

President
Kumar Kishinchand
Water Commissioner
Philadelphia Water Department
Philadelphia, PA

Vice President
William L. Pugh
Public Works Director
City of Tacoma
Public Works Department
Tacoma, WA

Treasurer
Gurnie C. Gunter
Director
Kansas City Water
Services Department
Kansas City, MO

Secretary
Paul Pinault
Executive Director
Narragansett Bay Water
Quality Management
District Commission
Providence, RI

Executive Director
Ken Kirk

June 6, 2000

Chris Kilian
Staff Attorney
Conservation Law Foundation
15 East State Street
Suite 4
Montpelier, VT 05602

Dear Chris:

On behalf of the Association of Metropolitan Sewerage Agencies (AMSA), I would like to express AMSA's concerns with your organization's opposition to the U.S. Environmental Protection Agency's (EPA) total maximum daily load (TMDL) proposal as described in your May 19 letter to EPA Administrator Carol Browner. I would also like to point out some of the possible ramifications of your position on this issue. Based on such concerns, I urge you to reconsider your position on the TMDL proposal and to join with AMSA in supporting fair-share water pollution controls on all sources of water quality impairment. After reconsidering your position, I hope you will agree that opposition to the proposal creates the risk of an unacceptable delay and further water quality degradation.

First, I must say that AMSA members agree that the current TMDL proposal is far from perfect. We are, however, prepared to support the rule because, after painstaking review and discussions with EPA officials and staff, we have determined that the proposal will invigorate the TMDL program and will provide greater clarity concerning the identification and responsibilities of nonpoint sources associated with water quality impairment. We believe that this country's water quality will be better off with this revised TMDL rule than without it. At the same time, we are closely monitoring the rule's path toward finalization to ensure that the Agency does not weaken it.

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Your May 19 letter appears to hinge much of your opposition to the proposal on the delays stemming from a 15-year deadline for TMDL development. Granted, 15 years would be a long time to wait if it meant that no TMDLs would be implemented in that time. However, EPA has gone to great lengths to explain that this will not be the case. In fact, with an estimated 40,000 segments in need of TMDLs and the complexity of source identification and load allocation, 15 years looks ambitious, and in some cases is a shorter period of time than courts have allowed for TMDL implementation.

I would like to offer this perspective on your opposition to the 15-year time limit for TMDL development. It is simply this: water quality improvement does take time. In nearly 30 years of the Clean Water Act, the United States has seen remarkable water quality progress by focusing primarily on point sources. Today, however, we find ourselves at a water-quality plateau. The rate of improvement has leveled off and the remaining water quality problems are more diffuse, more complex, and thus, more difficult to address. A TMDL program that addresses in a more concerted manner these types of water quality problems is already overdue. Why delay an improved TMDL program further by withdrawing the proposal? Withdrawing the revised rule invites an even more dangerous and costly delay.

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In the event of a withdrawal, is there any guarantee that a stronger rule will be re-proposed? As you note, a withdrawal will mean that the existing rule remains in effect, and will open the door to even more litigation and the uncertain prospect of courts shaping TMDL policy. Our concern is that nonpoint sources' lobbying efforts and litigious approaches to restrict EPA's ability to include nonpoint sources in

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Sincerely,

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Ken Kirk
Executive Director

cc: Carol M. Browner, EPA
Chuck Fox, EPA

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Providence, RI

Executive Director
Ken Kirk

Association of
Metropolitan
Sewerage Agencies

June 6, 2000

Richard Caplan
U.S. Public Interest Research Group
218 D Street, SE
Washington, DC 20003

Dear Richard:

On behalf of the Association of Metropolitan Sewerage Agencies (AMSA), I would like to express AMSA's concerns with your organization's opposition to the U.S. Environmental Protection Agency's (EPA) total maximum daily load (TMDL) proposal as described in your May 19 letter to EPA Administrator Carol Browner. I would also like to point out some of the possible ramifications of your position on this issue. Based on such concerns, I urge you to reconsider your position on the TMDL proposal and to join with AMSA in supporting fair-share water pollution controls on all sources of water quality impairment. After reconsidering your position, I hope you will agree that opposition to the proposal creates the risk of an unacceptable delay and further water quality degradation.

