

Targeted Action Fund Project Overview and Status Report  
Current to April 23, 2007

Air Quality

**Review of EPA Greenhouse Gas Emission Estimate for POTWs**

In FY 2007, \$5,000 from the TAF and \$5,000 from the GARRF was used to retain a consultant to review the estimation methods for wastewater treatment emissions used by EPA in its annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks*. The inventory is prepared as required by the United Nations Framework Convention on Climate Change and is currently used only for information purposes. Due to the increasing attention given to climate change at all levels of government, though, the inventory may become more significant to regulatory actions in the future. With wastewater treatment listed as the fifth largest source of nitrous oxide and the sixth largest source of methane in the *Inventory*, clean water agencies could potentially be targeted for greenhouse gas controls. NACWA's review of the *Inventory* found that the estimates for wastewater treatment emissions are too high, due to conservative factors used in the calculations. NACWA outlined its concerns in January 11, 2007 comments on the expert review draft of the *Inventory*. After meeting with EPA to discuss the expert review comments, NACWA submitted revised comments on the public review draft of the *Inventory* on March 29, 2007. No FY 2008 funds are proposed for this project.

Biosolids Management

***Biosolids Management: Options, Opportunities & Challenges* – A NACWA Handbook**

\$52,000 (FY 2004 & FY 2005) was allocated to this publication. \$5,000 (FY 2006) in General Legal funds also were expended to complete editing of this publication. NACWA released the *Handbook* to the membership in early September 2006. The resource provides useful background on biosolids management and on federal and state biosolids programs, and addresses key regulatory and legal developments in the areas of biosolids land application, incineration, distribution and marketing, landfilling, and selected other management approaches. The publication also includes an accompanying on-line *e-Library*. This project is complete and no FY 2008 funds have been proposed.

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**Mercury Emissions from Biosolids Incinerators**

FY 2006 funds in the amount of \$20,000 were approved to support a Water Environment Research Foundation (WERF) project that will evaluate mercury emissions from biosolids incinerators and assess the existing technologies available to control these emissions. WERF's Research Council recommended the project for funding, but the WERF Board chose only to fund half of the \$100,000 needed to complete the project. The leadership of the Biosolids Management Committee believes this project will provide vital information to the NACWA members who currently incinerate their biosolids, especially in light of the Clean Air Act regulations that are expected for these units in 2009. The Biosolids Management Committee will be updated on the latest status of this project when it meets on May 6, 2007. This was a one-time contribution and no FY 2008 funds have been proposed for this project.

## Facility and Collection System

### Financial Capability and Affordability Advocacy Effort

The NACWA Board approved \$10,000 from the TAF in FY 2006 and an additional \$10,000 in FY 2007 to further develop the recommendations and concepts outlined in NACWA's White Paper on *Financial Capability and Affordability in Wet Weather Negotiations*. Since that *White Paper* was released, it has received significant attention from EPA and the Environmental Financial Advisory Board. Most recently, during the NACWA/Wet Weather Partnership CSO Workshop in Chicago, Ben Grumbles, Assistant Administrator for EPA's Office of Water, referenced the *White Paper* and how it would factor into the Agency's decisionmaking process as it worked to 'revise' the 1997 document, *Combined Sewer Overflows - Guidance for Financial Capability Assessment and Schedule of Development*.

This is a critical guidance document that is referenced in nearly every federal consent decree where the affordability of the proposed controls is questioned. NACWA has advocated for years, most recently in its *White Paper*, that EPA's affordability considerations must be more holistic, and consider more than just CSOs or SSOs in a vacuum. If EPA does intend to revisit this guidance, NACWA will have an excellent opportunity to influence that revision process. The purpose of this effort will be to take the concepts from NACWA's *White Paper* and further develop them into a recommended approach to conducting financial capability assessments. This would be provided to EPA as a suggested option for revising its previous guidance. A final document from this effort will be distributed to the NACWA membership in May 2007. No FY 2008 funds have been proposed for this project.

