intrigued by the Report's call for the Ocean Policy Trust Fund and believes there is a common interest in educating the public and policymakers on the need for dedicated funding for the nation's waterways. AMSA looks forward to exploring these ideas further with the Commission.

Sincerely,



Adam Krantz  
Managing Director, Government & Public Affairs  
AMSA