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Ken Kirk

June 6, 2000

Joan Mulhern
Earthjustice Legal Defense Fund
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036

Dear Joan:

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Executive Director
Ken Kirk

June 6, 2000

Kathryn Hohmann
Director, Environmental Quality Program
Sierra Club
408 C Street, NE
Washington, DC 20002

Dear Kathy:

On behalf of the Association of Metropolitan Sewerage Agencies (AMSA), I would like to express AMSA's concerns with your organization's opposition to the U.S. Environmental Protection Agency's (EPA) total maximum daily load (TMDL) proposal as described in your May 19 letter to EPA Administrator Carol Browner. I would also like to point out some of the possible ramifications of your position on this issue. Based on such concerns, I urge you to reconsider your position on the TMDL proposal and to join with AMSA in supporting fair-share water pollution controls on all sources of water quality impairment. After reconsidering your position, I hope you will agree that opposition to the proposal creates the risk of an unacceptable delay and further water quality degradation.

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Ken Kirk

Association of
Metropolitan
Sewerage Agencies

June 6, 2000

Nancy Stoner
Senior Attorney
Natural Resources Defense Council
1200 New York Avenue, NW
Suite 400
Washington, DC 20005

Dear Nancy:

On behalf of the Association of Metropolitan Sewerage Agencies (AMSA), I would like to express AMSA's concerns with your organization's opposition to the U.S. Environmental Protection Agency's (EPA) total maximum daily load (TMDL) proposal as described in your May 19 letter to EPA Administrator Carol Browner. I would also like to point out some of the possible ramifications of your position on this issue. Based on such concerns, I urge you to reconsider your position on the TMDL proposal and to join with AMSA in supporting fair-share water pollution controls on all sources of water quality impairment. After reconsidering your position, I hope you will agree that opposition to the proposal creates the risk of an unacceptable delay and further water quality degradation.

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Ken Kirk

June 6, 2000

Courtney Cuff
Legislative Director
Friends of the Earth
1025 Vermont Ave., NW
Washington, DC 20005

Dear Courtney:

On behalf of the Association of Metropolitan Sewerage Agencies (AMSA), I would like to express AMSA's concerns with your organization's opposition to the U.S. Environmental Protection Agency's (EPA) total maximum daily load (TMDL) proposal as described in your May 19 letter to EPA Administrator Carol Browner. I would also like to point out some of the possible ramifications of your position on this issue. Based on such concerns, I urge you to reconsider your position on the TMDL proposal and to join with AMSA in supporting fair-share water pollution controls on all sources of water quality impairment. After reconsidering your position, I hope you will agree that opposition to the proposal creates the risk of an unacceptable delay and further water quality degradation.

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I would like to offer this perspective on your opposition to the 15-year time limit for TMDL development. It is simply this: water quality improvement does take time. In nearly 30 years of the Clean Water Act, the United States has seen remarkable water quality progress by focusing primarily on point sources. Today, however, we find ourselves at a water-quality plateau. The rate of improvement has leveled off and the remaining water quality problems are more diffuse, more complex, and thus, more difficult to address. A TMDL program that addresses in a more concerted manner these types of water quality problems is already overdue. Why delay an improved TMDL program further by withdrawing the proposal? Withdrawing the revised rule invites an even more dangerous and costly delay.

If EPA grants your request to withdraw the TMDL proposal, further delay is certain, and nonpoint sources – the major remaining barrier to further water quality improvement – will continue to claim that they should not be included in the TMDL program. Withdrawing the TMDL proposal will simply ensure the same delay that you seemingly oppose.

In the event of a withdrawal, is there any guarantee that a stronger rule will be re-proposed? As you note, a withdrawal will mean that the existing rule remains in effect, and will open the door to even more litigation and the uncertain prospect of courts shaping TMDL policy. Our concern is that nonpoint sources' lobbying efforts and litigious approaches to restrict EPA's ability to include nonpoint sources in

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TMDL development and implementation may gain momentum if the revised rule does not become final soon.

I would also remind you that in 1972, the Clean Water Act was – like the current TMDL proposal – extremely unpopular. Its detractors labeled the Act as fundamentally flawed and called its goals unrealistic. Despite this opposition, Congress overrode a presidential veto to enact the law. Together, we can muster the same resolve to address nonpoint source pollution. Joining in support of this TMDL proposal is a good first step.

In sum, I believe our organizations agree that nonpoint source pollution is the greatest remaining barrier to realizing the goals of the Clean Water Act. We would like to work with you to ensure that the TMDL program is implemented in a way that fairly, effectively, and efficiently addresses our nation's water quality problems. We believe that we can make better progress more quickly toward that goal by allowing EPA to promulgate and implement its revised TMDL rule, as we currently understand it. I urge your organization to consider these issues and its position on the TMDL proposal. Please contact me at 202/833-4653 to discuss these issues in greater depth.

Sincerely,

A handwritten signature in black ink, consisting of a stylized capital letter 'K'.

Ken Kirk
Executive Director

cc: Carol M. Browner, EPA
Chuck Fox, EPA