## Legislative/Regulatory Policy

### National Biosolids Partnership

Fiscal year (FY) 2007 funding for NBP remains an uncertainty. Although the House passed an EPA budget bill that included \$1 million for the NBP program, funding was not included in the Senate version and the bill never made it to the Senate floor for a vote, denying lawmakers an opportunity to reconcile the two versions. EPA is one of dozens of federal agencies and departments that are operating under a Continuing Resolution (CR) that expires February 15 because Congress adjourned without passing the *Department of the Interior, Environment, and Related Agencies Appropriation Bill, 2007*. According to the new leadership in the House and Senate, Congress will pass a long-term CR under which EPA will have to operate for the remainder of the fiscal year. Although all FY 2007 earmarked projects in the bills will be eliminated, some earmarked programs, such as the NBP, could continue to receive funding, should EPA choose to continue to support the program under their budget cap. NACWA has been in constant contact with the Agency to encourage officials to continue financial support for the NBP in FY 2007. If the NBP does not receive federal funds in 2007, it could realign its existing grant and program activities to sustain the program until Congress passes a FY 2008 spending bill.

NACWA will again utilize the services of an advocacy firm to supplement the lobbying efforts of NACWA and WEF to secure FY 2008 funding in EPA's budget for the NBP. Total funding for this item includes \$15,000 from NACWA and \$15,000 from WEF for FY 2007. Proposed funding for FY 2008 is the same as in previous years, \$15,000 from NACWA and \$15,000 from WEF.

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## Advocacy Support – Legislative/Regulatory Initiatives

NACWA utilizes the services of an advocacy firm to support the Association's efforts to advance its legislative and regulatory priorities. This is an ongoing expenditure with total approved funding of \$72,000 for FY 2007. Proposed funding for FY 2008 is \$72,000.

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## Water Infrastructure Network

NACWA's financial contribution to WIN's FY 2007 budget will primarily fund the services of an advocacy firm to advance the coalition's legislative goals. In the coming year, WIN will work with the new leadership in Congress to advance clean water funding initiatives and to reintroduce clean water trust fund legislation in the 110<sup>th</sup> Congress. WIN is an ongoing expenditure with total funding of \$25,000 approved for FY 2007. Proposed funding for FY 2008 is \$25,000.

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## Government Affairs Rapid Response Fund

The *Government Affairs Rapid Response Fund* (GARRF) provides NACWA with the ability to quickly respond to non-legal time-sensitive issues. In FY 2007, the GARRF supported a breadth of advocacy and outreach issues vital to NACWA's membership, including a review of EPA's *Greenhouse Gas Emissions Inventory* – a critical project as EPA and Congress focus on policies to address climate change; support for the *World Water Monitoring Day* effort in partnership with the Water Environment Federation (WEF); an economic analysis of the viability of the Administration's position in support of market-based financing mechanisms, such as private activity bonds, for dealing with the growing funding gap; and a partnership effort with a broad coalition of industry groups to ensure treatment plants were not part of onerous chemical facility legislation, among other efforts. The Board approved \$35,000 for the GARRF for FY 2007 activities. Proposed funding for FY 2008 is \$40,000. The small increase for FY 2008 reflects both rising costs associated with hiring consultants and experts but also the increasing suite of issues that NACWA anticipates addressing in FY 2008, including cross-cutting and watershed-based initiatives.

## Litigation/Legal Issues

### Cincinnati Stormwater Case (*Amicus* Brief)

NACWA contributed \$3,000 (FY 2004) to the National Association of Flood and Stormwater Management Agencies (NAFSMA) to successfully join this case as *amicus curiae* with other municipal organizations. The U.S. District Court for the Southern District of Ohio issued a favorable ruling in this case on March 27, endorsing the position of NACWA and its municipal partners that the federal facility in question must pay stormwater service fees. The court also granted Cincinnati the right to amend its complaint to achieve full recovery of past due bills. Additional funds may be needed for this case in FY 2007 once the court sets a litigation schedule for the remainder of the case.

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### Catskills Case (*Amicus* Brief)

NACWA expended \$5,500 (FY 2004) on the *amicus curiae* brief in *Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York (City)* before the U.S. Court of Appeals for the Second Circuit. We supplemented this budget with an additional \$4,500 total contributed by the National League of Cities (NLC) and the Association of Metropolitan Water Agencies (AMWA), who also signed on to the brief. The New York State

Conference of Mayors and Municipal Officials signed on to the brief but did not contribute financially. NACWA expended an additional \$4,800 (FY 2006) (offset by \$1,750 in contributions from AMWA and NLC) tracking this case and analyzing the Second Circuit's unfavorable June 2006 decision.

Most recently, NACWA filed an *amicus curiae* brief on January 26, 2007 to support the City's November 2006 petition for a U.S. Supreme Court grant of *certiorari*. Unfortunately, the Court ruled on February 26 that it would not accept the case for review. \$13,211 (FY 2007) was allocated to write the brief, \$7,200 of which will be offset by contributions from other groups signing on to the brief, including AMWA, NLC, the American Water Works Association (AWWA), and the American Public Works Association (APWA).

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### General Legal Support

\$50,000 (FY 2007) is allocated to this line item. Thus far, funds have been expended for: further support of the "daily load" TMDL case; substantive completion and design of the recently released *Consent Decree Handbook Supplement*; assistance with NACWA's significant noncompliance comments; strategic advice on legal issues associated with wet weather standards; NACWA's initial pleadings in the BEACH Act case; and to sustain NACWA's participation in a coalition to oppose the proposed EPA National Pollutant Discharge Elimination System (NPDES) permit fee rule. Funds were also used to sponsor the National Environmental Moot Court competition held at Pace Law School February 22-24, 2007. This line item is projected to be fully expended. Proposed funding for FY 2008 is \$50,000.

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### 304(m) Intervention (Appeal)

In FYs 2004 and 2005, NACWA expended a total of \$27,000 (case-specific line item) plus \$15,800 in General Legal Support funds to achieve a key legal victory in May 2005 before the U.S. District Court for the Northern District of California. Largely relying on NACWA's legal arguments, the court rejected *Owr Children's Earth Foundation's* (OCEF's) challenge to EPA's recent actions under the Clean Water Act 304(m) effluent limitation guidelines (ELG) program.

In June 2005, OCEF appealed the lower court decision to the U.S. Court of Appeals for the Ninth Circuit. In July 2005, NACWA's Board approved an additional \$8,000 for NACWA to file a November 23, 2005 brief before the appeals court to defend EPA's effluent limitations guidelines (ELG) program. NACWA also expended an additional \$6,000 in FY 2006 General Legal Support funds on this case.

In February 2006, the Board approved \$10,000 in FY 2006 funds to complete our involvement in this critical case. \$4,994 of these funds was carried over to FY 2007 and is earmarked for our participation in oral argument, which was held February 13, 2007 before the U.S. Court of Appeals for the Ninth Circuit. The three-judge panel appeared to support NACWA's position, and a ruling is expected in the coming months. A request for additional funds is not anticipated at this time, but may be necessary if the Ninth Circuit makes an unfavorable ruling and an appeal is taken to the U.S. Supreme Court.

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### Healdsburg Case (*Amicus* Brief)

NACWA expended \$1,500 (approved FY 2004, paid FY 2005) to contribute to the *City of Healdsburg v. Northern California River Watch* *amicus curiae* brief. In the case, the lower court held that the City requires an NPDES permit to discharge to its wastewater treatment (percolation) pond because the pond is connected

to a “water of the United States” via groundwater. NACWA’s brief with California groups argued that the lower court’s decision would expand the NPDES program to groundwater, contrary to Congress’ intent.

An unfavorable decision was rendered by the Ninth Circuit on August 10, 2006. NACWA and other groups filed letters in September 2006 supporting the City’s request for a rehearing. The panel has not yet indicated whether it will rehear the case. Should NACWA incur any further costs in this case, they will be minimal and can be funded from the General Legal Support line item.

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### DC WASA EAB Stormwater Appeal

On this stormwater permit appeal, NACWA expended \$19,042 (FY 2005) (offset by \$8,600 in contributions from the National League of Cities (NLC), the National Association of Flood and Stormwater Management Agencies (NAFSMA), the CSO Partnership (CSOP), the West Virginia Municipal League (WVML), and the Virginia Municipal League (VML) (the coalition)). \$4,000 (FY 2006) (offset by \$3,198 in contributions by the coalition) was expended last fiscal year on our involvement in this multi-year case before the Environmental Appeals Board (EAB) concerning *Friends of the Earth’s* pursuit for numeric effluent limitations for municipal separate storm sewer (MS4) discharges – in this case in the District of Columbia’s MS4 permits (administered by NACWA member agency the District of Columbia Water and Sewer Authority (DC WASA)). \$8,000 (FY 2007) is allocated to continue our work on this appeal (to be offset by \$6,000 in contributions from the municipal coalition). The parties have been engaged in extensive settlement discussion, which are continuing, and thus there has been no expenditure of funds in this case during recent months. If a settlement is reached, use of the allocated funds may not be needed, and the money would return to the TAF.

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### SD #1 Amicus Brief (CWA-SDWA Interplay)

NACWA allocated \$10,000 (FY 2005) to participate as *amicus curiae* in a precedent-setting case on the interplay between the CWA and the SDWA, *City of Cincinnati, OH (Greater Cincinnati Water Works (GCWW)) v. Sanitation District No. 1, KY (SD No. 1)*. \$1,794 was expended on initial activities; \$8,206 remains for work on this matter. The case has been on hold due to expected reissuance of the permit, and GCWW has indicated that it plans to appeal the reissued permit. Thus, the allocated funds are expected to be used in FY 2007 on further activity in this case once the new permit is issued and challenged.

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### DC WASA CSO Permit Appeal (Amicus Brief)

NACWA allocated \$5,000 (FY 2005) to participate with the Combined Sewer Overflow Partnership (now the Wet Weather Partnership (WWP)) in DC WASA’s Phase II CSO permit appeal before the EAB. This case raises a key issue – whether the Phase II permit should include a compliance schedule for implementation of DC WASA’s long-term control plan. Approximately \$1,500 was expended to draft the appropriate papers; \$3,500 remains allocated to further action in this case. The Environmental Appeals Board (EAB) is currently considering DC WASA’s appeal.

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### Minnesota Pre-TMDL Permitting Case (Amicus Brief)

\$9,717 (FY 2006) was expended on a motion and *amicus curiae* brief in *Cities of Annandale and Maple Lake (Cities) NPDES/SDS Permit Issuance* before the Minnesota Supreme Court. This case concerns the question of

whether the Minnesota Pollution Control Agency (MPCA) improperly determined that an National Pollutant Discharge Elimination System (NPDES) permit for the Cities would not cause or contribute to a violation of water quality standards in a CWA § 303(d) listed water. MPCA reached this 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 *amicus curiae* brief strongly supports the ability of permitting authorities like MPCA to undertake such analyses. Recent indications suggest that the court is deadlocked 3-3 in this case and is looking for a way to break the tie. The remaining \$283 left in the line-item will be applied to analysis of the decision once it is released.

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### Cincinnati Attorneys’ Fee Case (*Amicus* Brief)

NACWA expended \$15,000 (FY 2006) to file an *amicus curiae* brief in this case in February 2006 before the U.S. Court of Appeals for the Sixth Circuit on the issue of when attorneys’ fees are properly awarded. NACWA argued in its brief that to receive attorneys’ fees under the CWA citizen suit provision, an entity must be both a party to the resolution of the case and truly “prevailing.” Oral argument was held in September 2006 in this case; a decision is expected in the coming months.

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### Wet Weather Consent Decrees Supplement

NACWA expended \$10,000 (FY 2006) and additional General Legal Support (FY2006) funds to prepare, design, and release a *Supplement* to NACWA’s 2003 publication *Wet Weather Consent Decrees: Protecting POTWs in Negotiations*. The *Supplement* analyzes over two dozen new decrees and was released to the membership as a downloadable .pdf document in Fall 2006. This project is now completed and all funds have been expended.

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### Total Maximum “Daily” Load Case (*Amicus* Brief & Technical Work)

NACWA’s Board approved \$27,500 (FY 2006) in May 2005 for additional legal and regulatory work to be undertaken in the wake of the U.S. Court of Appeals for the DC Circuit’s decision that all total maximum daily loads (TMDLs) must specify daily pollutant loadings. \$10,000 of this allocation, plus additional General Legal Support funds (FY 2006 and 2007), was expended on NACWA’s *amicus* briefs in support of DC WASA’s petition for U.S. Supreme Court review. Unfortunately, the high court ruled on January 16 that it would not review the D.C. Circuit’s decision. As a result, the remaining \$17,500 in the line-item is now earmarked for a suitability/technical study by NACWA Legal Affiliate Barnes & Thornburg to evaluate how different pollutants such as nutrients, bacteria, and mercury could be expressed to accommodate the court’s ruling. A draft outline of this study will be shared with the Water Quality and Legal Affairs Committees at the May meeting.

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### Ohio Phosphorus Case (*Amicus* Brief)

NACWA’s Board approved \$5,000 (FY 2006) for the Association to work with the Association of Ohio Municipal Wastewater Agencies (AOMWA) on an *amicus curiae* brief in a case the City of Salem, OH will file to challenge EPA’s September 2005 approval of phosphorus TMDLs for several Ohio rivers. EPA’s approval was inappropriate because the Ohio Environmental Protection Agency (Ohio EPA), using an internal technical guidance document, developed the TMDLs based on “target values” rather than real world conditions. These TMDLs are now the source of stringent phosphorus effluent limitations in wastewater

NPDES permits. NACWA will draft and submit the brief once the City of Salem initiates the litigation, which is expected to be sometime in FY 2007.

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### Arizona NPDES Case (*Amicus* Brief)

\$15,000 in FY 2007 funds was approved by the NACWA Board in January 2007 for the Association to file an *amicus curiae* brief with the U.S. Supreme Court in *U.S. EPA v. Defenders of Wildlife*, an important case involving the Clean Water Act (CWA) and how it may be affected by the Endangered Species Act (ESA). NACWA filed a brief in the case to ensure that the Court considers the municipal utility voice, and because of the ramifications an improper extension of the ESA to cover CWA activities could have on clean water agencies. NACWA submitted its brief to the Court on February 20, and oral arguments were held April 17. A decision in the case is expected before the end of the Court's current term in June.

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### BEACH Act Case

NACWA's Board approved \$15,000 (FY 2007) to continue the Association's involvement in *Natural Resources Defense Council (NRDC) v. EPA*, a legal challenge over EPA's failure to establish new recreational water quality criteria as required by the *Beaches Environmental Assessment and Coastal Health Act (BEACH Act)*. NACWA was granted intervention as a plaintiff in the case on March 19, and has requested to participate in ongoing settlement discussions between NRDC and EPA. The court further ruled March 23 that EPA has violated the BEACH Act by not publishing the mandated water quality criteria by October 2005, and the focus of the case will now shift to determining how much time EPA should be given to meet the requirements of the Act. A scheduling order was issued by the court on April 3, and it seems likely that the case will carry over into FY 2008.

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### Security Publication Rewrite

NACWA has allocated \$40,000 (FY 2007) for a rewrite/update of the Association's 2001 publication *Legal Issues in a Time of Crisis Checklist*. The new publication, which has yet to be titled, will provide wastewater utilities, water utilities, and public works directors with a description of key environmental and related legal issues relevant in times of heightened security, and will serve as both a practical manual and guidebook for security related issues. NACWA's costs will be offset by \$20,000 in contributions from the partner organizations in this project, the Association of Metropolitan Water Agencies (AMWA) and the American Public Works Association (APWA). The Water Environment Federation (WEF) has also been invited to participate in the project and is still considering the offer. The publication is expected to be completed in early Fall 2007.

## Pretreatment and Pollution Prevention

### NACWA/EPA 50 POTW Study Effort

NACWA continues to advocate for an update of the 1982 study on the fate and transport of priority pollutants in POTWs. Also known as the 50 POTW study, the work is still relied on for its removal efficiency figures when POTWs are developing local limits. NACWA's Pretreatment and Pollution Prevention Committee is hoping to build on an existing EPA sampling effort to eventually develop and release an updated study that reflects current removal efficiencies. To facilitate the Committee's efforts, the Board approved \$15,000 in FY 2006 and \$10,000 in FY 2007 for contractor support as NACWA continues its discussions with EPA. NACWA, EPA, the contractor, and the chairs of the Pretreatment and Pollution

Prevention Committee began discussing approaches for collaboration at the October 2006 Pretreatment Workshop. A survey was also distributed to workshop participants to assess POTW interest in contributing data to a new study and in using a new study, with the majority of respondents indicating that a new study would be useful and that they would be willing to help collect data. The contractor has prepared a feasibility study for the collaborative removal efficiency study, including issues to address and potential next steps, and NACWA will be meeting with EPA to try to resolve outstanding issues and move forward. \$10,500 of the FY2006 budget is allocated for the contractor work on the feasibility study, and the remaining Board-approved funds will be used to begin work on the course of action that is chosen.

## Utility Management

### CleanWater Central

NACWA continues to work to populate the *CleanWater Central* database. Created in 1999, the *CleanWater Central* database serves as a central hub for future data collection activities, such as the financial survey and *NACWA Index*, and as a repository for information vital to the wastewater treatment community. NACWA and WERF completed the beta test of the system on June 30, 2003 and launched the database during the NACWA 2003 Summer Conference in Boston. NACWA and WERF are now working to implement a marketing strategy to increase the number of users on the system. Hard copy survey information accompanied NACWA's Peak Performance Awards application in an effort to increase information in the database and the 2005 Financial Survey was conducted using a *CleanWater Central* database interface. Targeted mailings to utilities who have not used the system will take place this summer and NACWA and WERF are conducting a user satisfaction survey to improve the functionality of the system. This is an ongoing project with expenditures for database administration each year. Total NACWA funding approved for this project is \$12,000 for FY 2007. Proposed FY 2008 NACWA funding is \$12,200, with the additional \$200 slated for Internet hosting fees.

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### Service Charge Index and Peak Performance Awards

FY 2006 funds in the amounts of \$2,000 and \$6,000 were approved to enable the Association to conduct the NACWA Service Charge Index survey and Peak Performance Awards program, respectively. These are critical annual activities that have historically been funded with the General Fund. For FY 2006 and in the future, these vital resources will be funded from the TAF. Total approved funding for FY 2007 is \$9,000 for the Peak Performance Awards program and \$2,000 for the NACWA Service Charge Index survey. Proposed funding for FY 2008 is \$10,000 for the Peak Performance Awards program and \$2,500 for the NACWA Service Charge Index survey.

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### ISO Wastewater Management Services Standard Support

The development of international standards (ISO/TC 224) for the wastewater sector by the International Organization for Standardization (ISO) continues to progress with TAF funding being targeted primarily for international travel to ensure the wastewater community's voice is heard. A draft international standard (DIS) was released in April 2006 and NACWA's experts met on three occasions to develop comments. The U.S. delegation voted to approve the DIS, with comments, on September 11, 2006. A total of \$10,000 in new Targeted Action Funds was approved for this ongoing effort in FY 2006. These funds were used to support NACWA's experts with travel to the U.S.-specific meetings and to enable their participation in the

international Technical Committee (TC) meeting to discuss the U.S.' comments with the other international experts. While no additional funds have yet been approved for FY 2007, unspent funds from FY 2006 will be rolled over to cover any FY 2007 expenses. NACWA has yet to determine whether it will send any experts to the final TC meeting where the standard will be formally adopted. FY 2008 funds may be needed to facilitate travel to this meeting.

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### Asset Management Handbook Update

NACWA, AMWA and the Water Environment Federation (WEF) are conducting a joint effort to develop an updated asset management guide to benefit the clean water community, and the membership of each organization. It is envisioned that this guide will be a companion publication to the *Asset Management Handbook* that was prepared in 2001. The companion document will be a practical guide and workbook that will include the fundamentals of asset management extracted from the *Handbook*, along with step-by-step guidance and worksheets to help utilities successfully implement asset management processes. A total of \$25,000 in FY 2006 funds has been approved for NACWA's contribution to this effort. A project team comprised of NACWA, AMWA, and WEF representatives received the final draft of the document in March and are now proceeding with the design and printing process. A final, published document is expected by the National Clean Water Policy Forum in May.

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### Mid-Level Management Training Assessment

The *Water & Wastewater Leadership Center* at the University of North Carolina – Chapel Hill was the result of collaboration among public utility leaders, through organizations like NACWA, who identified and met a critical need for a strategically-designed program to develop effective utility leaders. Today the industry as a whole is proud of the *Center's* success, and its many highly motivated, productive alumni. At the time of the *Leadership Center's* inception, a potential training program for mid-level utility managers was also considered. While this concept was compelling, the emphasis at the time was rightfully placed on top utility executives and further consideration of mid-level management training was deferred until the initial *Leadership Center* program was fully developed and successful.

Today, the *Leadership Center* is a resounding success and there is a renewed emphasis on exploring the concept of mid-level management training in greater depth. To determine whether there are existing offerings in this area the NACWA Board approved \$15,000 in FY 2006 funds to, in collaboration with WEF, secure the services of a contractor to fully explore and document the universe of existing relevant training that may meet the need we have identified. NACWA and WEF issued a Request for Proposals for this work and the selected contractor has begun its evaluation of the existing offerings. A team of NACWA and WEF member representatives will be providing oversight for the project. The assessment should be completed by June. This was a one-time contribution and no FY 2008 funds have been proposed for this project.

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### Utility Management Institute Feasibility Study/Concept Paper

The Board has approved \$7,000 in FY 2006 for NACWA to work with WEF and WERF to explore the feasibility of a joint utility management institute. Each of the three organizations will contribute equal shares to conduct the feasibility study. The study will evaluate the need for such an institute in the national marketplace of the water industry; assess the marketing potential and the financial viability of the institute; and provide an initial business plan and financial targets to help the sponsoring organizations better evaluate the creation of an institute. Ideally, the institute will capitalize on the strengths of each of the

organizations and provide their collective memberships, and the water sector in general, with a greatly enhanced set of tools and more comprehensive delivery mechanism. Work on the feasibility study is now underway. A mission/vision workshop was held on March 26 to ensure that the contractor had a clear understanding of each organization's perspective, and a series of focus groups with utility leaders are planned for the coming months. The final study should be completed by July. This was a one-time contribution and no FY 2008 funds have been proposed for this project.

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### NACWA Technical Survey

NACWA is currently seeking a commitment from WERF and WEF for a collaborative effort to develop a 'Technical Survey' to complement the data reported in NACWA's triennial Financial Survey. The dedicated Technical Survey would provide a more detailed snapshot of the physical assets and operations of clean water utilities nationwide than currently captured in NACWA's Financial Survey and would reduce the scope of the Financial Survey, so that it would only include relevant financing and utility management information. The Technical Survey, as it is currently envisioned, would also provide the primary means for substantially increasing the available information in the *CleanWater Central* database.

As proposed, this new Technical Survey would be conducted on a triennial basis on a cycle opposite to NACWA's Financial Survey. The survey would collect new information in the areas of collection systems (e.g., rehab and replace rates) and programmatic information that is not already captured, such as the scope of existing pretreatment programs, and more. Given the importance of the information that will be collected in the Technical Survey to the *CleanWater Central* database and the industry as a whole, NACWA believes that WERF subscribers and WEF members would benefit from participation in the design and execution of the survey. Accordingly, NACWA is seeking a commitment from WEF and WERF to make equal contributions of \$15,000 each to the effort. NACWA's Board approved NACWA's contribution to this effort in January in the amount of \$15,000 in FY 2007 funds.

## Water Quality

### Contribution to TMDL Adaptive Implementation Project

NACWA's Board approved a one-time contribution to a project to conduct workshops and develop a monograph on the interpretation, analytics, and execution of adaptive implementation for total maximum daily loads (TMDLs). Dr. Ken Reckhow of the Center for the Analysis and Prediction of River Basin Environmental Systems, who served as the chair of the National Research Council's (NRC's) Committee to Assess the Scientific Basis of the TMDL Approach to Water Pollution Reduction, and oversaw the issuance of the corresponding NRC report, *Assessing the TMDL Approach to Water Quality Management*, is organizing the project. The first workshop was held October 25 - 26, 2004, in Durham, NC. NACWA has also participated in subsequent workshops held January 19-20, 2005, in Irvine, CA, and April 10-12, 2005, in Durham, NC. A May 30-31 meeting in Washington, D.C. reaffirmed that the current draft of the document needs further revision. A final draft has been prepared and the committee of experts is now making final revisions. NACWA approved a one-time contribution of \$25,000 for this effort in FY 2003.

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### Participation in the Federal Water Quality Coalition

TAF funds support NACWA's continued associate membership in 2006 in the Federal Water Quality Coalition (FWQC). The FWQC provides NACWA with leveraging opportunities and information on a

number of important water quality issues, including mercury, total maximum daily loads, and permitting. NACWA approved \$15,000 in annual dues to the Coalition for FY 2006. Approved funding for FY 2007 is \$15,000. Proposed funding for FY 2008 is \$15,000.

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### Dental Amalgam Separator Study

This project is a three-year study to examine the changes in mercury concentrations in wastewater influent, effluent, and biosolids at five POTWs in the U.S. and Canada. Each of the five facilities has already implemented regulations requiring dental clinics to install amalgam removal equipment. The Hampton Roads Sanitation District has volunteered its laboratory to conduct the analyses at cost for the duration of the study. The first sampling event took place in July 2003 and sampling is continuing as planned. Based on a revised scope and new cost estimates provided to NACWA, additional TAF funding in the amount of \$15,000 was secured in July 2003, bringing the total project cost to \$59,000. NACWA expects to be able to use the results of the study to support a number of its advocacy efforts related to mercury. Based on a preliminary analysis of the first year results, the Mercury Workgroup has determined that a third year of data collection will be necessary to ensure the project database is robust enough to allow it to draw meaningful conclusions at the study's completion. Total approved funding for this project is \$59,000; with \$37,000 approved for FY 2004 and \$30,000 for FY 2005 (\$8,000 was added to the original FY 2005 amount of \$22,000 in February). In July 2005, the Mercury Workgroup received an additional \$23,000 in FY 2006 funds to finish the third year of sampling, bringing the project total to \$90,000 over three years. The Mercury Workgroup has now substantially completed work on the draft report. Additional statistical analyses are being performed by a NACWA member and will be incorporated into the report in the coming weeks. A final report is expected by this Summer. No FY 2008 funds are being proposed for this effort.

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### Methylmercury Report Review

These funds are being used in support of a joint project with the California Association of Sanitation Agencies (CASA) and the Federal Water Quality Coalition (FWQC) (total project funding of \$45,000) to hire a consultant to conduct a technical review of a U.S. Fish and Wildlife Service report entitled, "Evaluation of the Clean Water Act Section 304(a) Human Health Criterion for Methylmercury: Protectiveness for Threatened and Endangered Wildlife in California." The report makes a number of assumptions that potentially mischaracterize methylmercury's behavior in aquatic ecosystems. Since this report is expected to have a significant impact on the promulgation of mercury criteria for California and potentially for other states, members of NACWA's Mercury Workgroup, CASA and the FWQC have determined that a critical review of the report is necessary. The partners received the final review of the report from their contractor in early 2007. Following a final round of revisions, the review is now complete. A total, one-time NACWA contribution of \$15,000 was approved for this effort in FY 2004. No FY 2008 funds are being proposed for this effort.

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### Use Attainability Analysis (UAA) Handbook

NACWA conducted this project jointly with the Water Environment Research Foundation (WERF), as WERF subscribers also identified UAAs as an important topic deserving of attention. This joint NACWA/WERF project involved updating WERF's 1997 resource *A Suggested Framework for Conducting UAAs and Interpreting Results* and republishing WERF's *Comprehensive UAA Technical Reference*. A project oversight committee consisting of NACWA members supported this project and assisted in contractor selection. The publication was sent to the NACWA membership in February. A total of \$40,000 in FY 2005 was originally

approved for NACWA to develop and provide the policy, non-technical input to this joint effort. An additional \$8,500 was approved in February 2005 for this effort to fund, in part, the design and printing for the final product. NACWA and WERF recently hosted a successful web seminar on the document.

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### Reasonable Potential Project

NACWA has contributed to a project to evaluate alternatives to EPA's reasonable potential (RP) setting process. Through prior research efforts, the principal investigators on this project have gained new insights into EPA's methods for establishing RP, alternative methods for setting RP using model-based endpoint (e.g., IC<sub>25</sub>, LC<sub>50</sub>) uncertainty estimates, and methods for incorporating model-based endpoint uncertainty into compliance determinations for WET limits in NPDES permits. The investigators will use industry-specific effluent WET test and metal monitoring data and NPDES permit information to conduct an initial evaluation of the implications of alternative methods for establishing RP 1) on the probability of finding RP for WET and metals, and 2) the number and severity of toxicity and metal limits in industry-specific NPDES permits. The preliminary findings, along with recommendations for future research, will be submitted to the project supporters. The final report will include: 1) a direct evaluation of alternative estimators of RP that can be used by stakeholders in discussions with State, regional, and federal regulatory agencies, 2) an evaluation of the reasonableness and accuracy of current EPA RP procedures, 3) an evaluation of alternative methods for establishing compliance with both biological and model-based endpoints that can be used by stakeholders in discussions with regulatory agencies, and 4) statistical outputs that can be used by stakeholder submissions in response to EPA documents and rulemakings. NACWA received preliminary findings for the study in October 2005. A more detailed analysis is underway, which is expected to be completed in Summer 2007. NACWA approved a one-time contribution of \$14,000 for this effort in FY 2005.

### Watershed Initiatives Support

NACWA has designated \$20,000 for contractor support of NACWA's watershed initiatives in FY 2007. A Strategic Watershed Task Force has been formed to explore regulatory and legislative solutions to persistent clean water issues that present challenges today, 35 years after the Clean Water Act was passed. The Task Force will formulate an advocacy plan for the future of clean water, addressing issues in a more holistic, watershed-focused approach as discussed at NACWA's *Strategic Watershed Action Planning Session* in December 2006. Potential issues that the Task Force will consider include stormwater and collection systems, financial capability, and nonpoint pollution sources. The work of the Task Force will culminate in the release of a set of recommendations on or around October 18, the 35th anniversary of the Clean Water Act. The contractor will assist the Task Force in developing this set of recommendations. In addition, the contractor will also work with NACWA on developing a written strategy for advancing wet weather water quality standards and assist NACWA with various outreach projects related to Farm Bill Reauthorization.

## Other Issues

### Water for People

In FY 2006 NACWA approved an annual contribution of funds in the amount of \$5,000 for Water for People. Water for People helps people in developing countries improve their quality of life by supporting the development of locally sustainable drinking water resources, sanitation facilities and health and hygiene education programs. Robert Hite, former NACWA President and District Manager for Denver Metro, CO

represents the Association on the Water for People Board of Directors. The proposed FY 2008 contribution to Water for People is \$5,000.